



"Creating Opportunities for You!"

Luna Community College

Staff Handbook

Adopted Date

11/17/10

Updated 7-30-14

**NOTICE TO ALL EMPLOYEES REGARDING THE LIMITED SCOPE OF THIS
HANDBOOK**

This Employee Handbook is not an employee contract, express or implied. Rather, the purpose of this Handbook is to provide general information and guidance regarding employment with Luna Community College in effect as of the date of its approval or ratification by the Board of Trustees (“Board”) for the College. Nothing contained in this Handbook may be construed as creating a promise of future benefits or a binding contract with the College for benefits or for any other purpose. The management of the College reserves the right to amend, modify, or terminate the provisions of this Handbook in its discretion at any time. If there is any policy or provision that an employee does not understand, he/she should seek clarification from the Director of Human Resources.

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Drug and Alcohol Testing Screen/Consent and Release Agreement Attachment C

Discrimination/Harassment Formal Complaint Form Attachment D

Chapter 1 Introduction

1.1 Accreditation

Luna Community College (the “College”) is accredited by the North Central Association of Colleges and Secondary Schools, 30 North LaSalle Street, Suite 2400, Chicago, Illinois, 60602-2504, as a degree-granting institution. Membership in this accrediting association makes possible the transfer of credits to other colleges and universities. Accreditation information is available to the public upon written request to the College.

1.2 Mission Statement

“Creating Opportunities for You!” *(Approved by Board of Trustees May 13, 2013)*

1.3 Vision Statement

“New Mexico’s Premier Community College: Preparing Students for Success” *(Approved by Board of Trustees May 13, 2013)*

1.4 The Guiding Principles of the College

- 1.4.1. Provide accessible, affordable and quality education designed to optimize opportunities for student participation
- 1.4.2. Prepare students through dual credit and concurrent enrollment and facilitate their aspirations by early admissions with the ultimate goal of earning meaningful employment
- 1.4.3. Provide students with greater insight into their strengths, needs, aspirations, and foster a greater appreciation and understanding of their cultural background and experiences
- 1.4.4. Promote general education CORE curriculum to ensure that our graduates possess adequate literacy and general knowledge to function in employment, to pursue additional education, and to participate in the cultural and political life of the community and society
- 1.4.5. Promote collegiality, respect and dignity among staff and students
- 1.4.6. Prepare students for employment through a broad range of vocational, technical, and professional education programs

1.4.7. Enhance job effectiveness through promotion of critical thinking skills, continued training, advancement in technology, distance learning, and maintain relevant skills needed in the job market

1.4.8. Promote transfer of credits between institutions of higher education
(Updated 7-22-14)

1.5 Institutional Goals

The Board of Trustees of the College (“Board”), its administration, faculty, and staff have adopted the following six long-term institutional goals identified by the National Alliance of Community and Technical Colleges (1601 South Miami Avenue Miami, FL 33129):

1.5.1 Access and Equity

The College shall endeavor to provide members of the surrounding communities’ equal access to relevant post-secondary education regardless of academic preparation or background.

1.5.2 Employment Preparation and Placement

The College shall dedicate itself to preparing today’s workforce for the needs of tomorrow’s workplace. Toward that end, the College shall commit to expanding its relationship with northeastern New Mexico businesses by focusing on the needs of local employers and by targeting its academic programs, student support programs, and community relationships to fulfill those needs.

1.5.3 College and University Transfer

A significant role of the College shall be to facilitate students’ ability to transfer to four-year colleges and universities for the purpose of obtaining baccalaureate degrees.

1.5.4 Economic Development

The College shall contribute to the economic development of the communities it serves by ensuring the availability of relevant post-secondary education and training, and by providing prospective employers with effectively-trained, workplace-ready employees.

1.5.5 College and Community Partnerships

The College shall make its facilities and services available to individuals and groups from the surrounding communities and shall encourage faculty, staff, and students to commit themselves to volunteer service benefiting the surrounding communities.

1.5.6 Cultural and Cross-Cultural Development

Recognizing that the College serves a diverse population consisting of individuals of various racial, ethnic and religious backgrounds, as well as students with special needs, the College shall serve as a catalyst for cross-cultural awareness and collaboration, and shall make available to its students, faculty and staff opportunities for participation in the cultural arts, as well as sports and recreational activities.

1.6 Strategic Planning

To help guide and measure the College's progress toward its long-term goals, the Board has undertaken strategic planning, including the adoption of performance indicators and corresponding performance metrics.

1.7 About This Handbook

1.7.1 All provisions within this Handbook shall be interpreted consistent with federal and state law.

1.7.2 A copy of this Handbook shall be posted on the College's website and a hard copy shall be placed in the College's Learning Resource Center and in the Human Resources Office.

1.7.3 Amendments to this Handbook may be proposed by the College's President, Vice President for Instruction, Chief Financial Officer, or Employee Policy and Procedure Standing Committee. Proposed amendments shall be presented to all Department Directors, the Chief Financial Officer, the Vice President for Instruction, and the President of the College for their prior consideration and input. Following the aforementioned review process, which may include revisions, the President shall then propose the amendment to the Board for ratification.

1.7.4 This Handbook, as well as any subsequent amendments hereto, shall become effective upon the date of its approval or ratification by the Board. The complete procedure for amending this Handbook is available from the Human Resources Office.

Chapter 2 Nondiscrimination Policy

2.1 Policy

- 2.1.1 It is the College's express policy and purpose to provide educational and employment opportunities without regard to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, age, disability, or veteran's status, in conformity with the laws of the United States and the State of New Mexico.
- 2.1.2 Equal opportunity extends to all aspects of the employment relationship with the College, including hiring, transfers, promotions, training, terminations, working conditions, compensation, and benefits.
- 2.1.3 It is the responsibility of each member of the College's staff to comply with the College's nondiscrimination policy. The College's Human Resources Office is responsible for ensuring the College's compliance with its nondiscrimination policies in all personnel and employment matters.

2.2 Compliance

2.2.1 Recruitment and Selection

The Human Resources Office shall oversee recruitment and selection systems to ensure compliance with the College's Nondiscrimination Policy. To attract qualified applicants, the College shall utilize recruitment resources, including secondary schools, other institutions of higher learning, and the New Mexico Department of Labor.

2.2.2 Supervisor Training

As part of the College's Professional Development Plan, employees with supervisory authority shall be provided on-going training and technical assistance on the various laws and regulations underlying the College's Nondiscrimination Policy.

2.2.3 Job Description Review

The Human Resources Office shall conduct periodic reviews of the College's job descriptions to confirm that essential job functions are listed and to verify that the required qualifications are job-related and consistent with business necessity. Supervisory staff shall review job descriptions prior to each evaluation period and shall create a summary of additional job duties, as assigned.

2.2.4 Equitable Compensation

The College shall provide equal pay for equal work to ensure that individual compensation is based upon the job held and the experience of the individual within a particular job category.

2.2.5 Employee Training Opportunities

On-the-job training programs, as well as other training and educational programs offered by the College, shall be made available to all employees without regard to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, age, disability, or veteran status.

2.2.5.1 Luna Community College's long-term objective is to focus on building formalized on-the-job development programs within the College structure by putting a greater emphasis on internal skill development. The two reasons for this increased focus are to ensure that College has the skills available to fulfill current demands and to provide employees the opportunity to learn new skills, therefore, creating a strong foundation with a firm commitment to the College.

2.2.5.2 Employee training development objectives need to be set annually and reviewed regularly. The following are the steps necessary in the implementation of this policy.

- Identify the functions specifically performed by the Department Director and determine which functions would be completed by the designated employee.
- Develop a training process. The supervisor or the person currently performing the job can do the training.
- Outline a schedule to perform the new skills periodically.

Luna Community College continues onward revolving around a learning culture. *(Approved by the Board of Trustees on May 14, 2014)*

2.3 Required Notices Concerning Nondiscrimination Policies

2.3.1 As required by law, the Human Resources Office shall post federal and state government nondiscrimination posters in conspicuous locations throughout the

College campus. The College's nondiscrimination policies and procedures shall also be explained to all new employees during employee orientations conducted by the Human Resources Office.

2.3.2 Notices, advertisements, forms, job descriptions, and other documents related to employment shall not indicate any preference, limitation or discrimination on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition, status as an armed forces veteran, or any other prohibited basis, in conformity with federal and state law.

2.3.3 All employment advertisements placed by the College or its contract recruiters must include the phrase: Luna Community College is an Equal Employment Opportunity Employer.

2.4 Procedure for Reporting Violations of the College's Nondiscrimination Policies

2.4.1 College employees who believe they have been subjected to prohibited discrimination or harassment should immediately report the incident to their supervisor or to the Human Resources Director within five (5) days following the actual or constructive knowledge of the alleged discrimination or harassment. Employees may use the Discrimination/Harassment Reporting Form included as Attachment F to this Handbook. The supervisor shall report all discrimination or harassment complaints to the Human Resources Director.

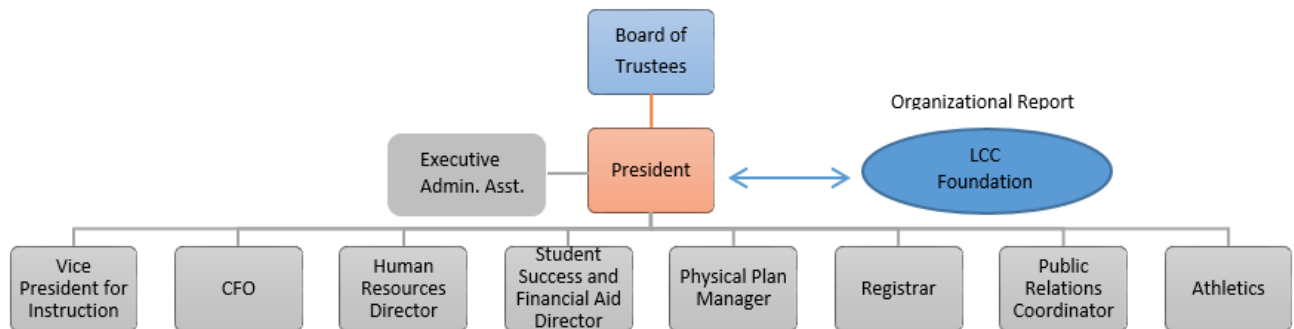
2.4.2 Every reported violation of the College's nondiscrimination policies and procedures shall be promptly investigated by the Human Resources Director. Failure by an employee to fully and timely report alleged violations of the College's nondiscrimination policies or to provide supporting information, may compromise the College's ability to investigate or remedy the alleged violation. Employees found to have engaged in discriminatory conduct or harassment shall be subject to immediate disciplinary action, up to and including termination of employment with the College.

2.4.2.1 If the Human Resources Director is implicated in the complaint, he or she will not conduct the investigation. In the alternative, the President would hire an outside entity to investigate the claim and recommend discipline (if any). The President would then rule on the proposed discipline.

2.4.2.2 If the President is implicated in the complaint, the Human Resources Director can either (1) investigate the claim and recommend discipline directly to the Board, or (2) hire an outside entity to perform this function and report its findings to the Board.

Chapter 3 Organization and Governance (Revised 12/12/17)

3.1 Organizational Chart



3.2 Governance and Instructional Organization

3.2.1 Board of Trustees

The Board is the governing body of the College. The New Mexico Community College Act of 1985 establishes the Board's authority. The Board is composed of seven elected members from each of the seven participating school districts served by the College. The school districts currently being served by the College are the Las Vegas City School District, West Las Vegas, Maxwell, Mora, Santa Rosa, Springer, and Wagon Mound districts. The duties and responsibilities of the Board are outlined in the Board Policies. The Board's primary duty is that of determining the financial and educational policies of the College. The Board has delegated the responsibilities of implementing and enforcing Board policies to the College President.

3.2.2 President

The President is the Chief Executive Officer of the College. The Community College Act, the rules and regulations of the New Mexico Higher Education Department (HED) and the policies of the Board charge the President with carrying out the policies of the Board and administering the College efficiently and effectively. The President is directly responsible to the Board for the

College's operation and is expected to provide creative educational leadership in achieving the College's mission and goals.

Chapter 4. Human Resources Office Policies and Procedures

- 4.1 The role of the Human Resources Office shall include strategic, operational, and administrative responsibilities in employment matters.
- 4.2 The strategic responsibilities of the Human Resources Office shall include long-term employment planning for academic program development and changes. The strategic planning responsibilities also shall include employee management, evaluation of organizational structures, and development of performance management systems in support of the College's strategic objectives.
- 4.3 The operational responsibilities of the Human Resources Office shall include designing recruitment programs in compliance with the College's nondiscrimination policies and procedures. The Human Resources Office shall also foster more effective channels of communication between and among employees, supervisors, and the Human Resources Office.
- 4.4 The administrative responsibilities of the Human Resources Office shall include enforcement of the College's policies and procedures regarding employment and record-keeping.
- 4.5 Responsibility for Compliance

With respect to the College's nondiscrimination policies, the Human Resources Office is responsible for:

- 4.5.1 Assisting College employees with collecting and analyzing employment data as required by state and federal law;
- 4.5.2 Developing procedures and recruitment techniques designed to comply with the College's Nondiscrimination Policy;
- 4.5.3 Assisting College employees in the development of solutions to specific personnel problems;
- 4.5.4 Serving as liaison between the College, government agencies, and community groups;

- 4.5.5 Keeping the College's employees informed of the latest regulatory and statutory developments affecting the College's Nondiscrimination Policy; and
- 4.5.6 Responding promptly to and investigating employee complaints or inquiries regarding job-related discrimination or grievances.

Chapter 5 Recruitment and Hiring

(Revised 12/12/17)

5.1 Human Resources Office

The Human Resources Office recruits applicants and accepts applications for job openings at the College. All applications are kept on file for a maximum of one (1) year. Applications will not be considered for other job openings unless requested in writing by the applicant.

5.2 Employee Designations

5.2.1 Professional, Executive, and Administrative Staff

5.2.1.1 The terms Professional, Executive, and Administrative (non-faculty) Staff shall mean employees who hold positions classified as exempt under the federal Fair Labor Standards Act (FLSA), as amended, and New Mexico law. As exempt employees, Professional, Executive, and Administrative Staff are not entitled to overtime/compensatory time.

5.2.1.2 Professional, Executive, and Administrative Staff shall be considered a part of the Management of the College, and are expected to spend the time and intellectual energy necessary to fulfill their job responsibilities.

5.2.1.3 Professional, Executive, and Administrative Staff include, but are not limited to, the following job titles: Director, Manager, Accountant, System Analyst, Supervisor, and Counselor. There are two subcategories of

Professional, Executive, and Administrative Staff: (1) Regular and (2) Temporary. An individual may work either full-time or part-time in either of these subcategories.

5.2.1.4 Professional, Executive, and Administrative Staff are expected to serve as role models for students and other employees by maintaining the highest standards of both personal and professional conduct.

5.2.1.5 Professional, Executive, and Administrative Staff are expected to attend the College functions outside of regularly-scheduled working hours without additional compensation. In situations where Professional, Executive, and Administrative Staff are asked to perform work not usually associated with their regular job responsibilities, the College may issue a Supplemental Contract with the prior approval of the President.

5.2.1.6 Definitions

5.2.1.6.1 Professional. An employee who must spend more than 50 percent of his or her time in scientific or specialized study, or in performing original and creative work, or instruction.

5.2.1.6.2 Executive. An employee who must spend more than 50 percent of his or her time in management of an organized department or subdivision thereof.

5.2.1.6.3 Administrative. An employee who must spend more than 50 percent of his or her time performing office or non-manual work relating to management policies or functions directly related to academic instruction or training.

5.2.1.6.4 Supervisor. An employee who devotes a substantial amount of work to supervisory duties and who customarily directs the work of two or more other employees.

5.2.2 Faculty

Faculty members are considered exempt Professional employees. Faculty positions are covered in the Faculty Handbook.

5.2.3 Support Staff

The term Support Staff shall mean personnel holding positions classified as a non-exempt under the Fair Labor Standards Act (FLSA), as amended. Non-exempt employees are entitled to overtime/compensatory time under federal and state law. Support Staff include, but are not limited to, the following job titles: Secretary, Clerical Employee, Maintenance Employee, and Service Workers. There are two subcategories of Support Staff: (1) Regular and (2) Temporary. An individual may work either full-time or part-time in either of these subcategories.

