

## **Discussion points regarding free speech for Faculty Senate meeting Jan. 26**

This discussion will focus on the design of the free speech survey below. Please read it ahead of the meeting if possible.

- What feedback, suggestions, and comments do Senators have about the draft of the free speech survey?
- How long should the survey take (how many minutes, how many questions), to strike the right balance between maximizing response rate and maximizing the information we get from each respondent? (Note that I would aim to include only about 1/3 of the questions listed below in the final survey)
- Are there other topics or questions that should be included, that have been overlooked?
- Are there topics or questions included below that should be excluded because they're less relevant to guiding our discussion of UNM policies and culture?
- When should be the deadline for giving further feedback, before the survey gets run? (One week? Two weeks?)

## **Free speech survey for UNM Faculty**

Rough draft of possible instructions and questions, Jan 22, 2016 version

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## **Background:**

On Nov. 24, the Faculty Senate passed a motion to run an online survey of UNM faculty regarding free speech issues and policies at UNM. The goal is to guide future Faculty Senate discussions about possible revisions to UNM policies (especially the 'speech codes'), and possible improvements to informal campus culture. The Senate approved designing a rough draft of this survey as soon as practical, discussing its content in the Jan. 26 meeting, revising the survey based on that feedback, and then running the survey for all UNM faculty shortly after that.

## **This survey's questions are designed to serve four main purposes:**

1) Identify key concerns: Find out what faculty want and value regarding free speech. What are their attitudes, preferences, ideals, aspirations, and priorities? What are their anxieties, worries, fears, concerns, and frustrations? What trade-offs do they perceive between freedom of expression and other academic or personal values? Do they think there are any problems with current policies or the campus climate? Do they think free speech is properly supported, inhibited, or abused? Do they think that UNM policies should be consistent with the First

Amendment? This information could guide our priorities for revising (or not revising) UNM policies.

2) Anonymously reveal personal experiences regarding free speech: Do faculty self-censor to avoid potential trouble (an unconstitutional general “chilling effect” or specific “prior restraint”), or feel obligated to say things they don’t believe (unconstitutional “compelled speech”)? Do they feel pressured by students, staff, or administrators to inhibit how they teach or do research? Do they have a clear sense of what they’re allowed to say, or do they feel like there’s a dangerous grey area between protected speech and speech code violations (unconstitutional “vagueness” and “overbreadth” problems)? For specific current UNM policies, do faculty understand exactly what speech is prohibited or permitted, and know how administrators would enforce the speech codes?

3) Reveal awareness of controversies about free speech: What do faculty know and feel about what’s been going on at campuses around the country regarding free speech issues, ‘trigger warnings’, ‘microaggressions’, etc.? What do faculty know about First Amendment principles and current UNM policies and speech codes? How much discrepancy is there between generic support for free speech principles (which most people favor), versus wanting restrictions on free speech regarding particular views, issues, or attitudes (which most people also favor)? This information could guide our spring program of outside speakers, and possible future initiatives to raise awareness about free speech issues.

4) Analyze how free speech attitudes and experiences differ across faculty, as a function of faculty position (tenure, seniority level, school), age, sex, ethnicity/race, political orientation, and religiosity. This may help identify any bias or viewpoint discrimination in current UNM policies and informal campus culture, and clarify which faculty feel especially vulnerable.

In preparing these possible survey questions, I’ve been guided by a couple of recent surveys on free speech issues:

Pew Center global survey on free speech issues (32,349 people in 38 nations, Spring 2015):  
<http://www.pewglobal.org/2015/11/18/global-support-for-principle-of-free-expression-but-opposition-to-some-forms-of-speech/>

The National Undergraduate Survey by Yale University (800 American undergrads, Sept 2015):  
<https://www.dropbox.com/s/sfmpoeytvqc3cl2/NATL%20College%2010-25-15%20Presentation.pdf?dl=0>

### **Rough draft of an introductory email requesting UNM faculty participation in the survey:**

Dear UNM faculty,

The Faculty Senate has been discussing free speech issues and policies at UNM.

We would appreciate your input on these matters, so we are running an anonymous online survey. It includes [X] questions and should take no more than [10?] minutes to complete. We’ve also included text boxes so you can write any comments you want.

