Freedom of Expression Policy

New Mexico Tech
Division of Student Life

Campus-wide Administrative Policy
(Adapted from New Mexico State University Freedom of Expression Policies)
New Mexico Institute of Mining and Technology
Socorro, New Mexico 87801

The scope of this policy applies to NMT Regents, administrators, faculty, staff, students, volunteers and all other individuals or parties using NMT buildings, grounds, and property.

Effective Date: May 2024

Date Revised: October 2023

Responsible University Office:

- Office of the President

Policy Owner(s):

- Student Life
- Administration and Finance
- Academic Affairs
- Dean of Students

Policy Contact(s)

- Vice President for Student Life
- Dean of Students

I. Purpose

This policy aims to recognize, respect, and encourage the free exchange of ideas through written, spoken, and other forms of expression, including the right to peaceful assembly, as guaranteed by the First Amendment to the U.S. Constitution and the New Mexico Constitution. Furthermore, this policy clarifies application throughout the NMT system by identifying the distinct types of forums and describing the reasonable restrictions, if any, which may be imposed to protect the university's teaching, research, and service operations and student activities from significant disruption and interference.

II. Scope

This policy applies to all people and throughout the New Mexico Institute of Mining and Technology (NMT) (at all campuses, facilities, and other real property under the operation and control of the NMT Board of Regents, including university-sponsored events off-premises).

III. Definitions

For purposes of administering this policy, the following definitions apply:

A. **Affix** means to stick, anchor, or fasten to something else, regardless of whether or not it leaves a mark or causes damage.

B. **Commercial Speech** is Speech that proposes a commercial transaction; the audience consists of prospective consumers, and the content of the message is business-related in character.

C. **Content Neutral** means without regard to the viewpoint or message. Content-neutral restrictions are those based on reasonable time, place, and manner rather than the content or viewpoint of the message.

D. **Forum** is a term used by the U.S. Supreme Court to help describe how content-neutral restrictions on free expression may apply legally. **The three types described in this policy are** traditional open public forum, limited public forum, and non-public forum. These terms apply to physical areas, electronic communication, and websites. The type of forum will be determined by the nature of the space being used, its traditional usage, official designations, and the circumstances relating to the nature of an event or function taking place in that location. **For example**, if a normally public forum were reserved for a specific event (following applicable university procedures), that might convert the location to a limited or non-public forum during the event for which it was reserved; conversely, areas such as special collections within the university are typically non-public forums, but may become limited public forums for certain special events.

E. **Social Media** means computer-mediated tools that allow people to create, share, or exchange information, ideas, videos, and pictures in virtual communities and networks.

F. **Speech** is written, spoken, and other forms of expression of thoughts, ideas, or positions, generally related to issues of public interest.3/14

G. **University Premises**, sometimes referred to simply as "campus," means all campuses, facilities, land, buildings, or other indoor or outside space owned, leased or otherwise under the operational control of NMT. University-owned property leased to other entities and not under the operational control of NMT are not considered University Premises for purposes of this policy.

H**. Unprotected Speech** means Speech not afforded First Amendment protection, such as Commercial Speech that is false or misleading. Other examples include fighting words, child pornography, defamation, and libel.

IV. Policy Statements

New Mexico Institute of Mining and Technology aspires to be an intellectually open campus. Free exchange of ideas reflects the university's public land-grant heritage, interest in diverse points of view, and commitment to excellence in education and research. NMT encourages free expression and peaceful assembly, provided they do not disrupt the university missions or functions. The type of Forum, described below, will determine the level of restriction, if any, which may be imposed on free expression activities within the Forum. Restrictions must be content-neutral, typically geared to time, place, and manner. The type of Forum for a given location may vary, based on the circumstances relating to the nature of an event or function scheduled to occur.

A. **Public Forums** are areas that traditionally have been open to the public, such as parks, sidewalks, and lobbies as well as other areas that become public Forums by university designation. Free expression and civil discourse are encouraged in public Forums, and any regulation of expression within a public Forum must be narrowly tailored to serve a compelling state interest.

B. **Limited Public Forums** are areas open to the public or a segment thereof (including through the purchase of admission), but where there is a specific purpose. The necessities of confining a Forum to the limited and legitimate purpose for which it was created may justify some limitations that are narrowly tailored to allow the event or activity to continue and/or achieve its intended purpose. Any limitations must be consistent with the spirit of this policy. Legitimate limitations include subject matter and classification of participants (students, student government representatives, faculty, etc.). Limitations must be reasonably related to a definite and substantial university interest. Any limitations must be content-neutral, and aimed solely at reducing or preventing disruption to the activity that would cause a definite and measurable interruption to the intended purpose or protecting other clearly compelling university interests (e.g., public safety). If a limited public Forum serves more than one purpose, the university may prioritize the purposes for which it may be used, e.g. a campus auditorium may give priority to theater productions. Expression within a limited public Forum is permitted consistent with the Procedural Guidelines administered by the Office of Campus Activities.