5.2.4 Regular Employee

5.2.4.1 Regular Full-Time Employee. An employee hired to fill an established, budgeted position, who is scheduled to work forty (40) hours or more per week for twelve (12) months per year.

5.2.4.2 Regular Part-Time Employee. An employee hired to fill an established, budgeted position, who is scheduled to work less than forty (40) hours per week for twelve (12) months per year.

5.2.4.3 Multiple Regular Part-Time Positions. An employee working two (2) regular part-time positions that together total forty (40) hours per week will be considered a Regular Full-Time employee. If the combined hours normally worked by the employee are less than forty (40) hours per week, the employee will be considered a Regular Part-Time Employee.

5.2.4.4 Regular Part-Time and Temporary Part-Time Positions. An employee working both Regular Part-Time and Temporary Part-Time (as defined, below) will be considered a Regular Part-Time Employee.

5.2.4.5 Regular Full-Time Employee Additional Duties

- Per the President's discretion, other considerations for regular full-time employees that assume additional duties based on functions of high priority during a job vacancy or a position of a full-time employee within the department that is on extended leave such as FMLA, etc.

1. Per the President's discretion, compensation shall be based on 20% of the entry level salary of the range of the open position and will become effective upon the

President's review and assignment. This will only be for the employee(s) that specifically assume the additional duties of vacant position or upon a position of an employee within the department that is on extended leave such as FMLA, etc.

2. The interim position shall not exceed six (6) months and shall be evaluated by Administration before the position is filled.

5.2.5 Temporary Employee

5.2.5.1 Temporary Employee positions are those of limited term, less than twelve (12) months per term, created and filled to satisfy a short-term need of the College. Benefits will not be provided to Temporary Employees.

5.2.5.2 Temporary Full-Time Employee. An employee hired to work forty (40) hours per week, for a term less than twelve (12) months. Time extensions may occur depending on the needs of the College and any extension must be requested through the Human Resources Office and approved by the President. Any extension does not change the character of the temporary position to one that is regular.

5.2.5.3 Temporary Part-Time Employee. An employee hired to work less than forty (40) hours per week, for a term less than twelve (12) months.

5.2.5.4 Multiple Temporary Part-Time Positions. An employee hired to work two or more Temporary Part-Time positions totaling forty (40) hours per week shall be considered a Temporary Full-Time Employee. If the combined hours normally worked by the employee are less than forty (40) hours per week, the employee will be considered a Temporary Part-Time Employee.

5.2.6 Short-Term Employee

5.2.6.1 Employee hired to meet special job needs that require immediate attention. Short-term employee positions are those of limited term,

up to six months, created, and filled to satisfy a short-term need of the College. Benefits will not be provided to Short-Term Employees.

The President must submit a memorandum rationalizing the need for a Short-Term Employee. A Position Vacancy Request Form will not be needed for Short-Term Employees.

5.2.7 Classification Changes

Classification changes from Temporary Full-Time to Regular Full-Time may occur under the following circumstances:

5.2.7.1 When a Temporary Full-Time position is re-classified as a Regular Full-time position, it shall be considered a new position and treated consistent with College policies governing new positions or vacancies. The incumbent Temporary Full-Time Employee may apply for the new

Regular Full-Time position and, if selected, benefits associated with the new position shall be awarded as of the date the employee assumes duties as a Regular Full-Time Employee.

5.3 Hiring of Regular Employees

5.3.1 All Regular Employee contracts, whether Full-Time or Part-Time shall be made for the period of time required by the position for which the employee has been hired to work.

5.3.2 There shall be no commitment, express or implied, to renew the contract of any employee beyond the expiration date of the employee's contract. If no expiration date is given for a particular contract, the expiration date shall be the last day of the College's fiscal year.

5.3.3 The procedure for recruiting Regular Employees shall be as follows:

5.3.3.1 A Position Vacancy Notice and Recruitment Approval Form (attached hereto as Attachment A) shall be filled out by the

relevant Department Director or Program supervisor, signed by all required administrators and submitted to the President. The Vacancy Request Form shall identify the availability of the funds for the position, the job description, the minimum qualifications for the position, the justification for the position, the intended date of hire, and the account number for the available position. For newly created positions, the Department Director or Program Supervisor shall fill out an RPSP form, as approved by the Vice President for Finance and

Administration. Each RPSP form shall include a written explanation of the need for the new position, a budget summary, and a description of how the new position will benefit the College. (Note: A reclassified or upgraded position shall not be considered a new position).

- 5.3.3.2 Each proposed job announcement for an open position shall include a brief job description and the minimum qualifications required for the position.
- 5.3.3.3 The President shall approve the position before any Regular Employee position opening may be announced.
- 5.3.3.4 The job announcement shall be posted on the bulletin board near the Human Resources Office and on the College's website for a period of not less than five (5) days. Each job announcement shall contain a closing date for consideration of applications.
- 5.3.3.5 All qualified applicants who apply within the time specified in the job announcement shall be considered for the position. A record of each job application received shall accompany the final recommendation for employment by the Human Resources Office. Contingent upon the number of job applications received, up to five (5) applicants with the best qualifications shall be given the opportunity to interview with the Interview Committee.
- 5.3.3.6 The Interview Committee shall consist of the following: one representative from the department requesting the employee, one representative from the Human Resources Office to

facilitate the interview process, and two randomly picked employees from the College's pool of Administrative Professional, Faculty, and Other

Regular Full-Time Staff. When an employee is selected to participate on an Interview Committee, it is a commitment that is expected to be met. Regular Full-Time employees will be granted time off with pay to attend job interviews scheduled during working hours, provided they have notified and made advance arrangements with their supervisor.

- 5.3.3.7 The applicants interviewed shall be ranked by the Interview Committee based on their performance in the job interview and their qualifications for the position.
- 5.3.3.8 The President shall be responsible for evaluating the qualified applicants presented by the Interview Committee and for conferring with the Department Director or Program Supervisor seeking to fill the job opening.
- 5.3.3.9 Only the President shall be authorized to offer employment to the applicant.
- 5.3.3.10 The President shall include an informational item on the agenda at the

Board's first regular meeting after an employment offer has been accepted in order to inform the Board of the College's hiring activities.
- 5.3.3.11 When a position is filled, unsuccessful applicants for the job shall be notified by mail by the Human Resources Office.

5.4 Hiring of Regular Part-Time and Temporary Employees to fill a Regular Full-Time Position

- 5.4.1 When necessary, Regular Full-Time positions at the College may be filled by hiring Regular Part-Time or Temporary Employees. The decision to fill a position with a Regular Part-Time or Temporary Employee shall be made by the President, in consultation with the relevant Department Director or Program Supervisor.

5.4.2 Department Directors or Program Supervisors wishing to hire a Regular PartTime or Temporary Employee to fill a Regular Full-Time Employee position must submit a memorandum rationalizing the need for a Regular Part-Time or Temporary Employee to fill the position, in addition to the Vacancy Request Form.

5.5 Pre-Employment Testing for Support Employees

The College may administer validated pre-employment tests to applicants (e.g., typing tests for clerical/secretarial applicants for support staff positions, physical functional capacity tests for Physical Plant Department employees, etc.). All pre-employment tests shall be administered by the Human Resources Office, its authorized designee or contractor.

5.6 Employment Eligibility Verification Form (I-9)

The Immigration Reform Act of 1986 requires employers to verify the identity and authorization to work in the United States on every individual hired after November 6, 1986. All persons hired by the College must provide the required information within three (3) days of hire. The College will only employ individuals who have been approved to work in the United States and can present the appropriate documentation.

5.7 Travel and Moving Expenses

The College does not customarily reimburse travel and moving expenses of newly-hired, promoted, or transferred employees. Such expenses are solely the responsibility of the employee.

5.8 Age Limitations

The College does not employ persons who are under sixteen (16) years of age. Any exceptions to this policy must be approved by the President and comply with state and federal laws related to the employment of minors. Minors employed by the College who are under the age of sixteen (16) years must have a workers permit issued by the New Mexico Department of Labor.

5.9 New Employee Orientation

New employees shall receive a new employee orientation on the first day of work. Employees shall sign the following forms during the orientation:

- Email Acceptable Use Policy

- Acceptance of Systems Password(s)
- Agreement of Security and Confidentiality
- Drug Test Screen Form
- Acknowledgement of Sexual Harassment Policy Orientation Form
- Direct Deposit Agreement Form
- Form W-4
- I-9 (Employment Eligibility Verification Form)
- New Hire Orientation Form
- Employee Technology Systems Account Requests
- NMPSIA Enrollment Form
- NMERB Enrollment Form
- Employee Handbook Acknowledgement Form

5.10 Procedure for Changes in Employee Personal Status

Employees are required to notify the Human Resources Office of any change in their personal status, including a change in name, address or other identifying or contact information. In addition, the following changes shall require the employee's signature before being authorized:

- 5.10.1 Changes in the employee's income tax withholding, including changes in the number of personal exemptions the employee wishes to take.
- 5.10.2 Changes in the employee's group medical benefits or life insurance coverage.
- 5.10.3 Changes in the employee's personal deductions (i.e., deductions taken to fund savings bonds, annuities, etc.).
- 5.10.4 Changes in the employee's automatic bank deposits.
- 5.10.5 Changes as identified by the Human Resources Office related to the personal circumstances or status of the employee which may affect the employee's right, interest, or qualification for any employee benefit, obligation, or option.

5.11 Anti-Nepotism

- 5.11.1 The President shall not hire or approve the hiring of a person who is the spouse, partner and/or significant other, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother,

brother-in-law, sister or sister-in-law of the President or of a member of the Board of Trustees of Luna Community College.

5.12 Assignment of Personnel

- 5.12.1 Assignment is defined as placement of an employee in a work site position. Position assignment of new employees will be made by the President of Schools or Director for Human Resources as delegated by the President after consultation with the immediate supervisor. An employee shall not be assigned to any work site which would cause the employee to be under the direct or indirect supervision of a mother, father, husband, wife, sister, brother, son, daughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law who is an administrator/supervisor.
- 5.12.2 Work site assignments will be made by the supervisor. It is the policy of the College to ensure equivalence/comparability among departments in the assignment of personnel.
- 5.12.3 Work site assignments/schedules of shared personnel assigned to multiple work sites may be adjusted at any time by agreement of the supervisors or direction of the President.
- 5.12.4 When an assignment change is necessary within the work site, the supervisor must secure approval for the change from the Human Resources Director and will notify the employee of the change as soon as practicable. The supervisor shall provide written notification of the change in assignment to the employee with copies to the Human Resources Director and the President's Office.
- 5.12.5 Employees who marry are subject to Administrative Transfer if the marriage would cause one employee to be directly or indirectly supervised by the other employee. Employees are required to notify their supervisor and the Human Resources Director when this circumstance occurs.

5.13 Contract Renewal

The President will consider re-employment of all employees on or before May 15 of each year, or the first business day prior to May 15th. Written notice of action by the President for renewal or non-renewal will be provided as soon as it is known, but no later than the last day of the academic year. Failure to provide an

employee notice of renewal or non-renewal by May 15 will result in the presumption of re-employment for the following academic year.

Chapter 6 Wages and Salary

6.1 Maintenance and Update of Pay Range Schedules

6.1.1 Employee salaries are managed using two separate pay range schedules. The Hiring Pay Range Schedule shall be used to determine an incoming employee's starting salary, which shall be dependent on credentials and experience. The Hiring Pay Range Schedule shall be updated annually using the Consumer Price Index (CPI) published by the New Mexico Department of Workforce Solutions.

6.1.2 The Regular Pay Range Schedule shall be used to determine an existing employee's annual step pay increase, if applicable. The Regular Pay Range Schedule shall be updated annually using the formula provided by the New Mexico state legislature. The Human Resources Office will implement the updates of the Regular Pay Range Schedules on an annual basis, in consultation with the President and Chief Financial Officer. (Adopted by the Board of Trustees on

6.2 Overtime Work/Compensatory Time (Non-Exempt Staff)

6.2.1 Definition of Overtime

Overtime is time worked in excess of forty (40) hours in a standard workweek. Nonexempt employees will be paid time and a-half of their regular rate of pay for each overtime hour worked in a standard workweek. All non-exempt employees are required to keep a record of hours worked by completing a timesheet. A timesheet is to be submitted to the Human Resources Office at the end of each month.

6.2.2 Standard Work Week

The standard workweek at the College starts Monday, 12:01 a.m., through Sunday, 12:00 a.m.

6.2.3 General Provisions

Generally, workloads and work schedules are arranged so that duties and responsibilities can be accomplished in a normal forty (40) hour work week. Overtime may be worked only with **prior** approval of the employee's supervisor.

6.3 Compensatory (Comp) Time

6.3.1 Definition

Comp time is time off granted for actual work performed in excess of forty (40) hours in a standard workweek in lieu of payment of overtime compensation. The FLSA allows comp time to be accrued up to a maximum of 240 hours.

6.3.2 Accrual of Comp Time

6.3.2.1 Comp time is computed by multiplying overtime hours worked by one and one-half. The College will compensate overtime worked by recording comp time upon the individual's leave record.

6.3.2.2 Whenever possible, accrual of comp time shall be avoided by adjusting the employee's work schedule within the designated work week to assure their total number of hours worked does not exceed 40.

6.3.3 Supervisor's Responsibility

Supervisors are urged to keep employees work week to 40 hours.

6.3.3.1 Compensation for overtime worked will be made by allowing the employee an equivalent number of hours off during the same week whenever possible.

6.3.3.2 If an employee works overtime and accrues comp time, supervisors are urged to schedule the use of the comp time within 45 days of earning.

6.3.3.3 A supervisor must approve in advance requests to use comp time. Requests for using comp time are made by completion of a Request for Leave Form.

6.3.3.4 When an abbreviated day or closure is in effect, personnel whose positions involve essential services as designated by the respective director or designee shall report to work at the scheduled time or as soon thereafter as possible. At a later date, within a two-week time frame, flex-time for essential employees will be available for the hours worked when the College was closed. The flex schedule is based on the needs of the department and the approval is authorized by the Department Director.

(Approved by the Board of Trustees on January 23, 2014)

6.4 Grant and Contract Paid Wages

- 6.4.1 All proposed grant and contract wages and salaries shall be consistent with the College wage and salary administration policy regardless of the source of the funding. All College employees writing grant proposals shall use official College wage and salary scales to determine personnel costs for all grants. Grant writers shall submit a list of the costs to the Director of Human Resources for approval before submitting the grant for approval to the appropriate Vice President.
- 6.4.2 All proposals for release time for College employees shall receive prior approval from the appropriate vice president before proposals are submitted to funding agencies.
- 6.4.3 If the grant language references a wage rate, which is higher (or lower) than the established College wage scale or guidelines, the individual will be paid the appropriate rate based on College policy, not based on what is written in the grant.
- 6.4.4 Only the President and the Vice President for Finance and Administration are permitted to approve grant applications if new College resources must be committed at any time to complete the grant's scope of work/service. If no new College resources are required, the President may delegate approval authority to a designated representative.

6.5 Payroll

Beginning July 1, 2016 all temporary and regular employees will be paid bi-weekly either by pay check or direct deposit to an authorized financial institution account. (*Approved March 30, 2016*)

6.6 Supplemental Employment

- 6.6.1 Agreements for supplemental employment may be made with **exempt** personnel for the performance of duties beyond their assigned position, such as teaching an evening class, or other assignments not included in the regular contract. Supplemental employment, if assigned, must be scheduled after the employee's regular scheduled work hours to be eligible for compensation. Assignments scheduled during the exempt employee's work hours will not be considered eligible for additional compensation.
- 6.6.2 Non-exempt employees (support staff) can be contracted for supplemental employment on a sporadic or unusual basis. All requests for supplemental employment must be approved by the appropriate vice president and are subject to

approval by the President. Such services shall be compensated at rates established by the College and approved by the President.

6.7 Status

Employees cannot be employed as “exempt” and “non-exempt” simultaneously (i.e., support staff cannot be employed as an evening instructor).

6.8 Independent Contractors

College employees shall not be considered independent contractors while employed at the College.

6.9 Work Schedules

6.9.1 Work Day/Work Week Definitions

6.9.1.1 Regular Work Day. For a Full-Time position, the regular work day shall consist of eight hours, five (5) days per week, Monday through Friday, from 8:00 am, to 5:00 pm, with a sixty (60) minute lunch period from 12:00 pm to 1:00 pm, for a total of forty (40) hours worked per week. Supervisors may modify employees’ meal schedules based on the needs and requirements of the work unit. Notwithstanding, meal periods may not be utilized so as to shorten the length of a scheduled work day.

