

Memorandum

DATE: September 15, 2021

TO: Finnie Coleman, President, Faculty Senate

FROM: Nancy Middlebrook, University Secretary



RE: Summary of Proposed Changes to Faculty Handbook Policy C07 Revisions to Address CBAs and Concerns Raised by Regents

Earlier this year the Faculty Senate approved a revision to Policy C07 "Faculty Misconduct and Progressive Discipline." When the revision was submitted to the Board of Regents for approval a few concerns were raised, and the Faculty Senate rescinded their approval to allow for a taskforce composed of faculty governance leaders to revise the policy draft when appropriate to address the concerns raised. During this process the Collective Bargaining Agreements (CBAs) for Units 1 and 2 were approved and issued. The CBAs require changes to Section 4.1 of Policy C07. The attached draft highlights the recent changes, which are summarized below.

1. Policy Statement Section:

Objection to the following phrase at end of last sentence in the Policy Statement, page 2, pertaining to personnel files: "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." This concern relates to legal and regulatory requirements that complaints and investigations must be documented in some manner/file. Propose deleting the phrase in question and clarifying the different files and contents pertaining to faculty in *Faculty Handbook* Policy C70 Confidentiality of Faculty Records.

2. Definitions Section:

a) Credible: Concern about the meaning of the term "credible" used on pages 7 and 8. Propose adding the following definition to the Definitions Section. "Credible. For the purposes of this Policy, the term credible means offering reasonable grounds for being believed by the faculty member's supervisor."

b) Warning: Concern that the definition of Warning is not limited to a definition and contains the following policy language: "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." Propose deleting the text construed as policy language but adding the clarification that a warning "is not documented in personnel files."

c) Disciplinary Probation: Concern that the definition of disciplinary probation includes the examples "class monitoring" and "modified teaching assignments or other workload assignments," which may in some cases not be disciplinary action. Because the list is just examples and disciplinary probation is not limited to the examples provided, propose deleting the two examples that caused concern.

3. Procedures Section

a) Concern about the use of the term personnel file (singular) when there may be more than one file. Propose changing singular to plural, including in the Definitions section where the term is defined. See #1 above for clarification on personnel files.

b) Section 3.3: Concern there might be confusion when performance issues are involved as discussed in section 3.3. Propose adding the following phrase to the end of the section: “using the regular performance review processes as described in Policy B4 Faculty Reviews. This should not wait until the scheduled performance review.”

c) Section 3.4: “The Collective Bargaining Agreements (CBAs) for Units 1 and 2 were approved and issued effective July 1, 2021, and require use of the union grievance processes once disciplinary action for a bargaining unit faculty member is determined. This required addition of the following language to section 4.1 “If disciplinary action involves a bargaining unit member, the disciplinary procedures listed in the applicable bargaining unit agreement will be followed.”

d) Section 4: Concern that the requirement for a signed copy in section 4 on page 8 does not allow for electronic signature. Propose adding the following sentence “Signatures may consist of electronic verifications and files may be in electronic form.”

e) Section 4.1: see c) 3.4 above -- same addition

f) Section 6.2.1: Concern that the peer hearing would be reviewing the findings of misconduct. Propose adding the following sentence. “The hearing panel’s role is to review the discipline action and not to reconsider the finding of misconduct.” Also delete the following phrase: or may find that no misconduct has occurred and determine that no discipline should be imposed

g) Section 7: Concern about the need to allow for administrators to appoint designees to complete some functions: Propose the following section to the end of the Policy:

“7. Designees of Deans, Provost, EVPHS, or Senior Level Administrators

Whenever this Policy specifies an action or decision by a college/school dean, the Provost, EVPHS, or other senior level administrator, that individual may delegate consideration and decision of the matter to a designee. Such designee will normally be a member of the decision maker's staff.”

cc: Rick Holmes, Administrative Officer, Office of the University Secretary
Carol Stephens, Professional Consultant, Office of the University Secretary