C. **Non-Public Forums** are areas not open to the general public and where expression by those permitted to be there may be reasonably limited, in a Content Neutral manner, to that which is compatible with the purpose and nature of the location. (Examples include faculty and administrative offices, classrooms, residence hall rooms, and archive and special collections of libraries.)

D. **Disruption of university functions or activities**: Regardless of the type of Forum, free expression activities and events shall not materially or unreasonably interfere with the education, research, public service, and outreach missions of the university, office

operations, or sleep of residents.

E. **Modes of Free Expression**: The university recognizes that there are many different modes of free expression, including distribution and posting of literature; group Speech activities such as rallies, parades and demonstrations; electronic sound amplification, chalk, symbolic Speech (e.g. nudity, fire, and/or weapons); and electronic communication. The limitations described in the Procedural Guidelines pertaining to the various types of expression are intended to safeguard personal safety and the university's missions, and not to hamper freedom of expression.

F. **Respect for Rights of Others**

1. **Prohibition of Third Party Interference with Right to Free Expression**: Except as provided elsewhere in this policy, university employees, students, and other members of the public shall not interfere with the rights of freedom of expression by others permitted by this policy. Alleged violations of rights afforded by the U.S. and N.M. Constitutions, recognized by this policy, will be taken seriously and investigated promptly and objectively.

2. **Retaliation Prohibited**: Retaliation against individuals who have exercised the rights granted by the First Amendment, recognized through this policy, is strictly prohibited. Any such claim should be reported immediately to an appropriate university official to register a complaint. Generally, the Office of the Dean of Students and the Office of Human Resource Services-Employee and Labor Relations administer student and employee grievances, respectively. Such claims will be taken seriously, investigated independently, and if substantiated, will be grounds for corrective or disciplinary action, appropriate to the circumstances.

G. **Respect for University Property and Functions:** In exercising the right of free expression and peaceful assembly, individuals must also accept the responsibility of following the laws related to the safety of people and property. Outdoor and indoor activities must follow all applicable fire codes and other local, state, and federal laws.

V. Prohibited Conduct

New Mexico Tech refers to any action or conducts that violates any federal or state law, public health orders, local ordinances, regulations, rule, or policy, or any New Mexico Tech rules or policies (e.g. discrimination, harassment, destructive actions, bullying, etc.) as "Prohibited Conduct". Actions countering a respectful campus, such as the destructive actions described below, will not be tolerated and should be reported. According to this policy, conduct that occurs off-campus may be the subject of a report if it is likely to interfere with a respectful campus. Perpetrators of destructive actions can face disciplinary action, including termination, suspension, or expulsion. In certain instances, a single incident of a destructive action may be sufficiently severe that it can lead to disciplinary action.

VI. Modes of Free Expression

A. **Distribution and Posting of Literature and Signs**: Individuals or groups may petition, distribute non-commercial written material, hand out newspapers, or conduct speech acts.

1) Groups will not use the name New Mexico Institute of Mining and Technology and/or New Mexico Tech in any advertisement material, brochure, mailer, or any similar item in a manner that infers that New Mexico Tech is a sponsor/co-sponsor or in any way affiliated with the user/Group. New Mexico Tech's name may only be used for reference of event location unless written: "A New Mexico Tech official has granted approval."

2) The statement "This is not a function of New Mexico Tech" must appear in all newspaper and magazine ads, radio announcements, news releases, promotional and registration materials publicizing the event. All advertising and promotional materials must list prominently the names and phone numbers of Group contacts for obtaining additional information. New Mexico Tech may not be listed as an informational source.

3) Literature may be distributed hand-to-hand, through tables, or by posting on designated bulletin boards and kiosks.

4) In-person distribution must be done without touching another person other than incidental contact.

5) Signage promoting or providing direction to an event does not require permission, provided the signage is posted no more than 24 hours before the event and is removed no later than 24 hours the day following the event. Signage for longer periods of time requires permission. Temporary signage must comply with NMT's Posting & Advertisement Policy (TBD) and must not cause damage. Individuals or sponsoring groups that cause any damage will be held accountable for such damage.

