UNM | Faculty Handbook

C07 Faculty Misconduct and Progressive Discipline Policy

Approved By: Faculty Senate and Board of Regents
Effective: **Draft 1/12/21**
Responsible Faculty Committees: Academic Freedom and Tenure Committee and Policy Committee
Office Responsible for Administration: Office of the Provost and Office of the Executive Vice President for Health Sciences

Legend: Proposed changes throughout the policy are highlighted as follows: Underscored text in red = proposed new language; ~~Strike through~~ text = proposed deleted text; and Unmarked text = no change.

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the Faculty Senate and the Board of Regents.

POLICY RATIONALE

The University of New Mexico (UNM) is committed to the principles of academic freedom, which rely on the intellectual and professional integrity of faculty members mindful of their rights and responsibilities. Essential to sustaining an environment that supports academic freedom is the requirement for an impartial investigation of alleged faculty misconduct, due process, and when necessary, disciplinary action. It is the responsibility of decision-makers when reviewing alleged faculty misconduct to ensure that the decision-making process is not influenced by a violation of academic freedom, improper consideration, or procedural violations per *Faculty Handbook* Policy B6 "Academic Freedom and Tenure Committee."

~~The University encourages a supportive problem-solving approach to workplace problems, but the University recognizes that misconduct may require disciplinary action.~~ When the need for disciplinary action is identified, UNM normally uses progressive discipline to address ~~possible~~ misconduct. Progressive discipline is intended to be corrective, not punitive in nature, and is designed to provide faculty with notice ~~of deficiencies~~ and an opportunity to ~~improve~~ take corrective action. However, some misconduct ~~violations of policies and procedures~~, ~~or continued negative behavior~~ may be of such a serious nature that suspension without pay or dismissal ~~discharge~~ may be appropriate pursuant to all *Faculty Handbook* policies, including but not limited to Section B.

POLICY STATEMENT

Any member of the UNM faculty assigned to any site or component of UNM, including any faculty member serving as an academic administrator, accused of misconduct will be subject to this Policy. If after an inquiry or investigation the faculty member is found to have engaged in misconduct, ~~who violates a published University policy~~ the faculty member may be subject to a

warning, censure, disciplinary probation, suspension without pay, or dismissal in accordance with this Policy. Teaching, research, and graduate assistants in their faculty capacity are considered faculty members for purposes of this Policy.

Any individual(s) bringing an allegation of faculty misconduct ~~to the chair's attention~~ is protected by, and subject to, UNM's policy on reporting misconduct. If the complainant feels the concerns raised were not adequately addressed in accordance with this Policy, the complainant may file a complaint in accordance with UAP **Policy 2200** "Reporting Suspected Misconduct and Whistleblower Protection from Retaliation." In accordance with UAP **Policy 2200**, any member of the UNM community who knowingly gives false or materially inaccurate information; knowingly makes a false report of suspected misconduct or a subsequent false report of retaliation; or who knowingly provides false answers or information in response to an ongoing investigation may be subject to administrative action by UNM including disciplinary action.

Care must be exercised at all times to ensure confidentiality to the extent possible and to protect the privacy of persons involved in a misconduct inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the extent possible. Files involved in an inquiry or investigation shall be kept secure, and applicable state and federal law shall be followed regarding confidentiality of personnel records. Refer to **Policy C70** "Confidentiality of Faculty Records." If at any step in this Policy it is determined ~~If the final determination is~~ that no misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the reputation of the faculty member; it is up to the faculty member to decide what information is documented in any of their personnel files maintained by UNM or any component thereof.

APPLICABILITY

All UNM academic faculty working at all UNM sites, including administrators who are also faculty, and teaching, research, and graduate assistants when acting in their faculty capacity.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Policy and Operations Committees and the Academic Freedom and Tenure Committee.

DEFINITIONS

Allegation is any report or evidence of misconduct.

Bias. Prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.

Chair. References to the Department Chair in this Policy also includes the program director or associate or vice dean in a non-departmentalized school or college. If allegations are made against a department chair or other administrator or a department chair recuses themself, the next higher academic authority shall perform the functions assigned in this Policy to the chair and the provisions shall be modified as appropriate.

Faculty member. For the purposes of the Policy, the term faculty member refers to the faculty member whose conduct or actions are in question. Faculty members include teaching, research, and graduate assistants when acting in their faculty capacity.