Here’s the link to the survey: [put Opinio link here]

We’d appreciate it if you could complete the survey [within a few days; or by a certain date]. We hope that we can get a good response rate – whatever your views – so we can accurately represent the faculty’s perspectives in considering possible revisions to UNM policies and changes to campus culture.

Thanks very much – the Faculty Senate

**Rough draft of possible introductory instructions for the online survey:**

This survey concerns free speech issues at UNM, and it's for all UNM faculty – whether tenured, tenure-track, research, clinical, adjunct, or lecturers.

The survey is completely anonymous, so you can feel free to respond however you want. We would value your honesty and openness.

The answer format for all the questions looks like this:

|                   |   |   |   |   |                      |   |   |   |   |                |
|-------------------|---|---|---|---|----------------------|---|---|---|---|----------------|
| 0                 | 1 | 2 | 3 | 4 | 5                    | 6 | 7 | 8 | 9 | 10             |
| strongly disagree |   |   |   |   | neutral / don't know |   |   |   |   | strongly agree |

After each question is a text box where you can type any further comments, thoughts, feelings, concerns, experiences, or examples.

**[Below are the possible questions to include, in roughly this order.**

We would actually include only about 1/3 of these, to keep the survey short and maximize response rate. The online survey would not include the boldface headings.]

**[Personal experiences]**

At UNM, I feel that my free speech rights are protected and supported.

At UNM, I feel inhibited from expressing my true beliefs and values.

In my experience, the informal culture at UNM strongly supports free speech, regardless of the ideas expressed.

The issue of free speech at UNM is important to me personally. [language slightly modified from the National Undergraduate Survey by Yale University; 96% of undergrads nationally say 'somewhat' or 'very' important]

When preparing lectures about potentially controversial topics, I often feel that I cannot say what I really think, because students might complain.

When class discussion arises about potentially controversial topics, I often feel inhibited about expressing my views, to avoid getting in trouble.

UNM's culture seems hostile to politically conservative beliefs

UNM's culture seems hostile to politically liberal beliefs

UNM's culture seems hostile to religious beliefs

UNM's culture seems hostile to atheist/agnostic beliefs

[From the next three categories of questions, the questions would be mixed up in a random order in the actual online survey, e.g. a pro-free-speech might be followed by anti-free-speech statements...]

**[Pro-free speech/anti-restrictive attitudes]**

As faculty, we should be free to express ideas even when most members of the University find those ideas to be offensive, unwise, immoral, or wrong-headed. [this language is from the University of Chicago free speech statement:

<http://freexpression.uchicago.edu/page/statement-principles-free-expression>]

As faculty, we should be free to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. [this language is from the Yale Woodward Report on free speech: <http://yalecollege.yale.edu/faculty-staff/faculty/policies-reports/report-committee-freedom-expression-yale>]

People should be able to make public statements that are offensive to my religion or beliefs [this language is from the Pew Center global survey on free speech issues; responses could be compared to national and international norms: 77% of Americans agree]

People should be free to make public statements that are offensive to minority groups [Pew global survey; 67% of Americans agree]

People should be free to make public statements that are sexually explicit [Pew global survey; 52% of Americans agree]

It is very important that people can say what they want without government censorship in our country [Pew global survey; 71% of Americans agree]

I support freedom of speech in all cases. Even though hate speech is harmful and hurtful, it is protected under the First Amendment and everyone is entitled to share his or her own opinions. [language from the National Undergraduate Survey by Yale University; 42% of undergrads nationally support]

UNM should be doing more to promote policies that increase diversity of opinions in the classroom and on campus. [Yale undergrad survey; 72% 'strongly' or 'somewhat' approve]

Apart from demographic diversity (of age, sex, race, ethnicity, etc.), UNM should also value ideological diversity (of political, religious, and moral beliefs).

As individual citizens, UNM faculty should be able to say whatever they want, as long as that speech is protected under the First Amendment.

The right to free speech should never be limited by what some people consider 'offensive' or 'outrageous'.

#### **['Balanced'/moderately restrictive attitudes]**

With freedom of speech comes the responsibility not to offend people.

Freedom of speech must be balanced with respect for others.

Free speech should be allowed only when it is civil and respectful.

When expressing controversial ideas, we have a duty not to offend others.