6) Materials shall not be affixed to any part of a university building or structure without permission from the Campus Police or the office that schedules the desired venue.

7) Posting on traffic signs, power poles, trees, landscaping, or automobiles belonging to others is not allowed.

8) Tables and chairs are allowed as long as they do not unreasonably interfere with pedestrian traffic, including blocking ingress or egress. Individuals who have reserved a table through the

Campus Police or the office that schedules the desired venue will be given priority.

B. **Group Speech Activities. Including Rallies, Parades and Demonstrations**:

1) Any group speech activity, regardless of the number of expected participants, may be coordinated through the Campus Police or the office that schedules the desired venue at the organizers' discretion.

2) When planned activities are likely to draw 100 participants or more, notification to the Campus Police or the office that schedules the desired venue is required.

3) When planned activities necessitate road or parking lot closures or detours, or deny others access to or reasonable use of NMT property, permission is required from Campus Police.

4) Activities should be at least 25 ft. away from building entrances so as not to interfere with pedestrian traffic or block ingress and egress unreasonably.

C. **Political Activities** - Political activities must be conducted in a manner that does not imply the university officially endorses or supports a particular candidate or position.

D. **Electronic Sound Amplification** - Electronic sound amplification equipment may not be used if it reasonably interferes with classes or other academic activities. Electronic sound amplification may be limited or volume-restricted at certain forums at certain times. Not all locations have access to power receptacles.

E. **Use of Chalk** - Chalk may be used on university premises as long as it is restricted to exterior concrete walkways. All chalk used must be of a temporary or removable nature. The university's maintenance schedules relating to university facilities will not be deferred to protect chalk.

F. **Symbolic Expression Requiring a Permit** - An individual or group who plans free expression activities that involve fire, weapons, or nudity must first obtain a permit from the Campus Police. The permit requirement is not intended to impede symbolic expression, but to protect the safety of the university community and property and to ensure compliance with applicable laws. For other types of symbolic expression that an individual or group believes might generate a safety concern, advance notice to the Campus Police is encouraged. Large or unsafe construction of symbolic structures is not permitted.

G. **Electronic Communication** (e.g. Email, Social Media) - Similar to public spaces, electronic communication may fall within a public, limited public, or non-public forum. Where a site owned, operated, or otherwise controlled by NMT is limited to certain members or subjects, speakers must be authorized participants whose communications are germane to the stated subject matter. With regard to communications using electronic and other media, speakers should be aware of federal, state, and university anti-discrimination laws and policies, and NMT's obligation to enforce such laws and policies.

VII. Scheduling of New Mexico Tech Facilities

A. Scheduling university facilities for public forums and planned demonstrations is required for indoor and outdoor activities since these types of activities have size, safety, and logistical concerns. To

reserve the desired space and avoid conflicts with other users, group or individual reservations must be made seven (7) days in advance with Campus Police or the office that schedules the desired venue. Larger events with complex logistics and those with performers may need a longer lead time to ensure lease agreements and contracts are adequately reviewed and approved. In addition to the reservation, a "**Public Forum and Planned Demonstrations Routing Form**" must be completed and returned to Campus Police by 4:30 p.m. three (3) business days before the event's start date to allow for proper distribution and notification.

Scheduling does not operate as a process for approval based on content. Public forums and planned demonstrations will be scheduled on a first-come, first-served basis for the requested location. Events of this nature will not be scheduled if there is a scheduling conflict or if the required resources are unavailable during the requested time to facilitate the event. The viewpoint expressed through the event is not a factor in scheduling. A decision made not to schedule an event may be immediately appealed to the NMT President or designee.

This Freedom of Expression Policy and Routing Form for processing are found at Public Forums and Planned Demonstration Events.

B. **Forum Designations**

1) **Traditional Public Forums** - Open to all expression protected under the 1st Amendment
   a. Lawns
   b. Sidewalks
   c. Centennial Plaza,
   d. Macey Center Park
   e. Geology Water Feature

2) **Designated/Limited Public Forums** – Spaces restricted to time, place, and manner
   a. Macey Center
   b. Fidel Center
   c. Skeen Library (meeting rooms only)
   d. Athletic Field
   e. Gym
   f. Golf Course Pavilion
   g. Bureau of Geology Conference Room, Atrium & Courtyard

3) **Nonpublic Forums** –Spaces not open to public expression
   a. Classrooms
   b. Laboratories and Test Range
   c. Department Offices
   d. On Campus Housing
   e. Student Activity Center
   f. Residence Halls
   g. Administrative Facilities

C. **Demonstrations on Campus**

Demonstrations on campus can occur as a planned event or as an impromptu event. A planned demonstration on campus must be scheduled with University facilities through the appropriate procedures. Impromptu demonstrations are classified as a response or a reaction to some other action that is not planned and, therefore, cannot be prepared for. Scheduling does not apply to spontaneous, impromptu demonstrations for which there is no prior promotion or organization. Impromptu demonstrations are limited to Traditional Public Forum areas.