Faculty Misconduct Review Committee (FMRC) is a standing committee appointed by the Academic Freedom and Tenure Committee charged with conducting faculty peer hearings specifically for proposed disciplinary actions of either: 1) suspension without pay of any faculty member or 2) dismissal of any faculty member without tenure. AF&T retains authority to conduct all other hearings within its jurisdiction to include violations of academic freedom, improper consideration, or procedural violations per *Faculty Handbook* Policy B6 "Academic Freedom and Tenure Committee."

Misconduct means conduct or actions that are a substantive violation of laws, regulations, UNM policies, or ethical or professional standards. Examples of misconduct may include, but are not limited to:

- Act(s) of retaliation
- Bullying or threats of violence
- Creating a hostile education or work environment
- Criminal activity such as assault, battery, fraud, theft, or embezzlement
- Discrimination, including sexual harassment
- Failure to disclose conflicts of interest
- Falsification of information
- Illegal use of drugs or alcohol
- Inappropriate disclosure of confidential information
- Misappropriation of UNM funds, property, or resources
- Research misconduct
- Violation of standards of integrity in the conduct of scholarly and scientific research and communication

Personnel File: Faculty personnel files as described in Policy **C70** "Confidentiality of Faculty Records."

Progressive Discipline is designed to provide an opportunity for a faculty member to take corrective action by imposing more moderate discipline to the first offense than to subsequent offenses, unless the misconduct is of such a serious nature that a higher level of immediate discipline is required such as suspension without pay or dismissal.

Warning means an oral reprimand. ~~or expression of disapproval.~~ No record of an oral reprimand shall be placed in any personnel file pertaining to the faculty member maintained by any site or component of UNM, except if the warning results from an OEO investigation.

Censure means a written reprimand, ~~or expression of disapproval~~ which shall ~~should~~ include an explanation of the nature of the misconduct, ~~and the~~ specific action(s) to be taken by the faculty member and/or department chair to correct the problem ~~including mentoring, if~~

~~appropriate,~~, and a statement that further disciplinary action, up to and including dismissal, could occur should the problem persist.

Disciplinary probation involves specific disciplinary action taken for a designated period of time designed to assist the faculty member in correcting misconduct. Examples of disciplinary actions that may be part of the disciplinary probation include, but are not limited to:

- Class monitoring
- Denial of merit-based salary increase
- Reassignment within UNM
- Fines or restitution
- Mandatory counseling
- Modified teaching assignments[i] or other workload assignments.

Suspension without pay means disciplinary suspension without regular salary for a stated period of time.

Dismissal means discharge or termination of employment initiated by UNM. ~~(see *Faculty Handbook* sections B.5.3, B.6.4.3, and B.5.4).~~

Working Days refer to UNM traditional work days defined by UNM Human Resources as five (5) work days Monday through Friday ending at 5:00 PM. Working days do not include official UNM holidays listed in UAP Policy **3405** "Holidays."

WHO SHOULD READ THIS POLICY

- Board of Regents
- Administrators
- Faculty
- Academic staff
- Academic deans and other executives, Department Chairs, directors, and managers
- Faculty and staff who supervise students serving in a faculty role.

RELATED DOCUMENTS

Board of Regents Policy Manual:

Policy 5.10 "Conflicts of Interest in Research"
Policy 5.13 "Research Fraud"
Policy 6.4 "Employee Code of Conduct and Conflicts of Interest Policy"

Faculty Handbook:

Policy A53.1 "Policies Applicable to Faculty"
Section B "Policy on Academic Freedom and Tenure"
Policy A52.3 "Faculty Misconduct Review Committee" PROPOSED POLICY
Policy C09 "Respectful Campus"
Policy C70 "Confidentiality of Faculty Records"

Policy C290 "Ombuds/Dispute Resolution Services for Faculty"
Policy E40 "Research Misconduct"
Policy E110 "Conflicts of Interest in Research"

University Administrative Policies and Procedures Manual:

Policy 2140 "Use and Possession of Alcohol on University Property"
Policy 2200 ""Reporting Suspected Misconduct and Whistleblower Protection from Retaliation"
Policy 2210 "Campus Violence."
Policy 2215 "Consensual Relationships and Conflicts of Interest"
Policy 2220 "Freedom of Expression and Dissent"
Policy 2240 "Respectful Campus"
Policy 2500 "Acceptable Computer Use"
Policy 2720 "Prohibited Discrimination and Equal Opportunity"
Policy 2740 "Sexual Harassment Including Sexual Assault"
Policy 3270 "Suspected Employee Impairment at Work"
Policy 3720 "Employee Code of Conduct and Conflicts of Interest Policy"
Policy 7205 "Dishonest or Fraudulent Activities"

Pathfinder:

"Visitor Code of Conduct"
"Student Code of Conduct"

CONTACTS

Direct any questions about this Policy to the Office of the Provost or the Office of the Executive Vice President for Health Sciences.