6.9.1.2 Modified Work Day. Upon application by a supervisor, the President may approve the modification of an employee’s working hours from the Regular Work Day schedule (Modified Work Day). Modified Work Day schedules shall only be approved, where appropriate, during the period from the end of the Spring Semester to the commencement of the Fall Semester each year. The supervisor requesting a Modified Work Day for an employee shall submit the Modified Work Day application to the Office of Finance and Administration for compliance review and fiscal impact assessment. The application must demonstrate the Modified Work Day schedule will not negatively affect the needs of the affected Department.

6.9.2 Attendance and Tardiness

It is the responsibility of each supervisor to ensure that employees attend to their duties in accordance with established College policy. Because the College has a fiduciary duty to ensure that public funds are not inefficiently expended, attendance, and tardiness problems among College employees shall be promptly

addressed. Unexcused absences and tardiness may be a basis for discipline, up to and including termination.

6.9.3 Rest Periods

The College provides its employees with two rest periods, not to exceed fifteen (15) minutes each, in the mid-point of each four (4) hour work period (i.e., one rest period in the morning and one rest period in the afternoon). Rest Periods are scheduled and controlled by an employee's immediate supervisor and should be implemented on a staggered basis to ensure that no office or department goes unstaffed. Rest Periods cannot be accumulated for the purpose of taking extended lunch periods or taking time off.

6.9.4 Holidays

6.9.4.1 Eligibility

Only Regular Full-Time or Regular Part-Time employees working twenty (20) or more hours per week are eligible to receive Holiday Compensation at the employee's regular rate of pay on an Observed Holiday. When the time during which an employee is on approved Annual Leave or Sick Leave includes a paid Observed Holiday, the holiday hours shall not be counted against the employee's leave time. Note: Employees who are terminated or sign separation agreements will be terminated prior to the holiday at the convenience of the College, and Observed Holidays shall not be used to extend the effective date of separation.

6.9.4.2 Observed Holidays

The following holidays are observed by the College:

- Martin Luther King Day
- Good Friday
- Easter Monday
- Memorial Day
- Independence Day
- Labor Day

- Thanksgiving Day
- Day after Thanksgiving
- Winter Break (Note: the specific days the College observes as Winter Break shall be indicated in the approved Staff Calendar which shall be available in the Human Resources Office.)

6.9.4.3 Special Circumstances Regarding Observed Holidays

- 6.9.4.3.1 Because of the nature of certain jobs, supervisors may require employees to work during Observed Holidays on an alternating basis (Alternate Holiday Schedule). Each potentially-affected employee should be advised at the time of hire that this Alternate Holiday Schedule is a condition of employment. An employee subject to an Alternate Holiday Schedule who refuses to work on an observed holiday may be subject to disciplinary action, up to and including termination.
- 6.9.4.3.2 In certain circumstances, a department may need an employee to work on an Observed Holiday who is not otherwise subject to an Alternate Holiday Schedule. Supervisors must receive the prior approval of the President before requiring an employee to work on an Observed Holiday who is not otherwise subject to an Alternate Holiday Schedule. If approved by the President, supervisors should give the affected employees reasonable notice of the need for them to work during an observed holiday.
- 6.9.4.3.3 Non-exempt employees who are required to work on an Observed Holiday will be paid time and ½ for each hour worked. Exempt employees with a specialized assignment contract that requires them to work on an Observed Holiday will be paid at the contract rate.

Chapter 7 Probationary Period; Evaluation; Promotion and Transfer (Revised 10/10/17)

7.1 Probationary Period Policy

The probationary period is an essential part of the evaluation process to determine adequate performance standards and is used as an adjustment/training period for new employees. During the probationary period, an employee does not have an expectation of continued employment, and employment can be terminated ~~for any reason~~, with or without cause, and with no employee appeal

7.1.1 Probationary Period of Employment. All employees hired into a Regular position will normally be hired for the fiscal year (July 1-June 30). A ~~initial~~ probationary period is assigned to a new Regular employee for the first twelve (12) calendar months (Probationary Period).

7.1.1.1 During the Probationary Period, employees shall be evaluated at the end of four (4), six (6) and twelve (12) months. These evaluations will be discussed with the employee. .

7.1.1.2 Promotion or transfer requests during an employee's Probationary Period are discouraged. An employee who is promoted or transferred during his or her Probationary Period shall be considered to have started a new position subject to a renewal of the Probationary Period.

7.1.1.3 During the Probationary Period, a Regular Full Time Employee's status may be reduced to Part Time, Temporary, any combination thereof, or the employee may be terminated.

7.1.1.4 Employees terminated during their Probationary Period cannot grieve or appeal the termination decision pursuant to Chapters 9 and 12 of this handbook.

7.1.2 Upon successful completion of this probationary period, employment will be offered on a fiscal year basis unless:

7.1.2.1 The employee voluntarily terminates employment giving thirty days written notice;

7.1.2.2 There is a reduction in the work force;

7.1.2.3 The employee is terminated for cause during the fiscal year for which hired;

7.1.2.4 The employee is terminated without cause with thirty days written notice prior to the end of the fiscal year for which hired; or

7.1.2.5 The employee fails to return the College's letter of employment renewal within the prescribed date of return.

7.2 Formal Performance Evaluation Process

7.2.1 Supervisors will be provided a schedule for performance evaluations by the Human Resources Office after the schedule has been approved by the President.

7.2.2 Supervisors shall evaluate employees using the approved Staff Performance Appraisal Form.

7.2.3 Supervisors shall meet with each employee under their supervision and thoroughly review the Staff Performance Appraisal Form. Supervisors are required to provide comments in each section being reviewed. If the employee receives a rating below, "Meets Expectations," the supervisor must complete and attach an Employee Development Plan.

7.2.4 At the conclusion of the supervisor's evaluation of an employee, the supervisor shall provide the employee with a copy of the ~~Employee~~ Staff Performance Appraisal Form along with a copy of the Employee Development plan (when applicable).

7.2.5 Once the appraisal meeting has taken place, the supervisor shall submit the original, signed Staff Performance Appraisal Form to the Human Resources Office.

7.3 Promotion and Transfer Policy

7.3.1 All Regular and Temporary positions or vacancies are covered by this promotion and transfer policy.

7.3.2 New positions and job vacancies may be filled from within the College by promotion or transfer of qualified and interested persons. If it is determined that a new position or vacancy will not be filled from within the College, the administrative unit must then seek a pool of qualified applicants as defined under the Employment Policies and Practices.

- 7.3.3 All promotions or transfers are based on training, experience, and past performance and shall comply with the College's Nondiscrimination policy. The Department Director shall be responsible for determining whether a transfer or a search is in the best interest of the College.
- 7.3.4 If an employee is interested and believes he or she has the experience, education and skill required to fill an available position, he or she may request consideration for the position at the Human Resources Office.
- 7.3.5 Seniority

When two or more employees' abilities, skills, training, credentials and other relevant qualifications are determined to be equal, seniority shall determine priorities with regard to promotions, transfers and reductions in force. Nothing in this policy shall be deemed to override qualifications of employees as the primary consideration with respect to promotions, transfers, or reductions in force. A Regular Full Time Employee with less seniority may receive consideration over a more senior Regular Part Time Employee or Temporary Employee.

7.3.5.1 Definition. Seniority is defined as an employee's length of continuous employment at the College.

7.3.5.2 Eligibility. This policy applies to all Regular Full Time Employees and to Regular Part Time Employees who work at least twenty (20) hours per week. Temporary Employees or Regular Part Time Employees who work less than twenty (20) hours per week do not accumulate seniority.

7.3.5.3 Computing Seniority. Seniority is computed from the first day of employment, but no employee is entitled to exercise any seniority rights until he/she has completed a six (6) month probationary period.

7.3.5.4 Special Provisions Regarding Seniority. An employee on approved leave does not lose accumulated seniority but does not accumulate additional seniority during the leave period. Within a department, seniority shall be based on length of service in the employee's present department. An employee who has been subject to a reduction in force due to lack of funding and who is then reinstated within one (1) year shall retain accumulated seniority to the date of layoff.

Chapter 8 Employee Code of Conduct

8.1 Employee Conduct

Certain rules and regulations regarding employee behavior are necessary for efficient College operations and for the benefit and safety of all employees. Conduct by employees that interferes with operations, discredits the College, is in violation of College policy or federal, state or local laws, is unsatisfactory, or is offensive in nature will not be tolerated. Employees are expected at all times to conduct themselves in a positive and professional manner and to promote the best interests of the College. The College expects the highest standards of conduct from all its employees, and believes that with appropriate supervision, disciplinary actions against employees should not be necessary. However, disciplinary actions are necessary for employees who fail to perform the duties of their positions in a satisfactory manner or who engage in misconduct.

8.2 Prohibited Conduct

It is the duty and the responsibility of every employee to be aware of and abide by the College's policies and procedures. It is also every employee's responsibility to perform his or her job responsibilities to the best of his or her ability and to the standards set forth in the employee's job description (or as otherwise established). Employees, therefore, are strongly encouraged to request additional instruction from their supervisors regarding fulfillment of their job responsibilities, when the employee has questions or concerns about what is required of him or her.

Employees engaging in any of the following behaviors (this is not an exhaustive list of behaviors) may be subject to immediate disciplinary action, up to and including demotion, suspension, or dismissal of employment:

- 8.2.1 Engaging in acts of insubordination including, but not limited to, refusing to follow a supervisor's instructions concerning a job-related matter;
- 8.2.2 Engaging in deliberate or careless conduct endangering the safety of the employee or other members of the College community, including but not limited to, provoking or instigating a fight, or assaulting another individual on College property;
- 8.2.3 Engaging in malicious or dangerous pranks or practical jokes, or rough and boisterous play;
- 8.2.4 Excessive tardiness or absenteeism;

- 8.2.5 Failing to report for work without giving advance notice to the employee=s supervisor or appropriate Department Director;
- 8.2.6 Failing to report to work punctually, at the assigned time, or failing to be at the proper work station, ready for work as scheduled, or leaving an assigned work area without authorization;
- 8.2.7 Gambling on College property;
- 8.2.8 Immoral or indecent conduct on College property;
- 8.2.9 Inattentiveness to work responsibilities, neglect of job duties, or pursuit of personal projects during working hours without authorization from appropriate supervisor(s);
- 8.2.10 Intentionally falsifying or altering any College record or report, including but not limited to, an application for employment, a medical report, a production record, a time record, a financial record, an absentee report, student records, personnel records, or a shipping and receiving record;
- 8.2.11 Intimidating, abusing, threatening, or coercing another individual while on duty or on College property;
- 8.2.12 Knowingly admitting an unauthorized person or persons into any locked or otherwise restricted area of the College;
- 8.2.13 Possessing or consuming controlled substances while on duty;
- 8.2.14 Posting unauthorized materials on walls or bulletin boards;
- 8.2.15 Reporting for work under the influence of alcohol or controlled substances;
- 8.3.16 Sexually harassing or discriminatory statements or actions;
- 8.2.17 Sleeping while on duty;
- 8.2.18 Smoking in prohibited areas of the College;
- 8.2.19 Theft, intentional destruction, or defacing of property of the College or the property of another employee or student;
- 8.2.20 Using profanity or abusive language;

- 8.2.21 Vending, soliciting, or collecting contributions on College property without prior authorization from the President;
- 8.2.22 Violating any state or federal law;
- 8.2.23 Violating College policies and/or procedures;
- 8.2.24 Violating the chain of command for operational issues; or
- 8.2.25 Wearing inappropriate clothing for the work being performed.

8.3 Conflict of Interest

- 8.3.1 A conflict of interest may make it difficult or impossible for an employee to perform employment-related duties effectively or to act in the College's best interests. Thus, employees must avoid any situation that may give rise to a conflict of interest, including financial conflict of interest. Employees must be diligent to ensure that they avoid even the appearance or potential for a conflict of interest to arise.
- 8.3.2 An employee should take appropriate measures to avoid any situation in which they have, or may be perceived to have, a conflict of interest arising out of a relationship with another employee, a student, a contractor or a vendor. Employees must avoid situations in which they would supervise or be supervised by another employee with whom they have, or have had, a personal, commercial, financial, familial or other significant relationship.
- 8.3.3 No employee who has authority to make recommendations or decisions regarding contracts with other business entities shall accept outside employment with, have a financial interest in, or accept gifts or favors from any business entity that has a contract with or is under consideration for a contract with the College.
- 8.3.4 All employees must ensure that they do not find themselves in situations that would put them in a position of having to teach or supervise a student with whom they have, or have had, a personal, commercial, familial or other significant relationship.

8.4 Outside Work

- 8.4.1 If an employee engages in employment outside of LCC, they must ensure that their outside work does not interfere with their expected shifts assigned or in any

way compromise their ability to perform their responsibilities to the College. If an employee is in a position that requires flexible hours or shift work, they must be available to perform their duties at the College as needed

- 8.4.2 Employees must also ensure that any outside work they engage in does not create a conflict of interest with employment at the College. If an employee has any concern that a conflict may exist or are aware that the appearance of a conflict may exist, they must immediately report the situation to their supervisor. If a supervisor becomes aware or concerned that an employee has a conflict of interest related to outside employment, the College reserves the right to require that the supervisor and employee take appropriate measures to remedy the situation.

8.5 Discrimination and Harassment

- 8.5.1 College employees are strictly prohibited from discriminating against or harassing any other person. Employees are expected to treat peers, subordinates, supervisors, students, administrators, board members and the members of the greater community with respect.

- 8.5.2 Prohibited discrimination includes actions made on the basis of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental disability or handicap, serious medical condition, veteran's status or spousal affiliation, and any other basis prohibited by law.

8.6 Annual Acknowledgment

At least once per contract year Luna Community College employees are required to sign an acknowledgment stating they have read and understand the the Luna Community College Staff Handbook Policies. It is the duty and the responsibility of every employee to be aware of and abide by the College's policies and procedures.

Chapter 9 Corrective Progressive Action

9.1 Corrective Disciplinary Action

Supervisors may take corrective disciplinary action with regard to an employee under their authority. Corrective actions are primarily intended to correct and improve an individual's job performance and attitude and do not adversely affect the current pay status. Corrective actions should be designed to provide the individual with an opportunity to become aware of and correct his or her misconduct or substandard performance and should seek to restore the individual to a productive capacity. Disciplinary actions that result in demotion, suspension, or dismissal of an employee

shall be under the exclusive control of the President. However, when disciplinary actions involve the President, the Board shall have the final authority to implement corrective disciplinary actions.

9.2 Discipline Proceedings

9.2.1 Disciplinary actions shall be evaluated on a case-by-case basis. The College reserves the right to immediately terminate, suspend, or demote an employee depending on the circumstances or severity of the employee's misconduct. The College may elect, in its discretion, to engage in progressive discipline to provide employees the opportunity to improve job performance and otherwise to comply with College policies and procedures. However, **this section in no way creates a right, expressed or implied, to engage in progressive discipline prior to a demotion, suspension, or termination.**

9.2.2 Supervisors shall inform the Human Resources Director within five (5) days following the actual or constructive knowledge of the alleged employee misconduct.

9.2.3 Disciplinary action should be administered as soon as possible after the misconduct occurs or is discovered. Employees may be immediately placed on administrative leave with pay during an investigation. An employee is not entitled to any hearing or appeal process of the decision to place the employee on administrative leave, nor can the employee grieve the decision to place the employee on administrative leave.

9.2.4 Supervisor Responsibility

During a disciplinary investigation, the employee's supervisor shall do the following:

9.2.4.1 Document all actions on the approved Corrective Action Form. The Human Resources Director shall be available to provide guidance to supervisors.

9.2.4.2 Conduct a thorough investigation to determine whether the facts show that the employee violated a College policy and/or procedure. Details of the behavior and/or incident must be included in the Corrective Action Form.

9.2.4.3 Allow the employee an opportunity to explain what happened.

9.2.5 Witnesses

9.2.5.1 An employee may invite a witness to be present during meetings to

discuss the employee's misconduct and disciplinary consequences. If the employee elects not to have a witness present, the supervisor will note, on the appropriate disciplinary form, that the employee declined to have a witness present and the employee will sign the indicated form.

9.2.5.2 Role of the Witness. A witness is present to verify what was said or seen and may take notes for the employee. A witness may not provide advice and the witness shall not be allowed to represent the employee in any capacity other than for the purpose of taking notes and witnessing the meeting on behalf of the employee.