UNM should consider the greater good of the university when determining restrictions on free speech.

Free speech should be permitted only if is courteous, respectful, and constructive.

Faculty have a responsibility not to make unduly inflammatory statements

#### **[Anti-free speech/highly restrictive attitudes]**

Too often, people are making hateful, racial, sexual and religious comments because they believe it is protected under the First Amendment. UNM should regulate free speech more and we should be doing a better job of punishing people who espouse these hateful and offensive views. [language slightly modified from the National Undergraduate Survey by Yale University; 10% support]

UNM should forbid people from speaking on campus if they have a history of engaging in hate speech. [slightly modified from Yale undergrad survey; 52% agree]

Any faculty member who uses language that is considered racist, sexist, homophobic or otherwise offensive should be subject to disciplinary action. [from Yale undergrad survey; 72% 'strongly' or 'somewhat' agree]

When teaching, faculty should use "trigger warnings" for any course material that might upset certain students. [from Yale undergrad survey; 63% favor]

UNM should protect students from being exposed to upsetting ideas.

UNM should be a 'safe space' where everyone is protected from other people's offensive opinions.

UNM should prohibit people from expressing ideas that are demeaning or offensive to minorities.

If UNM supported unrestrained free speech, that would be traumatizing to racial minorities, women, and other disadvantaged groups.

UNM has a right to protect its public image and its 'brand' as a university when setting limits on free speech.

Saying things that minorities find offensive is a form of bullying that should be illegal

UNM should monitor and investigate any instances of 'hate speech' on campus.

The First Amendment should be repealed; it is an outdated obstacle to promoting civility, inclusiveness, and diversity on campuses.

### **[Views about UNM speech codes and their enforcement]**

Current UNM policies strongly support free speech.

I have a clear understanding of my free speech rights as a faculty member at UNM

As far as I know, UNM has speech codes that put restrictions on free speech for students and faculty. [slightly modified from Yale undergrad survey; 41% 'yes', 41% 'unsure']

I approve of the job that UNM is doing in promoting free speech on campus and in the classroom. [slightly modified from Yale undergrad survey; 87% 'strongly' or 'somewhat' approve]

I favor UNM having speech codes to regulate speech for students and faculty. [from Yale undergrad survey; 51% 'favor', 36% 'oppose']

Compared to society at large, freedom of speech should be more limited at UNM. [from Yale undergrad survey; 16% 'more limited', 38% 'less limited'; 43% 'no difference']

If I said something controversial in class that provoked students to complain, I expect that UNM administrators would defend my free speech rights.

If I said something controversial in public that provoked a media backlash, I expect that UNM administrators would defend my free speech rights.

If a professor made racist or sexist comments in public, UNM administrators should take disciplinary action against them.

If UNM administrators thought that I violated a speech code by saying something offensive, I would get a fair and objective hearing before any disciplinary action was imposed.

UNM administrators will enforce any restrictions on free speech fairly, without regard to the specific opinions expressed.

Tenured faculty probably feel safer exercising their free speech rights than untenured faculty.

### **[Clarity vs. vagueness of specific current UNM speech codes]**

Faculty Handbook policy A20 ("Academic Freedom") says that "the University opposes statements and activities that reflect bigotry and prejudice". I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

Faculty Handbook policy C09 ("Respectful Campus") says that faculty must adopt the values of "practicing fairness and understanding", "demonstrating harmony", and "respecting diversity and difference". I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

University Administrative Policy 2100 "Sustainability" says that "Performance reviews will reward faculty who make an effort to include sustainability in their teaching" and that "Course content should include concepts of social equity" in addressing sustainability. I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

University Administrative Policy Policy 2720 (“Equal opportunity”) prohibits “Displaying negative or offensive posters or pictures about a protected characteristic”. I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

University Administrative Policy 2720 (“Sexual harassment”) prohibits “unwelcome sexual jokes or comments”, “sexually oriented gestures”, and “displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters”. I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

University Administrative Policy 3740 (“Media response”) says that in communicating with journalists, faculty must “exercise appropriate restraint” and “show respect for the opinions of others”. I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

The OEO Hate/Bias Incident Reporting Process Document says “We will respond to any violation of our sense of community displayed in acts of hatred and bias”. I understand exactly what is permitted or prohibited under this policy, and how UNM administrators would enforce this policy in practice.