PROCEDURES

~~The procedures specified in this Policy provide for the consideration and determination of proposed disciplinary actions against faculty members short of dismissal. Consideration and determination of disciplinary actions that may result in a proposed dismissal of a tenured faculty member, or dismissal of an untenured faculty member prior to expiration of his or her contract term, are governed by sections B.5.3, B.6.4.3, or B.5.4, respectively, of the Faculty Handbook and are not covered by these procedures. However, cases in which faculty dismissal has been considered pursuant to sections B.5.3, B.6.4.3, or B.5.4, and a lesser sanction is ultimately proposed instead by the administration, shall be handled under this policy, without duplicating steps that have already taken place. In particular, if the chair and dean conclude that suspension without pay is appropriate in a case in which dismissal was considered but rejected, the faculty member is entitled to request a peer hearing as provided below in sections 10 and 11.~~

Any report of alleged misconduct shall be treated in a confidential manner and brought to the attention of the department chair responsible for the faculty member whose actions are in question. The department chair should determine if they can impartially review the allegation; if not, they should recuse themselves. If a department chair decides to recuse, the report should be forwarded to the next higher academic authority who shall perform the functions assigned in this Policy to the chair and the provisions shall be modified as appropriate. The department chair or dean, if chair has recused, should also review the department's processes and procedures for reviewing the specific type of complaint. If allegations are made against a department chair or other administrator, the next higher academic authority shall perform the

functions assigned in this Policy to the chair and the provisions shall be modified as appropriate.

1. Misconduct Subject to Investigation Procedures in Another Specific UNM Policy

The department chair will review the alleged misconduct to determine if the investigation process falls under the jurisdiction ~~in the case of allegations against a faculty member that appear to be within the scope~~ of another specific UNM Policy with defined investigation procedures. If the alleged misconduct is within the scope of another specific UNM policy that has its own procedures for investigation, the department chair ~~or dean~~ shall forward such allegations to the appropriate person or department for handling pursuant to the applicable policy and provide notice to the faculty member. ~~and resolution (including but not limited to allegations of research misconduct, discrimination, or sexual harassment),~~ These policies include, but are not limited to, allegations of research misconduct (**FH E40**), violation of respectful campus (**FH C09**), unethical behavior (**FH A61.**8), discrimination (**UAP 2720**), or sexual misconduct ~~harassment~~ (**UAP 2740**). If the department chair has questions as to whether an allegation is within the scope of another policy, the department chair should consult with the Office of the Provost or Executive Vice President for Health Sciences (EVPHS). After the investigation is completed per the applicable policy, the results will be given to the department chair, who is responsible for determining what, if any, disciplinary action may result.

If an investigation conducted in accordance with another specific UNM policy finds no misconduct, the department chair will inform the faculty member of the determination and document the determination in the faculty member's personnel file(s) in accordance with *Faculty Handbook* **Policy C70** "Confidentiality of Faculty Records."

If an investigation conducted in accordance with another specific UNM policy results in a determination that misconduct has occurred, the department chair shall meet with the faculty member to provide the written report of the investigation. Within five (5) working days after meeting with the faculty member, the department chair shall make a decision on what level of disciplinary action, if any, will result. For Title IX cases, the department chair or designee must discuss the disciplinary action with the Title IX Coordinator prior to finalizing the discipline and send a copy of the disciplinary action to OEO. If the disciplinary action involves a warning, censure, or disciplinary probation, the procedures in **Section 5** herein shall be followed; or if the disciplinary action involves suspension without pay or dismissal the procedures in **Section 6** herein shall be followed. ~~If such a process requires the chair to make a disciplinary determination after an investigation and recommendation from another University body, this policy will be followed in determining the appropriate discipline.~~

2. Academic Freedom and Tenure (AF&T) Jurisdiction

If the department chair determines the allegations might pertain to decision-making processes influenced by 1) violation of academic freedom, 2) improper consideration in which a decision on substantive issues was not based upon impartial professional academic judgment and resulted in prejudice to the faculty member, or 3) procedural violations of *Faculty Handbook* policy B6 "Academic Freedom and Tenure Committee" that resulted in prejudice to the faculty member, the department chair should consult with the Chair of the Academic Freedom and Tenure Committee (AF&T).