9.2.6 Disciplinary Consequences

If, after investigation, the supervisor determines that the employee engaged in misconduct, the supervisor may issue the following discipline:

9.2.6.1 Oral Warning/Counseling Session

The supervisor shall meet with the employee (and witness, if applicable) in a private location, and describe the misconduct. The supervisor shall inform the employee that the meeting is an Oral Warning/Counseling Session and that there will be a written record of the Oral Warning/Counseling Session placed in the employee's official personnel file. The supervisor's oral warning shall include a discussion of the employee's expected conduct and a stated period of time in which the employee is expected to correct the behavior or problem. The employee will be informed that failure to correct the behavior or problem will lead to further disciplinary consequences up to and including termination.

9.2.6.2 Written Warning

If the employee fails to correct the problem or behavior within the specified timeframe after the oral warning, or if the employee engages in additional misconduct, the supervisor may issue a formal Written Warning. The supervisor shall meet with the employee in a private location and describe the misconduct. The supervisor shall inform the employee that the meeting is for the purpose of issuing the employee a Written Warning" and that there will be a written record of the Written Warning placed in the employee's official personnel file. The Written Warning shall include a timeframe during which the employee is expected to correct the problem or behavior, and inform the employee that failure to correct the problem or behavior will lead to further disciplinary consequences up to and including termination.

9.2.6.3 Demotion or Suspension

In the event an employee does not correct the problem or behavior within the specified timeframe outlined in Subsection 9.2.6.3, demotion or suspension of the employee may be necessary. Prior to the consideration or imposition of a demotion or suspension, the supervisor or Department Director, with the assistance of the Human Resources Director, must receive approval from the President of the College.

9.2.6.3.1 A demotion in position will result in a decrease in pay in accordance with the College's compensation structure.

9.2.6.3.2 A suspension is the temporary removal of the employee from the work place for a specified period of time. A suspension may be without pay, and its duration may vary depending on the circumstances. The employee may not accrue vacation and Sick Leave benefits during a suspension.

9.2.6.4 Termination of Employment

If an employee has failed to correct the problem or behavior at issue in Subsections 9.2.6.1 through 9.2.6.3, engages in additional misconduct, or engages in conduct severe enough to warrant immediate termination, the employee may be terminated by the President of the College.

9.2.7 Pre-Disciplinary Hearing Prior to Suspension Without Pay, Demotion, and/or Termination

9.2.7.1 If the employee's supervisor and/or the Human Resources Director recommend to the President an employee's suspension without pay, demotion, or termination of employment as a disciplinary consequence of misconduct, the employee shall be afforded a Pre-Disciplinary Hearing. Probationary and Temporary employees are not entitled to a Pre-Disciplinary Hearing or Post-Disciplinary Hearing.

9.2.7.2 Notice of the hearing time and place, and alleged charges shall be given to the employee at least five (5) days prior to the Pre-Disciplinary Hearing by certified U.S. mail or by a private courier service, so long as the employee's signature is obtained upon delivery (Hearing Notice). The employee may waive his/her right to a pre-disciplinary hearing and accept the recommended discipline by executing a written waiver of rights form.

9.2.7.3 A Hearing Officer designated by the President or the President's designee shall conduct the Pre-Disciplinary Hearing. At such hearing, the employee shall have the right to be represented by counsel, to present witnesses and evidence, and otherwise defend against the proposed discipline. The employee shall give the College notice of 72 hours in advance of the Pre-Disciplinary Hearing that the employee will have a representative present and identify the representative.

9.2.7.4 The Hearing Officer shall provide the employee with written findings and conclusions within five (5) business days after the hearing.

9.2.7.5 If the employee does not respond to the Hearing Notice or fails to attend the scheduled Pre-Disciplinary Hearing, the College will implement the recommended discipline. The employee will have waived his or her right to appeal the decision pursuant to Section 9.3.8.

9.3.8 Post-Disciplinary Hearing

9.3.8.1 If the employee is dissatisfied with the Hearing Officer's decision, the employee has the right to appeal the decision to an independent arbitrator by filing a written notice of appeal with the President ("Notice of Appeal") within five (5) business days after receipt of the Hearing Officer's decision. The employee must specify the grounds upon which he or she contends that the decision was justified and include a statement of facts to support the employee's contentions.

9.3.8.2 An independent arbitrator selected by mutual agreement by the parties shall conduct a Post-Disciplinary Hearing within forty-five (45) calendar days following receipt of the Notice of Appeal. If the parties cannot agree within two weeks of receipt of the Notice of Appeal by the employee, then the independent arbitrator shall be by appointment by the chief judge of the district court of San Miguel County on application of either party. Unless otherwise agreed to by the parties, the arbitrator shall be a retired New Mexico federal, district court or appellate judge. At such hearing, the employee has the right to be represented by counsel, to present witnesses and evidence, and otherwise defend against the decision being appealed. The hearing shall be conducted informally in accordance with the New Mexico Open Meetings Act. The independent arbitrator shall provide a written decision within five (5) business days from the conclusion of the hearing. The cost of an arbitrator will be divided equally among the parties to the arbitration in the first instance, but may be awarded disproportionately in the arbitrator's decision.

9.3.8.3 Further Appeals. If the employee is dissatisfied with the decision made by the independent arbitrator, the employee may appeal to the New Mexico State District Court, as may be provided by law.

Chapter 10 Grievance Resolution

10.1 About This Policy

The College is committed to providing the best possible working conditions for its employees and, toward that end, encourages an open and frank atmosphere in which any employee problem, complaint, suggestion, or question receives a timely response from the employee's supervisor, Department Director and/or another appropriate member of the College's Professional, Executive, and Administrative Staff.

The College recognizes that among any employee group, personnel problems will occasionally arise, and that it is usually in the best interest of both the College and the employee to resolve such problems as soon as possible and at the lowest possible administrative level.

In order that employees receive fair consideration of their problems or grievances, the College has established a Grievance Resolution Process for review by, and appeal to, consecutively higher levels of authority without prejudice to the grievant.

10.2 Grounds for Initiating the Grievance Resolution Process

10.2.1 Prejudicial or capricious decisions in the evaluation of an employee's performance resulting in a below standard or below average overall employee evaluation;

10.2.2 Any action by the College that the employee believes affects a term or condition of the employee's employment, such as wage rates, hours or duty day, leaves of absence, and other employment relations in violation of College policy

10.2.3 The Grievance process shall not be used by an employee to challenge disciplinary decisions by the College.

10.3 Grievance Resolution Process

10.3.1 The employee shall submit his or her grievance, in writing, to his or her immediate supervisor (Formal Grievance) within five (5) business days following the incident giving rise to the grievance.

10.3.2 An employee's Formal Grievance shall include the following information:

10.3.2.1 Name, position title, and department of employee filing the Formal Grievance;

10.3.2.2 Name, position title, and department of the employee's supervisor;

10.3.2.3 Date the Formal Grievance was filed;

10.3.2.4 A description of the specific problem, violation or dispute, and the date that it first came to the employee's attention;

10.3.2.5 A list of specific grounds for the Formal Grievance and the policy or policies which the grieving employee believes was violated;

10.3.2.6 A description of the direct and adverse effect(s) that the specific problem, violation or dispute has had on the grieving employee; and

10.3.2.7 Proposed corrective action the employee wishes to be taken, and the reason why the employee believes the desired action is appropriate.

10.3.3 The employee's supervisor shall investigate and respond, in writing, to the employee within five (5) business days following receipt of the Formal Grievance. The supervisor shall simultaneously deliver a copy of the Formal Grievance and the supervisor's written response, along with all related documents, to the Human Resources Director. Notwithstanding, if the employee's supervisor is not available during the entire five (5) business day period of response or is the person being grieved against, the employee may proceed directly to Subsection 10.3.4.

10.3.4 If the Formal Grievance is not resolved to the employee's satisfaction at the conclusion of Subsection 10.3.3., the employee may submit his or her Formal Grievance to the second level of review, to be conducted by the employee's Department Director. The employee is responsible for submitting his or her Formal Grievance, in writing, to the Department Director within five (5) business days following receipt of the written response in Subsection 10.3.3. The Department Director shall investigate and respond, in writing, to the employee within five (5) business days from the date of his or her receipt of the Formal Grievance. The Department Director shall simultaneously deliver a copy of the

Formal Grievance, the Department Director=s written response, along with all related documents, to the Human Resources Director. Notwithstanding, if the employee=s Department Director is not available during the entire five (5) business day period of response or is the person being grieved against, the employee may proceed directly to Subsection 10.3.5.

10.3.5 If the Formal Grievance is not resolved to the employee=s satisfaction at the conclusion of Subsection 10.3.4, the employee may take the matter to a third level of review, to be conducted by the Human Resources Director or by an ad hoc Employee Advisory Committee. The employee is responsible for submitting his or her Formal Grievance, in writing, to the Human Resources Director within five (5) business days following receipt of the Department Directors written response in Subsection 10.3.4, if applicable. The Human Resources Director shall investigate and respond, in writing, to the employee=s Formal Grievance within five (5) business days from the date of his or her receipt of the Formal Grievance.

10.3.5.1 If the employee elects to have the grievance heard by the ad hoc Employee Advisory Committee, or if the Human Resources Director delegates the matter to an ad hoc Employee Advisory Committee, the ad hoc Employee Advisory Committee shall be formed and the grievance shall be forwarded to the ad hoc Employee Advisory Committee within five (5) business days after the Human Resources Director receives the grievance from the employee.

10.3.5.2 The ad hoc Employee Advisory Committee shall consist of no more than three (3) uninvolved employees who shall be selected by the Human Resources Director.

10.3.5.3 The Employee Advisory Committee shall review the Formal Grievance, and all supporting documentation, and make a recommendation to the Human Resource Director within five (5) business days after the formation of the ad hoc Employee Advisory Committee. The Human Resources Director shall investigate and respond, in writing, to the employee=s Formal Grievance within five (5) business days following the date of the Committee=s submittal of its recommendation to the Human Resources Director.

10.3.6 If the Formal Grievance is not resolved to the employee=s satisfaction following Subsection 10.3.5, the employee may appeal the Human Resources Director=s response to a fourth level of review, to be conducted by the President. The employee must submit all documentation resulting from the lower grievance reviews, along with a written request to have the Formal Grievance reviewed by the President, within five (5) business days of the employee=s receipt of a

response from the Human Resources Director. The President shall investigate the allegations made in the Formal Grievance and shall make a determination, in writing, regarding the disposition of the Formal Grievance within five (5) business days of the employee=s request to have the President review the grievance.

10.3.7 The President’s decision is final and may not be appealed.

10.3.8 The President’s decision may include, but not be limited to, the following:

- Dismissal of the grievance.
- Upholding the Human Resources Director’s decision
- Reduction of any recommended sanctions or alter recommendations.
- Other action as deemed appropriate by the President.

10.4 Additional Grievance Provisions

10.4.1 If an employee fails to take all of the steps outlined in this Section 10 or fails to abide by the time limits with respect to each step, his or her grievance shall be presumed abandoned, and the matter considered settled. Notwithstanding, the President shall have the discretionary authority to extend the time limits for reporting a grievance or responding to a grievance in the event of illness, Annual Leave, or other extenuating circumstances on the part of the reporting or the responding party.

10.4.2 If a party charged with responding to an employee’s grievance fails to do so within the time limits prescribed, above, the grieving employee shall have the right to proceed immediately to the next step in the Grievance Resolution Process.

10.4.3 No employee shall be penalized, formally or informally, for filing a grievance with the College in a reasonable, business-like manner, or for using the aforementioned Grievance Resolution Process.

10.4.4 Failure or refusal by any employee to cooperate with a College investigation or interference by any employee with such an investigation, including retaliation or reprisals against participants in an investigation, shall be grounds for disciplinary action up to and including termination of employment.

Chapter 11 Sexual Harassment Policy

11.1 About the College’s Sexual Harassment Policy

The College is committed to providing a working and learning environment in which all individuals are treated with respect and dignity. Each employee has the right to work and learn in an environment that is free from discrimination, including sexual harassment. No member of the College community should be required to endure sexual harassment by supervisors, peers, faculty members, educational support staff, independent contractors or vendors, or to work or learn in a hostile environment as a condition of employment or pursuit of academic excellence.

11.2 Purpose of the Sexual Harassment Policy

The purpose of this policy is to inform all College employees that sexual harassment is illegal and that the College will not tolerate sexual harassment of its students or employees, nor will the College tolerate unprofessional conduct which leads to sexual harassment. The College intends to deter sexual harassment through the publication of this Sexual Harassment Policy on the College website and through posting the policy throughout the campus. The College will provide appropriate educational materials and programs related to understanding and implementing this Sexual Harassment Policy for students and employees. Mandatory training on this policy will be conducted twice annually to all College employees, and employees will be required to execute certificates of completion after each training. The certificates of completion will be maintained in employee personnel files.

11.3 Sexual Harassment Policy

The College will not tolerate or condone sexual harassment by or towards its employees, or towards its students. It is the intention of the College to take appropriate action to prevent, correct and, if necessary, to discipline an employee's behavior which violates this policy.

It is the policy of the College:

11.3.1 To prohibit any person at the College in a working or academic setting from sexually harassing any other person at the College in a work or academic setting;

11.3.2 To provide a working and academic environment free of sexual harassment;

11.3.3 To investigate all allegations of sexual harassment or misconduct in a timely and thorough manner;

11.3.4 To take appropriate and timely corrective action with respect to information or allegations that employees or students are being subjected to sexual harassment in

the work or academic environment;

11.3.5 To raise awareness among College's employees regarding the Sexual Harassment Policy;

11.3.6 To educate members of the College community that sexual harassment can occur between members of the same sex, as well as between members of the opposite sex;

11.3.7 To provide information to employees about procedures for seeking redress for alleged sexual harassment, sexual misconduct or the creation of a hostile work environment at the College.

11.4 Sexual Harassment

11.4.1 Sexual harassment constitutes discrimination and is illegal under Federal, State and Local laws. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

11.4.2 Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment, that is, harassment not involving sexual activity or language (e.g., male manager yells only at female employees and not males), may also constitute discrimination if it is severe or pervasive and directed at employees because of their sex.

11.4.3 Harassment based on any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, age, disability, alienage or citizenship status, marital status, creed, genetic predisposition or carrier status, sexual orientation or any other characteristic protected by law or that of his/her relatives, friends or associates, and that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

11.4.4 Harassing conduct includes, but is not limited to, epithets, slurs or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

11.5 Individuals and Conduct Covered

11.5.1 These policies apply to all employees, and prohibit harassment, discrimination, and retaliation, whether engaged in by fellow employees, by a supervisor, or by someone not directly connected to the College (e.g., an outside vendor, consultant, or customer).

11.5.2 Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as College-related social events.

11.6 Retaliation Is Prohibited

The law prohibits retaliation against any employee who reports discrimination or harassment, or who participates in an investigation of such reports, or who opposes an employment practice as long as the employee has a reasonable good faith belief that the complained of conduct constitutes a violation of the law.

11.7 Reporting an Incident of Harassment, Discrimination or Retaliation

11.7.1 The College strongly urges the prompt reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that is contrary to the College's policy or who have concerns about such matters should promptly report such conduct or concerns to their supervisor or Human Resources Director. Employee reports may be oral or written, and employees may use the

discrimination/Harassment reporting form included as Appendix F to this Handbook.

11.7.2 The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

11.8 The Investigation

The Human Resources Director will investigate any reported allegations of harassment, discrimination or retaliation promptly, thoroughly and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

11.8.1 If the Human Resources Director is implicated in the complaint, he or she would not conduct the investigation. In the alternative, the President would hire an outside entity to investigate the claim and recommend discipline (if any). The Present would then rule on the proposed discipline.

11.8.2 If the President is implicated in the complaint, the Human Resources Director can either (1) investigate the claim and recommend discipline directly to the Board, or (2) hire an outside entity to perform this investigatory function. The outside entity would report its findings directly to the Board.

11.9 Responsive Action

Misconduct constituting harassment, discrimination, or retaliation, will be dealt with promptly and appropriately and may subject the offender to disciplinary action up to and including termination of employment.

11.10 Bad Faith or Frivolous Complaints

The Colleges Sexual Harassment Policy shall not be used to bring frivolous or malicious complaints regarding sexual harassment. Disciplinary action may be taken against an employee if it is shown he or she filed a sexual harassment complaint in bad faith.