### **[Attitudes about specific issues]**

[Note that the questions in the next two lists are intentionally provocative, to test the limits of faculty’s tolerance for free speech – many people support free speech in the abstract, but not for views they find offensive; most of the positions below are supported by at least a substantial minority of Americans, according to Pew Research data: <http://www.pewresearch.org/>. The actual online survey will mix up in random order the ‘conservative’ and the ‘liberal’ items from the lists below]

### **Instructions:**

**For the next group of questions, please consider whether UNM policies should protect the free speech rights of people on campus who argue the following positions – regardless of whether you personally support these positions.**

### **['conservative’ views: 18 possible questions]**

UNM should protect the free speech rights of those who argue that “All Americans should learn English”

UNM should protect the free speech rights of those who argue that “Illegal immigrants should be deported”

UNM should protect the free speech rights of those who argue that “Some races have higher average IQs than other races”

UNM should protect the free speech rights of those who argue that “Many racial stereotypes are surprisingly accurate”

UNM should protect the free speech rights of those who argue that “If universities allow Black Student Unions, they should also allow White Student Unions”

UNM should protect the free speech rights of those who argue that “College admissions should not use affirmative action”

UNM should protect the free speech rights of those who argue that “Men and women have evolved genetically to show different average abilities, interests, and preferences”

UNM should protect the free speech rights of those who argue that “Campus rapes are much less common than most feminists claim”

UNM should protect the free speech rights of those who argue that “Most ‘transgendered’ people have serious mental illnesses”

UNM should protect the free speech rights of those who argue that “Abortion is murder”

UNM should protect the free speech rights of those who argue that “Homosexuality is a mortal sin”

UNM should protect the free speech rights of those who argue that “Christian values should be the foundation of morality”

UNM should protect the free speech rights of those who argue that “Islam is the world’s most violent, sexist, and oppressive religion”

UNM should protect the free speech rights of those who argue that “Jewish bankers have too much influence in American politics”

UNM should protect the free speech rights of those who argue that “Citizens have a Second Amendment right to carry firearms on college campuses”

UNM should protect the free speech rights of those who argue that “Global warming is not a serious problem”

UNM should protect the free speech rights of those who argue that “Universities should teach patriotism and pride in the American way of life”

### **['Liberal' views]**

Note: I had trouble thinking of liberal positions that would be truly controversial on campus; suggestions are welcome]

UNM should protect the free speech rights of those who argue that “Marijuana should be legalized and sold in the UNM Student Union”

UNM should protect the free speech rights of those who argue that “Eating meat from animals is murder and meat should be banned on campus.”

UNM should protect the free speech rights of those who argue that “To protect other species and the environment, it would be better if all humans went extinct”

UNM should protect the free speech rights of those who argue that “White Americans should pay trillions of dollars of reparations to Black Americans for slavery”

UNM should protect the free speech rights of those who argue that “To counter-act white privilege, white students should defer to the opinions and experiences of students of color in classrooms”

UNM should protect the free speech rights of those who argue that “No faculty should be allowed to earn more than \$80,000 per year”

UNM should protect the free speech rights of those who argue that “On-campus parking should be abolished to encourage sustainable bicycling and public transit”

UNM should protect the free speech rights of those who argue that “ROTC and other pro-military groups should be banned on college campuses”

UNM should protect the free speech rights of those who argue that “Monogamy is out-dated; we should promote polyamory, polygamy, and group marriage in classes.”

UNM should protect the free speech rights of those who argue that “All restrooms on university campuses should be gender-neutral.”

UNM should protect the free speech rights of those who argue that “We should be required to use gender-neutral pronouns (they, their, them) to avoid making sexist assumptions about others.”

### **[Factual/legal questions]**

I have been following the recent news about speech codes, safe zones, trigger warnings, microaggressions, and other free speech issues at American universities

As a public university, UNM must ensure that all of its policies are fully consistent with the First Amendment of the U.S. Constitution.

Legally, almost all speech at public universities is constitutionally ‘protected speech’, with just a few narrow exceptions such as direct physical threats, child pornography, and false defamation.

Legally, public universities cannot require faculty to express support for any particular values or ideologies, such as sustainability, diversity, or immigration.

