

**Proposition: 19-09/10 Amended**

**Sponsor: Ellen Bosman (Library); Nancy Baker (Arts & Sciences)**

**Proposed Committee Assignment: Faculty Affairs**

**Assigned Committee: Long Range Planning 4/8/10**

**Proposal:** To revise the existing policy particularly as it applies to use of computer resources.

**Rationale:** The current version of 3.75 includes the prohibition against using University computers to access, view, download, print, or transmit pornographic material. This policy is flawed in numerous ways: 1) pornography is not defined in the policy or anywhere in the policy manual; 2) the policy prohibits these actions during and after work, but not before work; 3) the policy conflicts with the principles of academic freedom. This policy has been used to dismiss employees. A revision of the policy is necessary to correct these deficiencies.

3.75 ***Non-Work Related Use of University Resources*** (See also 2.35 NMSU General Information and Communication Technology Policies) [Amendment, deleting material superseded by amended Policy 2.35, adopted by Administrative Council 04.14.09; ratified by Board of Regents 07.29.09]

University employees should always be mindful of the resources entrusted to them by the public, government entities, and private donors, including the public's perception of how the university conducts its business. Employees should strive to conduct themselves consistent with the highest ethical principles, to avoid any action that may be viewed as a violation of the public trust in the use of these resources, and to act responsibly in order to preserve and/or safeguard university resources. These resources include, but are not limited to, employee's time, facilities, supplies, and equipment, such as telephones, fax machines, and computers. Employees do not have a right or expectation to privacy as it relates to information or data contained on or accessed through university equipment or resources.

The application of the following guidelines for non-work related use will depend upon the particular circumstances surrounding each such use, including factors such as the nature of the use, reasonableness, cost, time, employee needs and work habits etc. Employees should consult with their supervisors in advance if they have any questions about appropriateness of certain practices. .

**Guidelines:** The use of the university's resources and services for non-work related purposes is permitted only in compliance with the following criteria:

1. The cost to the university is negligible.
2. The use does not interfere with an employee's obligation to carry out university duties in a timely and effective manner. Time spent engaged in the non-work related use of university resources is not considered to be university work time.
3. The use does not undermine the use of university resources and services for official purposes, nor violate any university policy or state or federal law. This includes, but is not limited to, the conduct of business/marketing and political activities.
4. The use neither expresses nor implies sponsorship or endorsement by the university.
5. The use does not involve the viewing, displaying, downloading, printing, procuring, or transmitting of sexually explicit material; nor of any other material that would violate University policy or the law, including but not limited to those relating to sexual harassment, fraud, hostile workplace, obscenity, libel, defamation, or hate/violent misconduct.
6. Users should be aware that internal or external audit or other needs may require examination of uses of university resources or services and should not expect such uses to be free from inspection.
7. The NMSU internal mail delivery system shall not be used to deliver non-work related material. University accounts shall not be charged for mailing personal and non-university business material.
8. NMSU vehicles shall not be used for personal or non-university business purposes. See also Policies 9.33 (Vehicle Assignments); 9.34 (Fleet Asset Management Program); and the Vehicle Use Procedures.

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Deleted: A supervisor's decision shall not, however, circumvent or override applicable university policies and procedures. ¶

Guidelines: The use of the university's resources and services for non-work related purposes is permitted only in compliance with the following criteria:

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1. The cost to the university is negligible.

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2. The use does not interfere with an employee's obligation to carry out university duties in a timely and effective manner. Time spent engaged in the non-work related use of university resources is not considered to be university work time.

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3. The use does not undermine the use of university resources and services for official purposes, nor violate any university policy or state or federal law.

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4. The use neither expresses nor implies sponsorship or endorsement by the university.

5. The use does not involve the viewing, displaying, downloading, printing, procuring, or transmitting of sexually explicit material; nor of any other material that would violate University policy or the law, including but not limited to, those relating to sexual harassment, fraud, hostile workplace, obscenity, libel, defamation, or hate/violent misconduct.

Deleted: must be consistent with state and federal laws regarding obscenity, libel, or the like, and state and federal laws and university policies regarding political activity, the marketing of products or services or other inappropriate activities.

6. Users should be aware that internal or external audit or other needs may require examination of uses of university resources or services and should not expect such uses to be free from inspection.

~~7. University Resources shall not be used in conduct of business or marketing or political activities for non-work related purposes in an inappropriate manner or in violation of NMSU policy and procedures.~~

~~8. The NMSU internal mail delivery system shall not be used to deliver non-work related material. University accounts shall not be charged for mailing personal and non-university business material.~~

~~9. NMSU vehicles shall not be used for personal or non-university business purposes. See also Policies 9.33 (Vehicle Assignments); 9.34 (Fleet Asset Management Program); and the Vehicle Use Procedures.~~

**Deleted:** In applying these guidelines, each case will depend upon the particular circumstances and other important factors such as materiality or reasonableness. The ultimate control, therefore, lies with each employee's supervisor, as that person should have direct knowledge of the behaviors and needs of the individual employee. **Employees should consult with their supervisors in advance if they have any questions about appropriateness of certain practices.** A supervisor's decision cannot, however, circumvent other policies and procedures that may restrict personal use beyond the limitations cited in these guidelines. For example, the use of telephones, fax machines, mail services, and vehicles must comply with existing university policies; the use of university resources in political activity is prohibited.¶

¶ **Mail Services:** Personal and non-university-business mail should not be placed at pick-up points for the university-employed carriers. Likewise,

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**Pornographic Material:** Employees downloading, printing, accessing, forwarding, transmitting or viewing pornographic

**Deleted:** on the university computers during and after work time is not allowed. Those who may happen to see the material could potentially report the incidents as offensive and/or inappropriate for the work environment

**Deleted:** . . . **Vehicles:** (See Chapter 9 Facilities and Services – Transportation Services-Rental/Lease) ¶

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