Chapter 12 Benefits

12.1 Annual Leave Policy

The College recognizes the value of providing eligible employees with paid Annual Leave. The College encourages eligible employees to take Annual Leave each year. Employees shall earn, accrue, use, and be paid for Annual Leave according to the provisions of this Annual Leave Policy.

12.1.1 Eligibility

Regular Full-Time and Regular Part-Time Employees who work twenty (20) hours or more per week are eligible to accrue Annual Leave.

12.1.2 Accrual

12.1.2.1 Eligible employees shall accrue Annual Leave each pay period for time actually worked or during periods of paid Sick Leave, Annual Leave, Observed Holidays, or a paid Leave of Absence. Annual Leave shall not accrue during unpaid Leaves of Absence. Annual Leave will begin to accrue on an employee's date of hire. Annual Leave taken by an employee in excess of his or her accrued Annual Leave shall be charged as Leave Without Pay.

12.1.2.2 Eligible employees shall accrue Annual Leave as indicated in the chart below:

Annual Leave Accrual for Full-Time Employees (40 hours per week)		
Years of Employment	Hours Per Month	Hours Per Pay Period
Years One and Two	7 hours	3.5 hours
Year Three or More	10 hours	5 hours
Annual Leave Accrual for Part-Time Employees (20 - 39 hours per week)		
Years of Employment	Hours Per Month	Hours Per Pay Period
Years One and Two	3.5 hours	1.75 hours

Year Three or More	5 hours	2.5 hours
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12.1.3 Scheduling Annual Leave

The College reserves the right to schedule an employee’s requested Annual Leave in accordance with the needs of the College.

12.1.3.1 Employees must request and receive advance approval of Annual Leave from their immediate supervisor. Failure to request and receive advance approval for Annual Leave may be grounds for denial of Annual Leave. Notwithstanding, it is recognized that in certain situations an employee may not be able to request Annual Leave in advance, such as in the case of an emergency, in which case the employee’s supervisor shall give the employee’s timely Annual Leave request fair and reasonable consideration.

12.1.3.2 If an employee requests Annual Leave for a future date in anticipation of accruing sufficient leave, any approvals given are contingent on the employee having accrued sufficient leave as of the date leave begins.

12.1.3.3 Annual Leave is normally taken in full-day or half-day increments. Annual Leave shall not exceed increments of two (2) weeks during any one leave period.

12.1.4 Transfer

Employees will retain unused Annual Leave upon transferring from one department to another. Employees paid through special projects (wherein employment is contingent upon yearly funding) are encouraged to exhaust accrued Annual Leave prior to transferring to another department.

12.1.5 Carryover of Unused Annual Leave

Maximum Annual Leave Accruals: An employee’s unused Annual Leave balance may not exceed the following maximum limits.

Type of Employee	Maximum Accrual Hours/Days
Full-Time	240 hours/30 days

Part-Time	120 hours/15 days
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If an employee's Full-Time Equivalency (FTE) decreases to Part-Time Equivalency (PTE) status and the employee has accrued Annual Leave hours above the maximum allowed for his or her new employment status, the employee will not accrue Annual Leave until the employee uses Annual Leave in amount that falls below the PTE limit. For example, if a FTE employee has accrued 200 hours before becoming a PTE employee, the employee will not accrue Annual Leave until the employee uses an amount of accrued Annual Leave that reduces the balance below 120 hours.

12.1.6 Records of Accrued Annual Leave

12.1.6. It is the duty and responsibility of every employee to document and present to his or her immediate supervisor any and all time used as Annual Leave. The employee's immediate supervisor shall be held accountable for recording all Annual Leave used by employees reporting to him or her. Failure to properly document used Annual Leave may result in disciplinary action being taken by the College.

12.1.6.2 Annual Leave requests containing the employee's and supervisor's signatures, along with the date, time and total number of hours of requested leave, should be submitted to the Human Resources Office within the pay period in which Annual Leave is taken. Annual Leave will be adjusted each pay period. When an employee's accrued, unused Annual Leave balance reaches the maximum limit, the employee will continue to accrue annual leave until June 30th of the current fiscal year. As of July 1, an employee's accrued unused annual leave that exceeds the maximum limit will be adjusted down to the maximum limit. For example, if an employee has accrued 260 hours as of June 30th, that employee's leave will be adjusted down to 240 as of July 1.

12.1.6.3 An employee who believes there is an error in the calculation of his or her Annual Leave or eligibility may request a review of the calculation by the Human Resources Office.

12.1.7 Termination of Employment

12.1.7.1 Upon termination of employment, employees will be paid for unused Annual Leave, not to exceed the maximum accrued Annual Leave allowed, identified in Section 12.1.5, based on the employee's standard rate of pay at the time of separation.

12.1.7.2 In the event of the death of an employee, the employee's estate will be paid for the deceased employee's accrued Annual Leave, not to exceed the maximum limit identified in Section 12.1.5.

12.1.8 Donating Annual Leave

12.1.8.1 The College allows employees to donate their Annual Leave in the event the recipient employee has a serious medical condition@ as defined in the College=s Family and Medical Leave Policy described in Subsection 12.8, below. The recipient of donated Annual Leave may not use the donated leave until first exhausting all of his or her accrued sick, annual and compensatory or other leave.

12.1.8.2 The Human Resources Office shall transfer donated Annual Leave by converting the dollar value of the donor's leave (based on the donor's standard hourly rate of pay) to hours of leave based on the recipient's standard hourly rate of pay.

12.1.8.3 Donated Annual Leave unused by the recipient shall revert to the employee(s) who donated the leave on a prorated basis.

12.2 Personal Leave

12.2.1 Eligibility

12.2.1.1 Regular Full-Time Employees. Sixteen (16) hours of Personal Leave will be allotted to regular full-time employees at the beginning of each fiscal year.

12.2.1.2 Regular Part-Time Employees. Eight (8) hours of Personal Leave will be allotted to regular part-time employees who work more than twenty hours per week, at the beginning of each calendar year.

12.2.2 Scheduling Personal Leave

The College reserves the right to schedule an employee's requested Personal Leave in accordance with the needs of the College.

12.2.2.1 Employees must request and receive advance approval of Personal Leave from their immediate supervisor. Failure to request and receive advance approval for Personal Leave may be grounds for denial of Personal Leave. Notwithstanding, it is recognized that in certain

situations an employee may not be able to request Personal Leave in advance, such as in the case of an emergency, in which case the employee's supervisor shall give the employee's timely Personal Leave request fair and reasonable consideration.

- 12.2.2.2 If an employee requests Personal Leave for a future date in anticipation of accruing sufficient Personal Leave, any approvals are contingent on the employee having accrued sufficient Personal Leave as of the beginning of leave.
- 12.2.2.3 Personal Leave shall be taken only in full-day increments.

12.2.3 Transfer

Employees will retain unused Personal Leave when transferring from one department to another.

12.2.4 Personal Leave Records

- 12.2.4.1 It is the duty and responsibility of every employee to document and present to his or her immediate supervisor any and all time used as Personal Leave.
- 12.2.4.2 The employee's immediate supervisor shall be held accountable for recording all Personal Leave used by employees reporting to him or her. In the event Personal Leave utilized by an employee is not properly documented by the employee and/or his or her supervisor, the College may take corrective disciplinary action.
- 12.2.4.3 Personal Leave requests containing the employee and supervisor's signatures, along with the date, time, and total number of hours of requested leave, should be submitted to the Human Resources Office within the pay period in which Personal Leave is taken. Personal Leave will be adjusted each month. The Human Resources Office keeps official Personal Leave records for the College. In addition, each department should maintain internal records of each employee's leave. If requested by a department supervisor, an employee's Personal Leave report will be provided to him or her by the Human Resources Office.
- 12.2.4.4 An employee who believes there is an error in the calculation of his or her Personal Leave may request a review of that calculation by the Human Resources Office.

12.3 Sick Leave

12.3.1 Policy

- 12.3.1.1 The College recognizes that employees may become ill or injured and that time off with pay may be provided to protect eligible employees during those periods. Paid Sick Leave may be used when an eligible employee is unable to work because of illness, injury or medical reasons. Paid Sick Leave may also be granted to eligible employees due to illness, injury or medical reasons related to an immediate family member of an employee. For purposes of this section, an immediate family member shall mean any person related to the employee by consanguinity or affinity in the second degree, including but not limited to the employee's parent, grandparent, spouse, child, or grandchildren.
- 12.3.1.2 Except as specifically provided in this Handbook, Sick Leave may not be used in the place of Annual Leave, or for non-health-related reasons. For additional information regarding leave due to a serious health condition, please refer to the College's Family and Medical Leave Policy in Subsection 12.8, below.

12.3.2 Eligibility

Regular Full-Time and Regular Part-Time Employees who work twenty (20) hours or more per week are eligible to receive paid Sick Leave.

12.3.3 Accrual

- 12.3.3.1 Eligible employees shall accrue Sick Leave each pay period for time actually worked, or during periods of paid Sick Leave, Annual Leave, Observed Holidays, or a paid Leave of Absence. Sick Leave shall not accrue during unpaid Leaves of Absence, including when an employee is on approved Family and Medical Leave. Employees will begin to accrue Sick Leave on the date of hire. Sick Leave taken by an employee in excess of his or her accrued Sick Leave shall be charged to the employee's Annual Leave or charged as Leave Without Pay.
- 12.3.3.2 Eligible employees shall accrue Sick Leave as indicated in the chart below:

Regular Full-Time (40 hours per week)

Sick Leave Hours Per Month	Sick Leave Hours Per Pay Period
12 hours	6 hours
Regular Part-Time (20 - 39 hours per week)	
Sick Leave Hours Per Month	Sick Leave Hours Per Pay Period
6 hours	3 hours
Faculty (760 hours Per Year)	

12.3.3.3 Maximum Sick Leave Accruals. Eligible employees may accrue up to a maximum of 960 hours (120 days) of Sick Leave.

12.3.4 Reporting Absences Due To Illness

- 12.3.4.1 Any illness, injury, or medical reason necessitating an absence must be reported by an employee to the employee’s supervisor as early in the workday as possible.
- 12.3.4.2 If an employee fails to inform his or her supervisor in a timely manner, the employee may be denied use of paid Sick Leave and subject to disciplinary action.
- 12.3.4.3 If an employee misses work three (3) consecutive days without notifying his or her supervisor, this will be considered by the College to be a voluntary resignation by the employee.
- 12.3.4.4 An employee who utilizes three (3) consecutive days of sick leave must provide a signed letter from his or her healthcare provider, as such term is defined in the Family and Medical Leave Act, as amended, and its implementing regulations. The letter must certify that the employee was under the care of a healthcare provider during the period of absence and was unable to work. This letter must be forwarded to the Human Resources Office for record-keeping purposes.

12.3.4.5 For Sick Leave extending beyond three (3) consecutive days, please refer to the Family and Medical Leave policy in Subsection 12.8, below.

12.3.5 Medical Certification or Fitness for Work Examination

The College may require an employee to have his or her healthcare provider complete an Employee Fitness Assessment Form prior to the employee's return to work so that the College can assess the potential risks to the employee and make any reasonable accommodations that may be required.

12.3.6 Termination of Employment

Upon termination of employment for any reason, employees shall not be compensated for accrued but unused Sick Leave.

12.3.7 Employee Transfers

Employees may retain accrued, unused Sick Leave when transferring from one department to another.

12.3.8 Employee Rehires

An employee formerly employed by the College who is rehired will be considered a new hire for purposes of computing Sick Leave accrual.

12.4 Bereavement Leave

12.4.1 Eligibility

Regular Full-Time and Regular Part-Time Employees who work more than twenty hours per week are eligible to take up to three (3) days of paid Bereavement Leave. The time used for Bereavement Leave will be deducted from the employee's accrued, unused sick leave.

12.4.2 Reporting Absences Due to Bereavement Leave

12.4.2.1 Employees must report leave requested due to the loss of an immediate family member to his or her supervisor as early in the workday as possible.

12.4.2.2 If an employee fails to inform his or her supervisor in a timely manner, paid Bereavement Leave may be denied and the employee may be subject to disciplinary action. It is the responsibility of every employee to document any and all time used as Bereavement Leave. Supervisors shall be held accountable for tracking and reporting all leave used by employees reporting to them. The College may take disciplinary action against an employee and/or supervisor, if Bereavement Leave is improperly documented.

12.4.3 Records

12.4.3.1 Bereavement Leave requests containing the employee's and supervisor's signatures, along with the date, time, and total number of hours of requested, should be submitted to the Human Resources Office within the pay period in which Bereavement Leave is taken. The Human Resources Office keeps official Bereavement Leave records for the College.

12.4.3.2 An employee who believes there is an error in the calculation of the employee's Bereavement Leave or eligibility may request a review of the calculation by the Human Resources Office.

12.5 Other Types of Leave With Pay

12.5.1 Eligibility

12.5.1.1 Regular Full-Time and Regular Part-Time Employees who work twenty (20) hours or more per week are eligible to receive the types of Leave With Pay identified in this Section 12.5.

12.5.1.2 Employees who are not eligible for Leave With Pay may be granted leave without pay.

12.5.2 Closed Campus

Leave With Pay will be authorized for eligible employees when the College is declared closed by the President (i.e., cases of inclement weather, national emergency, etc.)

12.5.3 Voting

An eligible employee will be granted a reasonable period of time-off from work to vote in a government election as provided for herein. On Election Day, any eligible employee (with prior notice to the employee's supervisor) may be absent

from the workplace for up to two (2) hours for the purpose of voting. The College may specify the hours during which the employee may be absent from work in order to vote, provided those hours fall between the opening and closing of the polls. This provision shall not apply to any eligible employee whose workday begins more than two (2) hours after the polls open or whose workday ends more than three (3) hours before the polls close.

12.5.4 Jury Duty and Enforced Court Attendance

An eligible employee summoned or subpoenaed for jury duty or for duty as a witness in a trial or other legal proceeding (other than as plaintiff or defendant), shall be granted Leave With Pay for the time spent on these duties. The employee must present evidence of the summons or subpoena to his or her supervisor and must remit the monies received from the court or a statement of waiver of payment to the College's Human Resources Office. If the employee fails to remit such fees, such sum will be deducted from the employee's regular pay.

12.5.5 Education

Leave With Pay may be granted to eligible employees for the purpose of attending educational courses.

12.5.5.1 Leave With Pay for educational purposes shall not exceed one (1) hour per workday or five (5) hours per week and shall be granted at the discretion of the employee's supervisor who shall not unreasonably withhold his or her authorization. Supervisors may allow an employee to take leave from work to attend classes during the regular work day and then permit the employee to make-up the missed work time during the same work week. An employee requesting leave for educational purposes shall fill out an employee registration card and obtain signatures from the employee's supervisor and the Director of Human Resources or his/her designee. The registration card will be processed by the Registrar with a copy given to the employee for the employee to obtain clearance from the College's fiscal office.

12.5.5.2 For an eligible employee to qualify for Leave With Pay for educational purposes, the course must relate to the work performed by the employee for the College, and the course the employee wishes to take is only offered during regular working hours.

12.5.5.3 Due to pressing workloads or other legitimate operational reasons, it may not be practical for a supervisor to grant an employee leave from

work for educational purposes. In such cases, the needs of the College shall prevail.

12.5.6 Wellness Program

Leave With Pay may also be provided to allow eligible employees to attend the College's Wellness Program, beginning one-half (1/2) hour before (12:00) lunch and ending at the conclusion of the lunch hour, or beginning at 4:30 p.m. All employees taking advantage of the Wellness Program must sign in at the Wellness Center. Supervisors may verify an employee's attendance by checking with the Wellness Center.

12.6 Leave Without Pay

12.6.1 Policy

12.6.1.1 The College may grant other unpaid leave of absences not expressly authorized in this Handbook in the sole discretion of the President based on the following:

- Purpose of leave;
- Length of leave, not to exceed one (1) year; ▪ Hardship to the College;
- Work performance of requesting employee;
- Written approval of the supervisor; and
- Length of employment with the College and probationary status.

12.6.1.2 Employees shall use any accrued, unused paid leave prior to taking Leave Without Pay.

12.6.1.3 Every effort will be made to reinstate an employee returning from an extended Leave Without Pay to the same or equivalent job and rate held at the time of Leave Without Pay. Notwithstanding, an

employee's reinstatement following Leave Without Pay is not guaranteed. Operating conditions or needs of the College may make reinstatement impractical at the time the employee requests reinstatement. Where practical, during an extended Leave Without Pay the College may fill the employee's position with a Temporary Employee.