VIII. Enforcement and Responsibilities

A. **Violation of this Policy** - Any person violating this policy may be subject to:

1) Institutional disciplinary proceedings under the Student Code of Conduct if a student. Violations by faculty or staff will be referred to the appropriate department or academic unit as indicated by the Employee Handbook or Regulations Governing Academic Freedom and Tenure;

2) An order to leave the premises or property owned or controlled by the university by the police or a person in charge of the property and/or

3) Arrest for violation of state law(s) or local ordnance.

B. **Supervisor Responsibilities**

For employees, supervisors at all levels are responsible for addressing known indications of prohibited conduct and destructive actions in an appropriate, prompt, and fair manner. For these allegations, the supervisor should meet with the individual allegedly targeted by the prohibited behavior (e.g. bullying) and the individual accused of the prohibited conduct (e.g. bullying, discrimination).
As a result of these meetings, if the supervisor determines sufficient grounds to justify a complaint of prohibited conduct, then the supervisor should address the destructive action through informal resolution or appropriate disciplinary action.

The supervisor should make an appropriate referral for prohibited conduct covered by other university policies state or local laws.

C. **Informal Resolution**

It can be helpful to address certain prohibited conduct and destructive actions informally. In such cases, the alleged behavior may be brought to the attention of the impacted individual's supervisor or the alleged wrongdoer's supervisor. Suppose the affected individual is uncomfortable reporting the prohibited conduct to a supervisor. In that case, the individual may report the actions to the supervisor's supervisor, the Director of Human Resources, the Director of Affirmative Action/EEOC, or NMT's Title IX Coordinator. Informal resolution may include training or consulting with next-level supervisors.

NMT has resources to help individuals with informal resolution and concerns, including

1. Counseling and Advocates;
2. Ombudsman Services for faculty and staff;

3. Ombudsman Dispute Resolution Services for Graduate Students; and
4. Dean of Students Office for undergraduate students and Dean of Graduate Studies for graduate students.

D. Formal Resolution

If parties are dissatisfied with the informal resolution process, written requests for a formal resolution option as indicated in the Student Code of Conduct, Employee Handbook, and Regulations Governing Academic Freedom and Tenure.

E. Appeal Process

If parties believe the adjudicating body errored in their decision, the party would need to submit a written request for appeal and provide grounds justifying the appeal as specified in the appropriate policy. The Appellate Body or designee will initially review the written request for an appeal. They must determine if the "grounds for appeal" criteria have been met. The request for appeal is either granted or denied. The Appellate Body does not conduct a new hearing. If the appeal is granted, the appellate body will only review the points submitted in the written request for appeal. The case is considered resolved/final with the decision of the Appellate Body.

F. Disciplinary Action

Violations of this policy may lead to disciplinary or corrective action when they are sufficiently severe, persistent, or pervasive to cause or create a hostile working or educational environment or unreasonably interfere with a person's work or school performance or participation. In these situations, appropriate sanctions will be administered by the related supervisor, adjudicating officer, or adjudicating body in the above resolution processes.

Sanction/s may include but are not limited to restricting future use of or access to the campus and reimbursement for damages.

G. Reporting Prohibited Conduct and Destructive Actions

All University community members may report prohibited conduct and destructive actions (not addressed by other policies) to a supervisor, the Director of Human Resources, the Director of Affirmative Action/EEOC, the Dean of Students, the Title IX Coordinator, or by contacting the NMT Campus Police.

IX. Security Risk Assessment

Security Risk Assessment will be conducted by a Crisis Management Group, which includes the Chief of Campus Police, the President, all VPs, and other individuals as requested by either the Campus Chief of Police or the President. Based on the assessment, the Crisis Management Group shall determine what actions or steps may be needed to maintain a safe and secure campus.

X. Costs of Services

If organizers of activities pursuant to this Policy require or request NMT to provide services, the organizers will be responsible for paying NMT for such services. This includes but is not limited to specialized equipment such as PA systems, tables, chairs, etc., or specialized services such as alcohol

requirements under state or federal law. Costs of security incurred to maintain the safety and security of NMT shall be assessed to the organizers at all times.