3. Preliminary Assessment

~~In all cases other than those set forth in paragraphs 3 and 4 above, if a member of the faculty is alleged to have violated a policy of the University~~,

If there are AF&T concerns and the investigation of the alleged misconduct does not fall within the jurisdiction of another specific UNM Policy, the department chair will complete a preliminary assessment within five (5) working days after the matter is brought to department chair's attention. The purpose of the preliminary assessment is to determine whether the allegation is sufficiently credible and specific. The department chair can consult with the dean for assistance with these determinations.

The preliminary assessment is not intended to be an investigation which is covered under Section **4**, and consequently so the department chair does not necessarily need to interview individuals or gather data beyond any that may have been submitted with the allegation. After completing the preliminary assessment, the department chair will determine the appropriate action as set forth below. The department chair will meet with the faculty member to explain the nature of the alleged violation.

3.1. Allegation(s) Not Sufficiently Credible and Specific

If the department chair determines the allegations are not sufficiently credible and specific, the department chair will inform the faculty member in writing of the determination and ask the faculty member if they wish the determination be documented in the faculty member's personnel file. The department chair will notify the complainant in writing that the report was not found to be specific and credible therefore no further action will be taken.

3.2. Conciliation

Conciliation is voluntary and may be undertaken if both parties agree. The department chair or the faculty member may initiate conciliation proceedings at any time prior to a disciplinary decision by the department chair. ~~by contacting~~ The Ombuds/Dispute Resolution Services for Faculty Office ~~program~~ can provide assistance (refer to Policy **C290** "Ombuds/Dispute Resolution Services for Faculty)." ~~as provided in the Information Section of the *Faculty Handbook*). Section C345 with notice to the other parties.~~

3.3. Allegation(s) Pertain to Performance Issues and Not Misconduct

If the department chair determines the allegations are credible and specific but pertain to performance issues and not misconduct, the department chair should address the issue promptly and directly with the faculty member.

3.4. Alleged Misconduct is NOT within the Scope of Another Specific UNM Policy

If the department chair determines the allegations are credible and specific and the alleged misconduct does not fall within the scope of another specific UNM policy as discussed in Section 1 herein, the department chair will meet with the faculty member to discuss the alleged misconduct within five (5) working days ~~ninety (90) days~~ after completion of the preliminary

assessment. At the meeting, the department chair will provide a written report to the faculty member that describes the specific alleged misconduct, including a summary of any documentation.

- If the faculty member acknowledges the misconduct, the department chair and the faculty member will discuss possible disciplinary action. If the disciplinary action involves a warning, censure, or disciplinary probation, the procedures in **Section 5** herein shall be followed; or if the discipline involves suspension without pay or dismissal the procedures in **Section 6** herein shall be followed.

- If the faculty member does not agree that misconduct occurred, the department chair shall initiate an investigation in accordance with **Section 4** herein to determine if the allegations meet the definition of misconduct and are credible. The department chair will begin the investigation within five (5) working days after meeting with the faculty member.

4. Investigation of Misconduct NOT Subject to Investigation Procedures in Another Specific UNM Policy

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether the faculty member engaged in misconduct. The investigation should be conducted in a confidential manner, to the extent possible, and be completed within fifteen (15) working days. At a minimum the investigation should include a meeting with the faculty member. The faculty member may be accompanied by one (1) person in meeting with the department chair. The faculty member ~~and the chair~~ shall notify the department chair ~~each other~~ at least two (2) working days prior to the scheduled meeting who, if anyone, will be accompanying them at the meeting. Before, during or after the meeting, the department chair may ask the faculty member to respond in writing to the allegations ~~notice~~ and present any relevant written material within a reasonable time specified by the department chair. ~~Likewise~~ The faculty member shall be free to submit any materials the faculty member believes to be relevant ~~reasonably desired on his/her own volition~~ no later than five (5) working days after meeting with the department chair unless the department chair grants additional time in writing. The department chair should also meet with other individuals who might have information regarding aspects of the allegations.