12.6.1.4 An employee preparing to return to work following Leave Without Pay must contact the Human Resources Office to request formal reinstatement prior to the expiration of the Leave Without Pay. An employee who fails to request reinstatement prior to the expiration of the Leave Without Pay will be considered to have constructively resigned from his or her position.

12.6.1.5 If the College is unable to place the employee in a similar position or if the employee refuses a position offered to him or her by the College, the employee will be considered to have constructively resigned from the College.

12.6.1.6 Employees on Leave Without Pay for more than thirty (30) calendar days will have their anniversary date (i.e., the date on which they were hired) adjusted by the number of days spent on Leave Without Pay. Salary increases and probationary periods will be based on the adjusted anniversary date. Annual Leave and Sick Leave credits shall not accrue during Leave Without Pay.

12.6.2 Procedure for Obtaining Leave Without Pay

12.6.2.1 An eligible employee must submit a request for Leave Without Pay, in writing, to his or her supervisor. Requests for Leave Without Pay must be made a minimum of two (2) weeks in advance. Employees on Leave Without Pay for five (5) business days or more must have a Personnel Action Notice (PAN) processed on their behalf. The PAN must indicate that the authorized period of the employee's Leave Without Pay and should indicate the reason for the leave.

12.6.2.2 A PAN is not required in cases where Leave Without Pay is granted or imposed for periods of less than five (5) business days, but the employee's submitted time report must clearly indicate the days Leave Without Pay was taken by the employee.

12.6.3 Professional Leave

Regular Full-Time and Regular Part-Time employees who work more than twenty hours per week or more are eligible for leave without pay for professional development purposes (Professional Leave). Leave for participation in

professional activities may be granted at the discretion of the President. Professional Leave shall be consistent with the employee's Professional Development Plan. The goal of Professional Leave is to allow employees to improve their skills and credentials with respect to the type of work for which they were hired by the College. Therefore, it is required that the area of study engaged in by an employee using Leave Without Pay for professional development purposes must have a beneficial impact on the employee's performance upon his or her return to the College.

12.7 Military Leave of Absence

It is the policy of College to grant military leave of absence as required by state and federal law and to provide certain benefits to employees granted such leave.

12.7.1 Any employee who is a member of an organized unit of the National Guard, or a reserve unit of any of the military branches, shall be given military leave, with no deduction of pay, not to exceed fifteen (15) days annually when ordered to active duty training with such organized units.

12.7.2 Such leave is to be in addition to other leaves to which the employee is otherwise entitled.

12.7.3 Any employee who is drafted or called into duty by the armed forces of the United States in excess of fifteen (15) days may request to use accrued leave with pay during such period of service. Such employee shall be placed on leave without pay after exhaustion of all accumulated leave. Such employees shall be eligible for return to duty in the first available position of the same job category held by the employee at the time of induction into the armed forces, provided that the employee has fewer than five (5) years of cumulative service in the uniformed services while employed by College.

12.7.4 Employees are encouraged to perform voluntary and/or discretionary duties, e.g., training sessions, during the non-working hours.

12.7.5 While employees are on active duty, employees may elect to continue benefits (i.e., health benefits) provided by College for the maximum period of time provided for under federal and state laws. The amount of premium for which the employee is responsible shall be determined in accordance with federal and state laws.

12.7.6 Upon reinstatement, there shall be no waiting period imposed under College's benefits plan for an employee who qualifies for such benefits. A qualifying employee is one who (a) has served five (5) years or less of cumulative service in the uniformed services while with the College; (b) has not been separated from service with a disqualifying discharge or under other than honorable conditions;

and (c) applies for reinstatement within a timely manner, as required by law, after conclusion of service.

12.7.7 College benefit plan shall not apply to any illness or injury determined by the Secretary of Veteran Affairs to have been incurred in, or aggravated during, service in the uniformed services.

12.7.8 Employees who are drafted or called to active duty are expected to request leave and provide a copy of their duty orders to the Human Resources Department as soon as possible.

12.8 Family Medical Leave Act

This policy is adopted to implement the rights provided to employees under the Family and Medical Leave Act of 1993, as amended, and its regulations promulgated thereto (FMLA). In the event that any conflict arises between the provisions of this or any other leave policy of the College and the terms, conditions, or limitations of the FMLA, the latter shall control.

12.8.1 Definitions

12.8.1.1 Covered active duty means (A) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (B) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

12.8.1.2 Qualifying exigencies may include:

12.8.1.2.1 Leave to address any issue arising from short notice deployment leave for seven (7) calendar days, beginning from the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation;

12.8.1.2.2 Leave to attend military events and related activities;

12.8.1.2.3 Leave to arrange for alternative childcare, College enrollment or transfers, or College meetings;

12.8.1.2.4 Leave to address certain financial and legal arrangements;

12.8.1.2.5 Leave to attend certain counseling sessions;

12.8.1.2.6 Leave to attend rest and recuperation leave activities;

12.8.1.2.7 Leave to attend post-deployment activities; or

12.8.1.2.8 Leave to address other events arising out of the covered military member's call to active duty status, provided that the College and eligible employee mutually agree prior to the employee's leave (1) that such leave shall qualify as an exigency; and (2) to the timing and duration of such leave.

12.8.1.3 Covered service member means (A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

12.8.1.4 Next of kin, used with respect to an individual means the nearest blood relative of that individual.

12.8.1.5 Serious injury or illness means (A) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and (B) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

- 12.8.1.6 Veteran has the meaning given the term in section 101 of title 38, United States Code.
- 12.8.1.7 Outpatient status with respect to a covered service member, means the status of a member of the Armed Forces assigned to (A) a military medical treatment facilities as an outpatient; or (B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 12.8.1.8 Eligible Employee means an employee who has worked for the College for at least twelve (12) months, and who has worked a total of 1,250 hours during the twelve (12) month period immediately preceding the commencement of leave.
- 12.8.1.9 Healthcare Provider means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing healthcare services, including podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, in a limited manner, authorized to practice within the scope of their practice as defined under State law; and nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law.
- 12.8.1.10 Intermittent Leave means FMLA leave taken in separate blocks of time due to a single qualifying reason.
- 12.8.1.11 Key Employee means a salaried employee who is among the highest paid ten percent (10%) of all the employees employed by the College.
- 12.8.1.12 Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the eligible employee or covered service member or covered military member. This term does not include parents-in-law.
- 12.8.1.13 Reduced Leave Schedule means a leave schedule that reduces an eligible employee's usual number of working hours per workweek, or hours per workday, normally from full-time to part-time.
- 12.8.1.14 Serious Health Condition means an illness, impairment, or physical or mental condition that involves either:

- 12.8.1.14.1 An overnight stay in a medical care facility.
- 12.8.1.14.2 Continuing treatment by a Healthcare Provider for a condition that either prevents the eligible employee from performing the functions of such employee's job, or prevents the qualified family member from participating in College or other daily activities.
- 12.8.1.14.3 Serious health conditions generally do not include conditions for which cosmetic treatments are administered, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, periodontal disease, and routine physical examinations.
- 12.8.1.15 Continuing treatment by a Healthcare Provider means any one of the following:
 - 12.8.1.15.1 a period of incapacity of more than three (3) consecutive, full calendar days, and subsequent treatment or period of incapacity relating to the same condition, that also involves either (i) at least two visits to a Healthcare Provider within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist; or (ii) at least one visit to a Healthcare Provider and a regime of continuing treatment under the supervision of a Healthcare Provider. The first visit to the Healthcare Provider must be in-person and occur within seven (7) days of the first day of incapacity. Whether additional treatment visits or a regimen of continuing treatment are necessary within the thirty (30) day period shall be determined by the Healthcare Provider.
 - 12.8.1.15.2 Incapacity due to a pregnancy or prenatal care;
 - 12.8.1.15.3 Incapacity due to a chronic serious health condition, which is one that requires periodic visits (at least twice a year) for treatment by a Healthcare Provider; continues over an extended period of time; and may cause episodic rather than a continuing period of incapacity;
 - 12.8.1.15.4 Incapacity which is permanent or due to a long-term condition;

12.8.1.15.5 Conditions that require multiple treatments for (i) restorative surgery after an accident or other injury; or (ii) a condition that would likely result in a period of incapacity of more than three (3) consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), or kidney disease (dialysis).

12.8.1.16 Son or Daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. A son or daughter of a covered service member, for the purpose of military caregiver leave, or covered military member, for purposes of leave for qualifying exigencies, may be of any age.

12.8.1.17 Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the eligible employee resides, including common law marriage in a State where it is recognized.

12.8.2 FMLA-Qualifying Reasons for Leave

Eligible employees are permitted to take leave under FMLA for the following reasons:

- 12.8.2.1 For incapacity due to pregnancy, prenatal medical care or child birth;
- 12.8.2.2 To care for the employee's child after birth, or placement for adoption or foster care;
- 12.8.2.3 To care for the employee's spouse, son or daughter, or parent who has a serious health condition;
- 12.8.2.4 For a serious health condition that makes the employee unable to perform any one of the essential functions of his or her position or requires the employee to take a necessary absence from work to receive medically necessary treatment;
- 12.8.2.5 Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son,

daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces;

- 12.8.2.6 To care for a covered service member who is the employee's spouse, son or daughter, parent, or next of kin.

12.8.3 Use of FMLA Leave

- 12.8.3.1 Twelve (12) Workweeks of FMLA Leave. An eligible employee is entitled to twelve (12) workweeks of unpaid leave during a twelve (12) month period for any FMLA-qualifying reason for leave. The twelve (12) month period within which such employee may take twelve (12) workweeks of leave under the FMLA shall be a "rolling" twelve (12) month period, measured backward for each such employee from the first time each such eligible employee uses leave under the FMLA.
- 12.8.3.2 The College may change to an alternative leave calculation method provided it gives at least sixty (60) days' notice to all employees and the transition to the alternative method allows eligible employees to retain the full benefit of twelve (12) workweeks of leave.
- 12.8.3.3 Twenty-Six (26) Workweeks to Care for a Covered Service Member. Eligible employees may take up to a combined total of twenty-six (26) workweeks during a single twelve (12) month period, counted from the first day such employee takes leave to care for a covered service member with a serious injury or illness until twelve (12) months after that date. Any other leave for a FMLA-qualifying reason, up to the allowed twelve (12) workweeks of leave for other FMLA qualifying reasons, is subject to a proportionate reduction in leave entitlement if taken in the same twelve (12) month period.

Example: If an eligible employee takes 16 workweeks of FMLA leave to care for a covered service member, and such employee requests additional leave for another FMLA-qualifying reason, such as the birth of a child, the eligible employee would be entitled to only 10 additional workweeks of leave within the single 12-month period.

Note: The leave to care for a covered service member taken within a single twelve (12) month period is always counted forward from the date that the eligible employee's first FMLA leave begins to care for the covered service member and will alter the method of calculation described in Section III.A., above, for other eligible FMLA leave requested during the same twelve (12) month period.

12.8.4 Leave Adjustments for Spouses Employed by the College

Spouses who both are eligible employees of the College are limited to a combined total of twelve (12) workweeks per twelve (12) month period for leave taken to care for a parent with a serious health condition, or for the birth or placement of a child, or a combined twenty-six (26) workweeks if leave is required to care for a covered service member with a serious injury or illness. For other FMLA-qualifying reasons, such as to care for a spouse or child with a serious health condition, or for the treatment of the eligible employee's own serious health condition, each spouse may take up to twelve (12) workweeks per twelve (12) month period.

12.8.5 Intermittent Leave or Reduced Leave Schedule

Leave may be taken intermittently or on a reduced leave schedule when medically necessary because of the eligible employee's own serious health condition, to care for a spouse, parent, or son or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness. Intermittent leave or a reduced leave schedule also may be taken for qualifying exigencies. Eligible employees must make a reasonable effort to schedule the treatment so as not to disrupt unduly the College's operations. However, when leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an eligible employee may take leave intermittently or on a reduced leave schedule only with the express permission of such employee's supervisor and the Executive Director of Human Resources.

12.8.6 Calculation of Leave

The actual workweek of the eligible employee is the basis for calculating leave entitlement, and only the amount of leave actually taken by such employee will be counted toward such employee's FMLA leave entitlement.

Example: If an eligible employee who usually works 40 hours a week takes off 8 hours in a week for an FMLA-qualifying reason, then such employee would use 1/5 of a week of FMLA leave. If an eligible employee usually works 30 hours per week, but works 20 hours a week under a reduced leave schedule, such employee's 10 hours of leave would constitute 1/3 of a week of FMLA leave for each week such employee works the reduced schedule.

12.8.7 Temporary Positions

During the period that the intermittent leave or reduced leave schedule is required, the College has the right to require the eligible employee to transfer temporarily to an available alternative position with equivalent pay and benefits for which the eligible employee is qualified and that better accommodates recurring periods of leave than does such employee's regular position.

12.8.8 Notice Requirements; Employee Responsibilities

- 12.8.8.1 Request for Leave - An employee requesting leave shall submit a "Request for Leave" form to the employee's immediate supervisor. The Request for Leave form shall provide sufficient information permitted by FMLA for the College to determine if the leave requested qualifies for FMLA protection, as well as the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a Healthcare Provider, or circumstances supporting the need for military family leave. Calling in sick, for example, without providing more information will not be considered sufficient notice. Employees also must inform the College if the requested leave is for a reason for which FMLA leave was previously taken or certified. Leave shall be approved by both the employee's supervisor and the Executive Director of Human Resources.
- 12.8.8.2 Foreseeable Leave - Employees must provide at least thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable, or as soon as practicable, based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or covered family member, or the planned medical treatment for a serious injury or illness of a covered service member. For leave due to a qualifying exigency, notice must be provided as soon as practicable. When an employee becomes aware of a need for FMLA leave less than thirty (30) days in advance, the employee should provide notice of the need for leave either the same day or the next business day as the need is first known.
- 12.8.8.3 Unforeseeable Leave - When the need for leave is not foreseeable, the employee must provide notice as soon as practicable and in compliance with the College's stated call-in or reporting procedures, absent unusual circumstances. Notice may be given by the employee's spokesperson if the employee is unable to do so personally.

- 12.8.8.4 Additional information - In all cases, the College may inquire further of an employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and the College may obtain the necessary details of the leave to be taken.
- 12.8.8.5 Certifications in Support of Leave - All certification forms may be obtained from the Office of Human Resources and shall be returned to the Executive Director of Human Resources.
- 12.8.8.6 Medical Certifications - An employee's leave to care for the employee's covered family member with a serious health condition, or due to the employee's own serious health condition shall be supported by a medical certification issued by the Healthcare Provider of the employee or the employee's family member and provided to the College. In general, employees should furnish the required certification at the time the employee gives notice of the need for leave or within five (5) business days thereafter, or, in the case of unforeseen leave, within five (5) business days after the leave commences. In certain circumstances identified by the FMLA, the College also may request certification at some later date, in which case the employee must provide the requested certification to the Director of Human Resources within fifteen (15) calendar days after the request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
- 12.8.8.7 Opportunity to Cure - The College shall advise an employee in writing whenever the College finds a certification incomplete or insufficient and advise what additional information is necessary to cure the insufficiency. The employee must provide the requested information within seven (7) calendar days, unless not practicable under the particular circumstances despite the employee's diligent good faith efforts to cure any deficiencies. If the deficiencies are not cured, the College may deny the taking of FMLA leave.
- 12.8.8.8 Clarification and Authentication - After the employee has been given an opportunity to cure any insufficiencies of the certification, the employee may authorize the College to contact the healthcare provider for purposes of clarification and authentication of the medical certification, provided that the employee authorizes the College to do so in compliance with the Health Insurance Portability and Accountability Act (HIPAA) (45 C.F.R., parts 160 and 164). The College may use a Healthcare Provider, human resource professional, leave administrator, or management official to contact the employee's

healthcare provider, but in no event can the employee's direct supervisor contact the employee's healthcare provider. The employee is not required to provide such authorization. However, if the employee does not authorize the College to seek clarification or authentication and the employee does not otherwise clarify the certification, the College may deny FMLA leave.