Legally, public universities cannot restrict free speech based on the particular views expressed, however offensive those views.

Legally, any restrictions on free speech at public universities must be clear and specific, so ordinary people can understand exactly what is prohibited.

Legally, public universities cannot impose self-censorship through confusion about what people are allowed to say.

Making fun of a particular racial or ethnic group is a constitutionally protected form of free speech.

Criticizing any particular religion is a constitutionally protected form of free speech.

The First Amendment protects citizens' constitutional rights to express ideas even when others might consider those ideas disrespectful, offensive, or outrageous.

Free speech is still constitutionally protected even if it expresses ideas that others might consider racist, sexist, homophobic, or anti-immigration.

When it comes to freedom of speech, First Amendment makes an exception for hate speech, meaning that hate speech is NOT protected under the First Amendment [language from the National Undergraduate Survey by Yale University]

### **[Demographics, faculty roles, and political/religious attitudes]**

What is your sex/gender? [male, female, other]

What is your age?

[20-29, 30-39, 40-49, 50-59, 60-69, 70-79, 80 or older

– broad categories to protect anonymity better than an exact chronological age would;

Important because several polls show younger people are less supportive of free speech]

Which race/ethnicity do you identify most strongly with?

[White, Hispanic/Latino, Native American, Asian, Black or African-American, Other

– these are the most common groups at UNM, in descending order of frequency;

Important because ethnic minorities might feel more vulnerable and support stronger restrictions against 'hate speech']

What is your sexual orientation?

[straight/heterosexual, bisexual, gay/lesbian, other;

Important because sexual orientation minorities might feel more vulnerable and support stronger restrictions against 'hate speech' – or might remember the important role that free speech played in the gay rights movement]

What type of faculty position do you have?

[regular tenure-track/tenured faculty, lecturer, instructor, research faculty, clinical faculty, clinician-educator, professor of practice, adjunct faculty, visiting faculty, other;

Important because tenure-track/tenured faculty might feel more strongly protected by First Amendment]

What is your tenure status?

[tenure-track, tenured, not tenure-track/not applicable;

Important because tenured faculty might feel more strongly protected by First Amendment]

What is your seniority level?



[assistant professor or equivalent; associate professor or equivalent; full professor or equivalent; other;

Important because more senior faculty might feel more protected]

Which UNM school is your primary affiliation?

[Anderson School of Management, Architecture & Planning, Arts & Sciences, Education, Engineering, Fine Arts, Law, Medicine, Nursing, Pharmacy, Public Administration, or University Libraries & Learning Sciences

– to protect anonymity, we might want to ask for school-level affiliation rather than department-level affiliation, since some departments are small, and it might be too easy to identify individuals given the other demographic information that we'll collect;

Important because some schools such as A&S tend to be more closely involved in controversial teaching/research topics, compared to Engineering, Pharmacy, etc.]

If you teach at UNM, how controversial are the topics that get raised in your class discussions – in terms of sex, race, class, religion, politics, morals, or ideologies?

[Not at all, Slightly, Moderately, Very, Not applicable;

Important because teachers who cover controversial topics may be more sensitive to free speech issues]

If you do research at UNM, how controversial are the topics that you address – in terms of sex, race, class, religion, politics, morals, or ideologies?

[Not at all, Slightly, Moderately, Very, Not applicable

Important for the same reasons above]

How religious are you?

[Not at all (atheist or agnostic); Spiritual but not religious; Slightly religious; Somewhat religious; Very religious

Important because religious people are often discriminated against on secular/liberal campuses, and their free speech rights are often compromised]

How would you describe your political views on the conservative/liberal spectrum?

[Very conservative; Somewhat conservative; Slightly conservative; Middle-of-the-road, independent, or neutral; Slightly liberal; Somewhat liberal; Very liberal; Other/not applicable/don't know;

Important because conservatives are often discriminated against/silenced on largely liberal campuses]

Which political party is closest to your views?

[Democratic, Republican, Libertarian, Green, Independent, Other;

Important because Republicans and Libertarians are often discriminated against/silenced on largely Democratic campuses]

[General comments: After the last question, include a text box for up to 500 characters, for any final thoughts, responses, suggestions, etc.]