~~The chair should issue a written report~~ Within five (5) working days after completion of the investigation, the department chair shall meet with the faculty member and provide a written report that will include a summary of the evidence reviewed and discussions with the faculty member and ~~any other~~ all individuals interviewed. ~~after the meeting summarizing the discussion with the faculty member~~ No disciplinary action shall take place without providing said written report to the faculty member. A signed copy of the report shall be placed in the faculty member's personnel file. ~~and sent to the faculty member. The matter may be concluded at this point by the mutual consent of all parties.~~

4.1. Determination of Disciplinary Action

Within five (5) working days after meeting with the faculty member, the department chair shall make a decision on what level of disciplinary action, if any, will result. If the disciplinary action involves a warning, censure, or disciplinary probation, the procedures in **Section 5** herein shall be followed; or if the disciplinary action involves suspension without pay or dismissal the procedures in **Section 6** herein shall be followed.

~~In all cases other than those set forth in above, if a member of the faculty is alleged to have violated a UNM policy, the department chair shall provide the faculty member a written notice explaining the nature and specific content of the alleged violation, together with a copy of this Policy, and shall discuss the alleged violation with the faculty member. The written notice shall be given to the faculty member within ninety (90) days of the chair learning of the apparent violation of policy.~~

5. Warning, Censure, Disciplinary Probation Proposed

~~If a mutually agreeable resolution (with or without conciliation) is not achieved, the department chair shall make a decision in the matter and communicate it to the faculty member in writing within ten (10) working days after meeting with the faculty member or the termination of conciliation efforts if they are unsuccessful, whichever is later.~~ If the department chair, after meeting with the faculty member and considering all materials submitted pursuant to **Sections 1** through **4** of this Policy, proposes a warning, censure, or disciplinary probation, the department chair shall meet with the dean within five (5) working days of the meeting with the faculty member to review the matter to determine if the proposed discipline is justified and consistent with discipline within the college. If ~~formal~~ conciliation has not been attempted previously, the dean may suggest such action. ~~refer the matter to Ombuds/Dispute Resolution Services for Faculty~~. Conciliation is voluntary and may be undertaken if both parties agree. If the proposed discipline is supported by the dean, the department chair may proceed with the discipline by providing the faculty member with a written discipline notice, except for any disciplinary action resulting from an OEO investigation, in which case all appeals must have been resolved prior to taking disciplinary action. ~~of the proposed action.~~

5.1. Appeals

If the faculty member does not agree with the results of the investigation and/or the disciplinary action, the faculty member may appeal a warning, censure, or disciplinary probation in accordance with the following sections; however, the disciplinary action will not be delayed pending appeal.

5.1.1. Appeal to Provost or Executive Vice President for Health Sciences (EVPHS)

~~If the faculty member does not agree with the disciplinary action, he/she~~ The faculty member may submit an written appeal ~~a written request for review by~~ to the Provost or EVPHS within ten (10) ~~five (5)~~ working days of receipt of the written discipline notice from the department chair ~~dean~~. The Provost/EVPHS will decide the matter ~~on the record~~ based on the investigation written report as discussed in sections **1** and 4 herein, unless the Provost/ EVPHS ~~he/she~~ determines that it would be helpful to meet with the parties, together or separately. Within ten (10) working days after receipt of the request for review from the faculty member, ~~complete record or after meeting with the parties, whichever is later,~~ the Provost/ EVPHS shall uphold, modify, or reverse the disciplinary

decision by written notice to the parties; or if the Provost/ EVPHS determines the investigation was not complete, the Provost/EVPHS may remand the matter back to the department chair for further action. ~~The Provost/Chancellor may seek an advisory investigation and opinion from the Faculty Ethics Committee.~~

5.1.1.1 Academic Freedom and Tenure Committee

The Academic Freedom and Tenure Committee (AF&T) has the authority to review an appeal request brought by a faculty member who ~~may bring a complaint before the UNM Academic Freedom and Tenure Committee (AF&T)~~ ~~if he/she~~ believes the matter ~~or its handling~~ is within the jurisdiction of AF&T per **Policy B6** (see Section **2.** Above). AF&T will determine whether the matter is within its jurisdiction and, if so, shall handle the matter under the Policy on Academic Freedom and Tenure with further appeals determined by the AF&T process per **Policy B6**. Normally, ~~review by~~ the AF&T Committee will not review an appeal request ~~the complaint~~ until after a written decision is issued ~~should be sought after the determination~~ by the Provost/EVPHS. ~~If the faculty member pursues the matter before the AF&T Committee, AF&T shall accept the facts as determined by the Faculty Peer Hearing Panel, if a hearing one was held.~~

5.1.2. Appeal to the President

If the faculty member does not agree with the decision of the Provost/EVPHS and/or AF&T determines the mater does not fall in its jurisdiction, the faculty member may request a review by the President. The President has discretion to determine whether the appeal will be considered. The request shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within ten (10) working days of the date of the written decision from the Provost/EVPHS or AF&T if a review was requested by the faculty member.