- 12.8.8.9 Second and Third Opinions - If the adequacy of medical certification is questioned by the College, the College may require the employee, at the College's expense, to seek the opinion of a second Healthcare Provider who is not regularly employed by or contracted with the College. If the opinions of the first and second Healthcare Providers differ, the College may require a third opinion, at the College's expense, from a Healthcare Provider agreed upon by the employee and the College. The third opinion shall be final and binding.
- 12.8.8.10 Annual medical certification - When an employee's need for leave is due to the employee's own serious health condition, or the serious health condition of a covered family member lasts beyond a single leave year, the College may require the employee to provide a new medical certification in each subsequent leave year.
- 12.8.8.11 Recertification - The employee must provide recertification, at the employee's expense, within fifteen (15) calendar days after request, unless it is not practical under the particular circumstances to do so despite the employee's diligent, good faith efforts. The College may request recertification no more often than every thirty (30) days in connection with an employee's absence, unless one of the following exists:
 - 12.8.8.11.1 If the minimum duration on the medical certification is more than thirty (30) days, the College must wait that minimum duration before requesting a recertification; or
 - 12.8.8.11.2 The College may request recertification in less than thirty (30) days if the employee requests an extension of leave; the circumstances described by the previous certification have changed significantly; or College receives information that casts doubt upon the employee's stated reason for absence or continued validity of certification.

In all cases, notwithstanding the foregoing restrictions, the College may request a recertification of a medical condition every six (6) months in connection with an employee's absence.

12.8.9 Fitness-for-Duty Certification

An employee must submit a fitness-for-duty certification prior to returning to work after FMLA leave if leave was taken as a result of the employee's own serious health condition. The certification must provide that the employee can return to work and that the employee is able to perform the essential functions of the employee's job. The cost of this certification shall be borne by the employee.

12.8.9.1 Certification related to covered active duty or call to covered active duty. An employer may require that a request for leave for qualifying exigencies be supported by a certification issued at such time and in such manner as prescribed by FMLA regulations.

12.8.9.2 Certification to Care for a Covered Service Member. When leave is requested to care for a covered service member with a serious injury or illness, an employee shall provide a certification completed by the covered service member's authorized Healthcare Provider on the approved FMLA form. The certification should provide sufficient facts to support the employee's request for leave. Only one certification is required. In addition, the employee shall provide confirmation of covered family relationship. Alternatively, invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued to any family member to join an injured or ill service member at his or her bedside will be accepted if a certification form is not provided. The College may seek authentication and clarification of the ITO or ITA, but will not request a second or third opinion or a recertification.

12.8.9.3 Failure to Comply with Notice Requirements

12.8.9.3.1 Foreseeable Leave - thirty (30) days. When the need for FMLA leave is foreseeable at least thirty (30) days in advance and an employee fails to give timely advance notice with no reasonable excuse, the College may delay FMLA coverage until thirty (30) days after the date the employee provides notice.

12.8.9.3.2 Foreseeable Leave - less than thirty (30) days. When the need for FMLA leave is foreseeable less than thirty (30) days in advance and an employee fails to give notice as

soon as practicable, the College may delay FMLA coverage depending on the particular facts and circumstances.

12.8.9.3.3 Unforeseeable Leave. When the need for FMLA leave is unforeseeable and an employee fails to give notice as soon as practicable under the facts and circumstances, the College may delay FMLA coverage for leave based on the facts of the particular case.

12.8.9.4 Failure to Comply with Certification Requirements

12.8.9.4.1 Foreseeable Leave - If the employee fails to provide certification at the time the employee gives notice of the need for leave or within five (5) business days thereafter, the College may deny FMLA coverage until the required certification is provided.

12.8.9.4.2 Unforeseeable Leave. If the employee fails to provide a certification within fifteen (15) calendar days from receipt of the request for certification, the College may deny FMLA coverage, unless the fifteen (15) day requirement is not practical under the extenuating circumstances.

12.8.9.5 Recertification

If the employee fails to provide recertification within a reasonable time under the particular facts and circumstances, the College may deny continuation of FMLA leave protections until such employee provides sufficient recertification. If the employee fails to provide recertification, the leave will not be counted as FMLA leave.

12.8.9.6 Fitness-for-Duty Certification

The College may delay restoration of the employee's job until such employee provides a sufficient fitness-for-duty certification. Unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated.

12.8.10 College Responsibilities

12.8.10.1 General Notice - The College shall post and keep posted on its premises in conspicuous places where employees are employed, a notice explaining the provisions of FMLA and providing information concerning the procedures for filing complaints of

violation of FMLA with the Wage and Hour Division. In addition, the College shall maintain a copy of this policy in every employee handbook, and distribute a copy to new employees upon hire.

12.8.10.2 Eligibility Notice - When an employee requests FMLA leave, or when the College acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the College shall provide written notice to the employee of whether the employee is eligible to take FMLA leave within five (5) business days, absent extenuating circumstances. If the employee is not eligible for FMLA leave, the College shall provide the employee at least one reason why the employee is not eligible.

12.8.10.3 Notice of Rights and Responsibilities - The College shall provide written notice to the employee about his or her rights and responsibilities under the FMLA leave within five (5) business days of receipt of the employee's request for leave or when the College acquires knowledge that an employee's leave may be for an FMLA qualifying reason. The notice also shall detail the specific expectations and obligations of the employee set forth under FMLA's regulations and shall explain any consequences of a failure to meet these obligations.

12.8.10.4 Designation Notices

12.8.10.4.1 FMLA Designation - The College shall provide written notice within five (5) business days after the College has enough information to determine whether the leave is being taken by an eligible employee for an FMLA qualifying reason, absent extenuating circumstances, whether the leave will be designated and counted as FMLA leave, how much FMLA leave is available if the amount of leave is known at the time of designation, including the number of hours, days or weeks counted against FMLA leave entitlement, and how much leave with pay, if any, will be substituted for FMLA leave. If the amount of time that will be counted against FMLA leave is not known at the time of designation, the College shall provide notice to the eligible employee upon request by such employee, but no more often than once in a thirty (30) day period and only if leave was taken in that period.

The Designation Notice also shall provide notice of any required certifications or the fitness-for-duty requirement before an eligible employee returns to work. Only one notice of designation is required for each FMLA qualifying reason during the applicable twelve (12) month period.

- 12.8.10.4.2 Retroactive FMLA Designation. The College may retroactively designate leave as FMLA leave after an eligible employee returns to work, provided that the College gives written notice of the designation to such employee within five (5) business days of the designation and the College's failure to timely designate leave does not cause harm or injury to such employee, such as lost compensation and benefits or other actual monetary losses. Alternatively, the College and the eligible employee may mutually agree that leave can be retroactively designated as FMLA leave.

12.8.11 Benefits and Protections

- 12.8.11.1 Use of Paid Leave - Accrued sick, annual, or personal leave shall be utilized for any FMLA-qualifying reason, and the amount of such leave will be counted against an eligible employee's FMLA entitlement. If the requested leave period extends beyond the eligible employee's accrued number of paid days of leave, the remaining FMLA-qualifying leave shall be unpaid.
- 12.8.11.2 Health Insurance - During the period of FMLA leave, the College will maintain the eligible employee under the College's group health plan if such employee is currently enrolled therein. However, such employee is responsible for paying such employee's monthly portion of the premium. If an eligible employee fails to make payment of such employee's share of health insurance premiums within thirty (30) days after such payment is due, coverage of such employee shall be discontinued. If group health plan coverage is discontinued because of such employee's failure to pay, the employee will be eligible for benefits under COBRA. If the eligible employee fails to return to work following leave under the FMLA for any reason other than (1) the continuation of the FMLA-qualifying circumstances upon which the need for leave was originally based, or (2) circumstances beyond the control of the eligible employee, such employee shall be required

to reimburse the College for the cost of any health insurance premiums the College paid to maintain coverage for the eligible employee during the leave period.

12.8.11.3 Other Accrued Benefits - Upon return to work from FMLA leave, eligible employees, other than “key eligible employees” will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave shall not result in the loss of any employment benefit that accrued prior to the start of the eligible employee’s FMLA leave. However, benefits do not continue to accrue while the eligible employee is on FMLA leave.

12.8.11.4 COBRA Eligibility and Benefits - Employees who are terminated voluntarily or involuntarily for reasons other than gross misconduct and employees whose hours of employment are reduced may be eligible for COBRA benefits when they are no longer a covered employee under the College’s health insurance plans. COBRA benefits are managed through the New Mexico Public School Insurance Authority (NMPSIA). Information regarding COBRA eligibility and benefits can be found at <http://nmpsia.com/index.html> or by calling 1-800-548-3724.

12.8.12 Key Eligible Employees

A key eligible employee may be denied job restoration if the College determines that the restoration will cause substantial and grievous economic injury to the operations of the College. If the College believes that reinstatement may be denied to a key eligible employee, the College will provide the key eligible employee written notice at the time the eligible employee gives notice of the need for FMLA leave, or as soon as practicable, that he or she qualifies as a key eligible employee, as well as the potential consequences with respect to reinstatement and maintenance of health benefits if the College should determine that substantial and grievous economic injury to the College’s operations will result if the eligible employee is reinstated from FMLA leave.

12.8.13 Unlawful Acts and Enforcement

FMLA makes it unlawful for the College to interfere with, restrain, or deny the exercise of any right provided under the FMLA; and to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA. FMLA does not affect any Federal or State law prohibiting discrimination, or

supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

12.8.14 Recordkeeping Requirements

The College shall make, keep, and preserve records consistent with the recordkeeping requirements of Section 11(c) of the Fair Labor Standards Act and FMLA, including, but not limited to, an eligible employee's basic payroll and identifying data; dates FMLA leave is taken; the hours of leave taken if FMLA leave is taken in increments of less than one full day; copies of the notices furnished to the eligible employee by the College; records related to the eligible employee's benefits; and records and documents relating to medical certifications, recertification, or medical histories, for a minimum of three (3) years or longer as required by State law. All records and documents relating to medical certifications, recertification, or medical histories shall be maintained as confidential medical records in separate files or records from the usual personnel files and in accordance with 29 C.F.R. ' 1630.14(c)(1) of the Americans with Disabilities Act.

12.9 Individual Professional Development Plan

12.9.1 The Colleges Professional Development Plan (PDP) is intended to provide employees with educational opportunities for purposes of personal and professional development, thereby improving the ability of the College to effectively perform its mission. Through the PDP, employees are reimbursed part or all expenses incurred in pursuing personal and professional development through continuing education.

12.9.2 Every employee of the College is eligible and encouraged to participate in a PDP. The following criteria shall be used to determine whether a proposed individual PDP merits approval. Employees should also consult the Colleges Professional Development Program Manual for further information and requirements.

12.10 Health Insurance

12.10.1 Health insurance benefits are offered to eligible employees through the New Mexico Public Schools Insurance Authority (NMPSIA). Employees may participate in a diversified package of insurance benefits including health, dental, vision, basic term life insurance and accidental death and dismemberment, voluntary term life and long-term disability.

- 12.10.1.1 The College's policy on insurance provides a general description of the available benefits. For a more complete explanation of available benefits (and required forms), please contact the Human Resources Office.
- 12.10.1.2 Eligibility and Enrollment Period. Regular Full-Time or Part-Time Employees working twenty (20) or more hours per week are eligible for health insurance benefits.
- 12.10.1.3 New employees have thirty-one (31) days from date of hire to turn in their enrollment application and beneficiary designation forms. If an application is not submitted within this thirty-one (31) day window, the employee may submit an enrollment to any of the College's medical plans, although late enrollees are subjected to a maximum eighteen (18) month preexisting conditions limitation period.
- 12.10.1.4 An employee may elect to add health insurance coverage (although the employee had elected no health insurance coverage during the initial eligibility period) due to marriage, or because of the birth or adoption of a child. To add a health insurance plan due to marriage or the birth or adoption of a child, the employee must complete a New Mexico Public Schools Insurance Authority (NMPSIA) change card within thirty-one (31) days of the qualifying event.

12.11 Basic Term Life Insurance and Accidental Death and Dismemberment Coverage

Regular Full Time and Regular Part Time employees who work more than twenty (20) hours per week are automatically enrolled under the College's Basic Term Life Insurance and Accidental Death and Dismemberment Policy, which provides fifty thousand dollars (\$50,000) of coverage beginning the first day of the month following the eligible employee's date of hire. Coverage will end upon the employee's termination of employment with the College. Upon termination of employment with the College, an eligible employee may convert his or her Basic Term Life Insurance and Accidental Death and Dismemberment Policy into a Prudential Individual Life Insurance policy within thirty-one (31) days following the termination of the employee's coverage.

12.12 HIPAA/Disclosure of Medical Information

Employees' medical information shall be kept in a locked, restricted-access file in the Human Resources Office, with access closely controlled and monitored. Contents of

employee medical files may only be examined with the approval of the Human Resources Director.

12.13 Retiree Health Care Authority

The New Mexico Retiree Health Care Authority (NM-RHCA) was created to provide a pre-funded group health insurance benefit for current and future retirees from public employment. Once vested in the Educational Retirement Fund, eligible (Regular full/part-time employees) former employees of the College become eligible for benefits under the NM-RHCA. Employees should contact the Human Resources Office for further information.

12.14 Annuity

Tax-sheltered annuity and deferred income plans are available to all eligible employees (Regular full/part-time employees). Retirement investments may be made under a pre-tax payroll deduction. These programs offer employees certain income-tax advantages. The College only acts as a collector of the premiums without endorsing any of the participating companies. Employees are responsible for determining the appropriateness of such plans based on their individual circumstances, as the College makes no representations in this regard. Information on participating companies is available from the Human Resources Office.

12.15 Workers' Compensation

The College strives to make the workplace a safe and healthy environment for all its employees. The key to a safe work environment is the prevention of on-the-job accidents. Prevention is the responsibility of all College employees. Any employee with a work-related health or safety concern is encouraged to bring the concern to their supervisor's attention immediately. Supervisors are encouraged to conduct periodic safety inspections of all work areas for which they are responsible.

12.15.1 Reports of Work Related Injuries or Illnesses

12.15.1.1 Workers Compensation statutes for the state of New Mexico require that an employee who has suffered a work-related injury or illness notify the employer within fifteen (15) calendar days. Notification is necessary to ensure the employee receives proper medical attention and accurate processing of compensation claims. The Human Resources Office has been designated by the College to administer Workers Compensation claims. The employee shall submit the initial notice-of-accident report concerning injuries sustained by employees to the Workers= Compensation Administration.

Important Note: If an employee's injury or illness is serious or life-threatening, such as loss of a limb or a severe burn, the first priority shall be for the employee to seek immediate medical attention. The employee or the employee's supervisor or coworker should dial 9-1-1 in order to request immediate emergency medical assistance.

12.15.1.2 The immediate supervisor of an injured or ill employee shall, within three (3) days of the employee's report of injury or illness, complete the Employers First Report and submit this report to the Human Resources Office. The Human Resources Office shall then file the Employers First Report within five (5) days, and send a copy to the New Mexico Public Schools Insurance Authority (NMPSIA). The employee must properly execute an Authorization to Release Medical Reports and Information form, which shall be submitted to the NMPSIA along with copy of the Employers First Report.

12.15.1.3 The Human Resources Office shall notify any employee who experiences a work-related injury or illness that he or she may be eligible for leave under the Family and Medical Leave Act discussed above.

12.15.2 Benefits

12.15.2.1 Compensation shall be paid by the College to the worker in installments. The first installment shall be paid not later than fourteen days after the worker has missed seven days of lost time from work, whether or not the days are consecutive. Remaining installments shall be paid twice a month at intervals not more than sixteen days apart in sums as nearly equal as possible, except as provided in Section 52-5-12 NMSA 1978.

12.15.2.2 For total disability, the worker shall receive, during the period of that disability, sixty-six and two-thirds percent of his average weekly wage, and not to exceed a maximum compensation of eighty-five percent of the average weekly wage in the state, a week, effective July 1, 1987 through December 31, 1999, and thereafter not to exceed a maximum compensation of one hundred percent of the average weekly wage in the state, a week; and to be not less than a minimum compensation of thirty six dollars (\$36.00) a week. For disability resulting from primary mental impairment, the maximum period of compensation is one hundred weeks. For disability resulting in secondary mental impairment, the maximum period of compensation is the maximum period allowable for the disability produced by the

physical impairment or one hundred weeks, whichever is greater. or the purpose of paying compensation benefits for death, pursuant to Section 52-1-46 NMSA 1978, the worker's maximum disability recovery shall be deemed to be seven hundred weeks.

12.15.3 Medical Certification or Fitness for Work Examination

The College wants to avoid the risk of re-injury when an employee is experiencing problems performing his or her duties due to an illness or injury. Therefore, the College may require an employee to have his or her Healthcare Provider complete an Employee Fitness Assessment Form (attached hereto as Attachment D) prior to the employee's return to the workplace.

12.16 Social Security

Social Security is an insurance program of the federal government to which all employees must contribute and from which employees may benefit whenever they meet the minimum conditions of eligibility. Employees are encouraged to learn about Social Security benefits and the amounts of contributions deducted from their paychecks. Deductions are made from the employee's salary based on contribution rates designated by the federal government. In addition to the employee's contribution, the College contributes an equal amount into the Social Security fund. Full Retirement Age is the age you are eligible to begin collecting maximum Social Security benefits through the Federal Social Security system.

12.17 Medicare

Along with Social Security deductions, a Medicare tax is deducted from employee's salaries at the end of each pay period.

12.18 Unemployment Compensation

The College provides unemployment insurance under the provisions of the New Mexico Unemployment Compensation Act (NM-UCA). The cost of this coverage is borne totally by the College. The College's Employment Services Division determines an employee's eligibility for unemployment compensation based on the circumstances of each case and the provisions of the NM-UCA.

Chapter 13 Drug Free Work Place

13.1 Policy

The Board realizes that on-the-job substance abuse is a pervasive problem throughout the American society and that substance abuse in the work place can seriously injure the health of employees, adversely impair job performance, and endanger the safety and well-being of other employees, students and members of the community. In addition, increased health care problems arising from substance abuse can cause increased health care costs to the employee and College in the form of treatment costs and increased insurance costs. To reduce the significant harm to individuals and the community caused by substance abuse the board is committed to the enforcement of policies promoting drug-free Colleges and a drug-free workplace.

13.2 Federal Funding Requirements – Notification of Convictions

The College is a recipient of federal funding and is subject to the Federal Drug Free Work Place Act of 1988. As a condition of employment, each employee is expected to abide by this policy and to cooperate with the College's objective of maintaining a drug free workplace. Each employee shall notify his or her employer of such employee's conviction of any criminal drug statute arising from a violation occurring in the work place no later than five (5) days after such conviction. If an employee receives a contract or grant from the federal government, then the College shall provide written notice to the appropriate person or office in the Federal agency from which he or she receives the contract or grant within ten (10) calendar days after College receives the employee's written notice of his/her conviction.

13.3 Substance Abuse Prohibited

Substance abuse on College premises, during College programs, while on College business or in College vehicles, is prohibited.

13.4 Definitions

The following definitions are used in this policy:

13.4.1 Substance abuse means the unauthorized possession, distribution, dispensing, manufacture, sale, or use or being under the influence of controlled substances that are identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC, Statute 812 (United States Code, Title XXI, Chapter 13) or its implementing regulations, 21 CFR Sections 1308.11 to 1308.15 where the use is neither authorized by law nor a valid prescription, or the misuse of a legal substance, including but not limited to prescription drugs, that may affect an individual's ability to perform his or her job in the workplace in a safe, adequate and secure manner. Substance abuse also shall include the unauthorized use or

possession of, or being under the influence of, alcohol or alcoholic beverages and imitation controlled substances as defined in NMSA 1978, § 30-31A-1 or other look-alike drugs in the workplace.

13.4.2 Controlled substances means any drug or substance identified in Schedules I through IV of the Controlled Substances Act or its implementing regulations and includes, but is not limited to, marijuana, barbiturates, anabolic steroids, cocaine (including crack), amphetamines, heroin, PCP, hallucinogens, and certain prescription drugs.

13.4.3 College premises means any College building and any College property or drug free zone as defined in NMSA 1978 §§ 30-31-1 et seq., any College-owned vehicles and any other College-approved vehicle used to transport students to and from College activities or for College business.

13.4.4 College programs means any College sponsored or approved activity, event or function, on or off College premises where students are under the jurisdiction of the College; or during any period of time College employees are supervising students on behalf of the College or are otherwise engaged in College business.

13.4.5 Workplace includes employee activities on College premises, at College programs or while occupying College vehicles or other vehicles during College programs.

13.5 Use of Authorized Prescriptions and Drugs

Authorized prescription drugs and "over the counter" legal drugs may be used at the work place so long as prescribed dosage and recommended use is not exceeded and the use of these drugs does not adversely affect the employee's ability to perform required work in the workplace in a safe and secure manner. When such legal drugs are to be used at the work place and are described as affecting performance by the manufacturer or known to be performance affecting by the employee, the employee shall inform his or her supervisors.

13.6 Violation; Discipline; Programs

Any employee who violates the terms of this policy may be disciplined, up to and including reprimand, suspension with or without pay, termination, or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies for violation of the standards of conduct. In addition, or alternatively, an employee may be required to participate in and satisfactorily complete a drug abuse assistance or rehabilitation program approved by the College at the employee's expense.

13.7 Substance Abuse Testing

Employees are required to submit to substance abuse testing as follows:

13.7.1 Safety Sensitive Positions - “Safety sensitive position” means that the employee discharges duties fraught with risks of injury to others such that even a momentary lapse of attention can have disastrous consequences. The obligation of employees in certain safety-sensitive positions to perform their duties unimpaired holds direct consequences for the safety of the students of the College and of the general public. Examples include, but are not limited to, any positions that involve driving College vehicles and custodial positions that involve the use, handling or disposal of flammable, toxic or dangerous substances during the course of the employee’s primary and regular duty. Employees who hold safety-sensitive positions are subject to the following types of testing:

13.7.1.1 Random Testing. Testing of employees is conducted on an unannounced basis just before, during or after performance of the employee’s safety sensitive functions.

13.7.1.2 Post-Accident Testing. Immediately, or as soon as practical, following an accident involving a College motor vehicle or other vehicle used on College business, the driver of the vehicle must report the accident to his/her supervisor. The driver must be tested for substance abuse when:

13.7.1.2.1 there is a fatal accident, even if the driver is not cited for a moving traffic violation;

13.7.1.2.2 there is an accident in which the driver receives a citation for a moving traffic violation;

13.7.1.2.3 a person requires medical treatment as a result of an accident; or

13.7.1.2.4 one or more vehicles require towing from the scene of the accident.

13.7.1.3 Return-to-duty and follow-up Testing - When an employee in a safety sensitive position has failed a random or post-accident test for substance abuse, the employee must undergo a return to duty test for substance abuse and provide a certified negative test result before being authorized to return to workplace duties.

13.7.2 Reasonable Suspicion. Supervisors may require any employee to submit to substance abuse testing if the Supervisor has a reasonable suspicion that the employee's work performance or on-the-job behavior may be affected or impaired by substances abuse.

13.7.2.1 Reasonable suspicion means reasonable belief, based upon observations made during, just preceding or just after the period of the day during which this policy applies, that the employee's behavior, speech, body odor, or appearance is indicative of substance abuse. Circumstances that give rise to reasonable suspicion of substance abuse may include, but are not limited to:

13.7.2.1.1 observed use, possession or sale of illegal drugs and/or use, possession sale or abuse of alcohol, and/or the illegal use or sale of prescription drugs; Apparent physical state of impairment of motor functions;

13.7.2.1.2 Marked changes in personal behavior not attributable to other factors;

13.7.2.1.3 Employee involvement in or contribution to an accident where the use of alcohol or drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury;

13.7.2.1.4 Violations of criminal drug law statutes, involving the use of illegal drugs, alcohol, or prescription drugs and/or violation of drug statutes.

13.7.2.2 Written Record. A written record shall be made of the observations giving rise to the College's reasonable suspicion of substance abuse. The supervisor making the observations shall sign, date and record the approximate time of the observed conduct on the written record.

13.7.2.3 Timing of Test. The College may require an employee reasonably suspected of substance abuse to submit to a drug or alcohol test at a certified testing facility within two (2) hours following the observations.

13.7.2.4 Testing Procedures. All testing procedures shall be in compliance with the Department of Transportation's rules, regulations and guidelines. Additional information about the DOT testing rules, regulations, and guidelines is available at www.dot.gov/ost/dapc/index.html

13.7.2.5 Refusal to Test. An employee's refusal to be tested shall be treated as a positive test result in violation of this policy. Refusal to be tested includes, but is not limited to:

13.7.2.5.1 Failure to appear for a test at the designated laboratory at the designated time;

13.7.2.5.2 Failure to provide adequate breath, urine or blood samples within the designated time without a valid medical explanation. For example, if a test is required pursuant to reasonable suspicion, an employee's failure to produce an adequate sample for testing within two (2) hours from the time of observation will constitute a refusal to test;

13.7.2.5.3 Failure to remain available for post-accident testing;

13.7.2.5.4 Engaging in conduct that clearly obstructs the testing process, including but not limited to altering or spilling a specimen; or

13.7.2.5.5 Failing to sign the drug or alcohol testing forms.

13.7.3 Employee Assistance Programs

13.7.3.1 Health Risks - Substance abuse can lead to early behavioral and psychosocial problems. Substance abuse is a nondiscriminatory, progressive illness, which typically begins by experimentation, continues due to misinterpreted behavioral standards, and may result in addiction. Addiction to alcohol and/or illicit drugs will debilitate the total wellness of the individual and interfere with his or her ability to carry out even simple tasks. Descendants of a blood relative with a history of alcohol or substance abuse are at greatest risk of becoming addicted. There is no safe level of chemical use during pregnancy and research indicates that use prior to conception by either partner can affect the infant. For complete information concerning the health risks resulting from use and/or abuse of alcohol and other substances, employees are encouraged to contact the College's counseling personnel.

13.7.3.2 Employee CORE Team. The College can play an important role in preventing and resolving employee substance abuse by (1) providing employees an opportunity, with appropriate assistance, to discontinue their substance abuse; (2) providing educational materials to supervisors and employees on these issues; (3) assisting supervisors in confronting employees who have performance and/or conduct

problems and making referrals to appropriate treatment and rehabilitative facilities; and (4) following up with individuals during the rehabilitative period to track their progress and encourage successful completion of the program. Accordingly, the President shall appoint professionals with expertise or training in substance abuse counseling and treatment to the Screening Committee/Employee Support Teams for employees (“Employee CORE Team”). Members of the Employee CORE Team may include College employees and/or professional consultants. The Employee CORE team’s function is to intervene with and provide guidance (within the scope of members’ professional licenses) to employees suspected of substance abuse, to make employee referrals to other resources in order for employees to receive substance abuse assistance, and to monitor the progress of the employee during a rehabilitative program and encourage a return for a healthy lifestyle.

- 13.7.3.3 Voluntary Referrals - The College strongly encourages employees to seek substance abuse assistance voluntarily. Information regarding an employee who voluntarily refers himself/herself to the Employee CORE Team will be treated as confidential information under applicable state and federal laws. Voluntary referrals will be taken into consideration in determining the disciplinary consequences for violation of this policy.
- 13.7.3.4 Supervisor Referrals - In the event that an employee violates this policy, the employee's supervisor will report the matter to the designated Employee CORE Team. Together, the Employee CORE Team and supervisor shall consider the disciplinary consequences, outline a recommended course of action, and report this recommendation to the President. While the President may take this recommendation into consideration in determining the disciplinary consequences of a policy violation, the President is not bound by the recommendation.
- 13.7.3.5 Compliance - Employees who have entered into rehabilitation must comply with the terms of the program. Employees entering into inpatient rehabilitation as a part of a prescribed program will be placed on appropriate leave status for that period. Fees and expenses incurred are the responsibility of the employee.

13.7.4 Educational Programs

- 13.7.4.1 The President shall arrange for periodic (at least annually) training and education in the dangers and risks to physical and mental health,

economic welfare, and civil status from the use of illicit drugs and abuse of alcohol and tobacco.

13.7.4.2 The President or designee will post notices regarding the drug-free workplace on major bulletin boards at each College site and administrative building and will likewise post notices in prominent areas frequented by employees on all College sites. This notice will include the following:

13.7.4.2.1 Prohibition of the unlawful use of controlled substances and misuse of legal substances and alcohol.

13.7.4.2.2 Description of health risks associated with substance abuse.

13.7.4.2.3 Description of the functions and procedures of the Employee CORE Team as well as any other therapeutic resources available.

13.7.4.2.4 An assurance that confidentiality will be maintained.

13.7.4.2.5 Description of the disciplinary actions and the conditions and circumstances for their application.

13.8 Distribution of Policy

This policy shall be included with the orientation package of materials for each new employee. The principal of each College will distribute the policy to each employee under his/her supervision and will maintain records signed by the employee substantiating this distribution and stating that compliance with the policy is mandatory.

13.9 Confidentiality and Due Process

Employees are assured that every effort will be taken to protect their confidentiality.

Actions taken against employees in enforcement of this policy shall comply with such hearing or due process procedures as may be required by College policy or state and federal laws.

13.10 Policy Review

A biennial review of this policy shall be conducted to determine its effectiveness, to implement changes as needed, and to ensure that disciplinary sanctions are consistently enforced.

13.11 Drug and Alcohol Testing Policy Consent and Release Agreement

A copy of the College's Drug and Alcohol Testing Policy Consent and Release Agreement is attached to this Handbook as Attachment E.

Chapter 14 Inspection of Public Records

Under the Inspection of Public Records Act (Chapter 14, Article 2 NMSA 1978) every person has the right to inspect public records of the College, except as provided in the Act. The Act also makes compliance with requests to inspect public records an integral part of the routine duties of the officers and employees of the College. The Board of Trustees of the College, its officers and employees are committed to full compliance with the Act and hereby implement this policy to comply therewith.

- 14.1 Under the Inspection of Public Records Act, every person has a right to inspect any public records maintained by the College, except:
 - 14.1.1 Letters of reference concerning employment, licensing or permits;
 - 14.1.2 Letters or memorandums which are matters of opinion in personnel files or students' cumulative files;
 - 14.1.3 Attorney-client privileged information;
 - 14.1.4 Public records containing the identity or identifying information relating to an applicant or nominee for the position of a public institution of higher education;
 - 14.1.5 Records pertaining to physical or mental examinations and medical treatment of persons confined to any institution; and
 - 14.1.6 As otherwise prohibited by law.
- 14.2 As provided in Section 14-2-8 (B) of the Inspection of Public Records Act, nothing in the Act shall be construed to require the College to create a public record that it does not otherwise maintain.
- 14.3 A person who wishes to inspect public records may submit a request to the Custodian of Records, by email or in writing. The Director of Human Resources has been designated as the Custodian of Records for the College. Note: procedures and penalties prescribed by the Public Records Act apply only to written requests. A written request must contain the name, address, and telephone number of the person making the request. The request must describe the records sought in sufficient detail to enable the custodian of records to identify and locate the requested records.
- 14.4 Written requests to inspect public records should be submitted to the attention of the Director of Human Resources, located in the Administration Building of the Luna

Community College, 366 the College Drive, Las Vegas, New Mexico, 87701, (505) 454-2500.

- 14.5 The Custodian of Records must permit inspection immediately or as soon as practicable, but no later than fifteen (15) calendar days after the Custodian receives a records inspection request. If inspection is not permitted within three (3) business days, the person making the request will receive a written response explaining when the records will be available for inspection or when the public body will respond to the request.
- 14.6 If any of the records sought are not available for public inspection, the person making the request is entitled to a written response from the Custodian of Records explaining the reasons inspection has been denied. The written denial shall be delivered or mailed within fifteen (15) calendar days after the Custodian receives the request for records inspection.
- 14.7 If a person requesting a records inspection would like a copy of a public record, a reasonable fee may be charged. The fee for documents, which are eight and one-half by eleven inches or smaller, is \$.50 per page. The fee for larger documents is \$1.00 per page. The Custodian of Records may request that applicable fees for copying public records be paid in advance. A receipt indicating that the fees have been paid for making copies of public records will be provided upon request.

Chapter 15 Proper Use of LCC Letterhead/Official Letters of Employment Verification and Letters of Recommendation *(Adopted March 30, 2016)*

The purpose of this policy is to provide guidance to LCC employees regarding authorized use of LCC letterhead.

Employees shall not use LCC letterhead for any personal correspondence including letters of recommendation.

LCC letterhead shall be used for official college business only.

The Human Resources Department is the only LCC entity authorized to issue official letters of employment verification.

Violation of this policy may be subject to disciplinary action up to and including dismissal.