5.1.3. Appeal to the Board of Regents

In accordance with Regent **Policy 1.5** "Appeals to the Board of Regents," a faculty member affected by a decision of the administration may appeal the decision to the Board of Regents after all other avenues of appeal has been exhausted. The Board has discretion to determine whether the appeal will be considered. A request from the faculty member for a review by the Board of Regents shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office in accordance with Regent **Policy 1.5.**

6. Suspension Without Pay or Dismissal Proposed

If the department chair, after meeting with the faculty member and considering all materials submitted pursuant to Sections 1 and 4 of this Policy, proposes to suspend the faculty member without pay or dismiss the faculty member, the department chair shall meet with the dean to review the matter to determine if the suspension without pay or dismissal is justified and consistent with discipline within the college. The dean shall meet with the faculty member to discuss the matter and the proposed discipline within five (5) working days after meeting with the department chair. If the proposal to suspend the faculty member without pay or dismiss

the faculty member is supported by the dean after meeting with the department chair and the faculty member, the dean shall consult with the Provost or EVPHS within five (5) working days after meeting with the faculty member. The Provost or EVPHS will review the case on the record and issue a decision within five (5) working days after consulting with the dean. If the Provost or EVPHS supports the suspension without pay or dismissal of the faculty member, the decision will be sent to the faculty member within five (5) working days and include notification of the faculty member's appeal rights including the right to request ~~is entitled~~ to a faculty peer hearing in accordance with section **6.2.1** herein.

If a lesser disciplinary action is imposed in place of the proposed suspension without pay or dismissal, the faculty member may request a review by AF&T in accordance with section **5.1.1.1** or discretionary review by the President or the Board of Regents in accordance with **sections 5.1.2** and **5.1.3** herein.

~~The faculty member shall have ten (10) working days from receipt of the written decision to submit a written request for review by the appropriate dean, who will issue a written decision concerning whether the chair's decision is upheld, modified or reversed. Prior to making a decision, the dean shall meet with the department chair and the faculty member, and their representatives if desired, together or separately, and shall receive and consider any documents the parties wish to submit. Documents shall be submitted within five (5) working days of the faculty member's request for review. The dean will communicate his/her decision to the parties in writing within ten (10) working days after meeting with the faculty member or the termination of conciliation efforts if they are unsuccessful, whichever is later.~~

6.1. Academic Freedom and Tenure Committee

The Academic Freedom and Tenure Committee (AF&T) has the authority to review an appeal request brought by a faculty member who ~~may bring a complaint before the UNM Academic Freedom and Tenure Committee (AF&T) if he/she~~ believes the matter ~~or its handling~~ is within the jurisdiction of AF&T per Policy **B6**, AF&T will determine whether the matter is within its jurisdiction and, if so, shall handle the matter under the Policy on Academic Freedom and Tenure. Normally, the AF&T Committee will not review an appeal request ~~the complaint~~ until after a written decision is issued ~~should be sought after the determination~~ by the Provost/EVPHS. ~~If the faculty member pursues the matter before the AF&T Committee, AF&T shall accept the facts as determined by the Faculty Peer Hearing Panel, if a hearing one was held.~~

6.2. Suspension Without Pay for any Faculty Member and Dismissal of Faculty Member Without Tenure

6.2.1. Peer Hearing

If the proposed discipline is suspension without pay of any faculty member or dismissal of a faculty member without tenure, the faculty member ~~shall~~ may send ~~such~~ a request for a peer hearing to the Chair of AF&T. The AF&T Chair will refer the request for a hearing to the Chair of the UNM Faculty ~~Ethics~~ Misconduct Review Committee (FMRC) within ten (10) working days of receipt of the Provost's or EVPHS's decision for suspension without pay or dismissal.

The Chair of the FMRC ~~Ethics Committee~~ will arrange for a peer hearing and appoint a hearing panel composed of five (5) members of the FMRC. ~~before two members of that Committee from outside the faculty member's department, chosen by the Ethics Committee, and one (1) uninvolved department chair from a~~

~~different school or college chosen by the Provost/Chancellor.~~-The hearing will be held as soon as reasonably possible and shall be conducted according to the Model Hearing Procedures. ~~University's Dispute Resolution Hearing Procedures.~~ The Office of University Secretary shall make arrangements for the hearing and shall provide support for the hearing panel. The hearing shall be recorded and shall be private unless both parties agree that the hearing be open. The hearing panel shall be chaired by one of the faculty members assigned to the hearing panel. The proceedings and the preparation of the decision shall be controlled by the peer hearing panel members.

If the ~~other~~ investigative procedure involved a hearing before a faculty committee, any factual determination will not be subject to reconsideration by faculty peer review under this Policy. The hearing panel may uphold or reverse the proposed disciplinary action and submit their recommendation to the FMRC for a final decision. ~~al to suspend the faculty member without pay or dismissal.~~ Decisions from the FMRC will be submitted to AF&T for confirmation. If the ~~Panel's~~ FMRC's decision is to reverse the proposal, the ~~Panel~~ FMRC may direct the department chair and dean to impose a lesser disciplinary measure or may find that no misconduct has occurred and determine that no discipline should be imposed. The ~~Panel's~~ FMRC's decision may be reviewed on the record by the Provost/EVPHS, but the ~~Panel's~~ FMRC's decision shall not be reversed or modified except in the case of clear error. If the Provost/EVPHS reverses or modifies the FMRC decision, the justification shall be detailed in writing by the Provost/EVPHS. The decision of the ~~Panel~~ FMRC and/or Provost/EVPHS is subject to discretionary review by the President or Board of Regents if requested by the faculty member.

6.2.2. Appeal to the President

If the faculty member does not agree with the decision of the FMRC ~~Peer Hearing Panel~~, the faculty member may request a review by the President. The President has discretion to determine whether the appeal will be considered. The request shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within ten (10) working days of the date of the written decision from the FMRC, unless the President allows for additional time. ~~Provost/EVPHS.~~

6.2.3. Appeal to the Board of Regents

In accordance with Regent **Policy 1.5** "Appeals to the Board of Regents," a faculty member affected by a decision of the administration may appeal the decision to the Board of Regents after all other avenues of appeal has been exhausted. The Board has discretion to determine whether the appeal will be considered. A request from the faculty member for a review by the Board of Regents shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office in accordance with Regent **Policy 1.5**.

6.3. Dismissal of Tenured Faculty Member Proposed

If the proposed discipline is dismissal of a tenured faculty member, refer to *Faculty Handbook* Policy B6 for applicable policies and procedures.

DRAFT HISTORY

January 12, 2021 – revise for Operations minor changes.
December 10, 2020 revise for Policy Committee and OEO changes.
October 8, 2020 –revise for Section B Taskforce recommended changes.
September 25, 2020 –revise for AF&T recommended changes
June 3, 2020 –revise for Policy Committee decisions
May 21, 2020 – revise for changes Sec B taskforce recommendations.
April 20, 2020 –revised to move preliminary assessment section after other jurisdictions and include protection to respondent.
February 13, 2020–Draft revised for possible move to Section B
March 8, 2018—Draft revised to incorporate FSPC changes and endorsed by AF&T
February 12, 2018—Draft revised to incorporate AF&T 2/9/18 recommendations.
February 1, 2018 -- Draft revised to incorporate AF&T 1/26/18 recommendations.
January 2, 2018 – Draft revised to incorporate AF&T 12/15/17 recommendations.
November 19, 2017 -- Draft revised to incorporate AF&T 11/16/17 recommendations.
November 14, 2017 -- Draft revised to incorporate AF&T 11/3/17 recommendations.
November 1, 2017 – Draft revised to incorporate AF&T 10/20/17 recommendations.
October 18, 2017 – Draft revised to incorporate V. Valencia feedback.
October 14, 2017 – Draft revised to include pre assessment procedures.
October 7, 2017 – Draft revised per AF&T Oct 6, 2017 meeting.
September 10. 2017 –draft with AF&T Committee's changes from last year.

HISTORY

December 13, 2011 – Approved by Board of Regents
March 22, 2011 – Approved by Faculty Senate