

**Faculty Senate Policy Committee**  
**Meeting Agenda, via Zoom, November 4, 2020, 3:30 to 5:00**

**3:30 Approvals**

- Agenda
- Meeting Notes from Previous Meeting

**3:35 Updates**

- Campus comment period ending Nov 22, 2020: C230 “Military Leave Policy” and Ethics Committee Charges

**3:40 Action Items**

- Discuss and address campus comments received on C07 “Faculty Misconduct and Progressive Discipline Policy” and A53.1 “Faculty Misconduct Review Committee.”  
Seeking approval of draft to go to Faculty Senate for final approval.

**4:50 Discussion Items**

- New Business
- Work Status Table

**5:00 Adjourn**

## C07 Faculty Misconduct and Progressive Discipline Policy

Approved By: Faculty Senate and Academic Freedom and Tenure Committee ~~Board of Regents~~

Effective: **Draft 11/1/20**

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:** For review ease **ONLY suggested changes to address campus comments are highlighted in Blue** text with deleted text shaded. This draft contains other changes that are not highlighted which were approved by the Policy Committee, AF&T, and the Operations Committee and sent to the campus for comment. The draft going to the Faculty Senate for approval with highlight all proposed changes to the current policy.

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the Faculty Senate and the Academic Freedom and Tenure Committee.

### 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.”

When the need for disciplinary action is identified, UNM normally uses progressive discipline to address misconduct. Progressive discipline is intended to be corrective, not punitive in nature, and is designed to provide faculty with notice and an opportunity to take corrective action. However, some misconduct, may be of such a serious nature that suspension without pay or dismissal 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, 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 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 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 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](#) if such action is documented in their [any](#) personnel file [maintained by UNM or any component thereof](#).

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## APPLICABILITY

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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.](#) ~~This includes all Health Sciences Center colleges and schools, and Branch Community Colleges.~~

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| 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. |
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## DEFINITIONS

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**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 themselves, 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
- ~~Possession of/or distribution of obscene or pornographic material unrelated to UNM’s academic or research mission~~
- 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. [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.](#)

**Censure** means a written reprimand, which shall include an explanation of the nature of the misconduct, specific action(s) to be taken by the faculty member and/or department chair to correct the problem, 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<sup>i</sup> 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."

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## WHO SHOULD READ THIS POLICY

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- 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.

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## RELATED DOCUMENTS

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[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**”

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## CONTACTS

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

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## PROCEDURES

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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.](#) (Comes from definition of Chair.)

### 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 of another specific UNM Policy with defined investigation

procedures. [\(following sentence moved\)](#) 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. 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. 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.

## **2. [Academic Freedom and Tenure Jurisdiction](#) ~~Section B Concerns~~**

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**

If there are no Section B 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, ~~so~~ [and consequently](#) 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. The Ombuds/Dispute Resolution Services for Faculty Office can provide assistance (refer to Policy **C290** "Ombuds/Dispute Resolution Services for Faculty)."

### **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 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 shall notify the department chair 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 and present any relevant written material within a reasonable time specified by the department chair. The faculty member shall be free to submit any materials the faculty member believes to be relevant 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.

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 all individuals interviewed. [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.

##### **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.

#### **5. Warning, Censure, Disciplinary Probation Proposed**

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 conciliation has not been attempted previously, the dean may suggest such action. 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.

##### **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)**

The faculty member may submit an written appeal to the Provost or EVPHS within ten (10) working days of receipt of the written discipline notice from the department chair. The Provost/EVPHS will decide the matter based on the investigation written report as discussed in sections 1 and 4 herein, unless the Provost/ EVPHS 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, 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.

#### **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 believes the matter 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, the AF&T Committee will not review an appeal request until after a written decision is issued by the Provost/EVPHS.

#### **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 unless the President allows for additional time](#).

#### **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. ~~within ten \(10\) working days of the date of the written decision from the President.~~](#)

## 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.](#) ~~The Chair must provide the faculty member with a written notification of their right to a peer hearing and the process involved.~~

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.

### 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 believes the matter 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 until after a written decision is issued by the Provost/EVPHS.

### 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 may send a request for a peer hearing to the Chair of AF&T. ~~If the alleged faculty misconduct is influenced by a violation of academic freedom, improper consideration, or procedural violations per Faculty Handbook Section **B6** the Chair of AF&T will refer the request to AF&T for action in accordance with Policy **B6** "Academic Freedom and Tenure Committee." If the alleged faculty misconduct is NOT influenced by a violation of academic freedom, improper consideration, or procedural violations per Faculty Handbook Section **B6**~~ The AF&T Chair will refer the request for a hearing to the Chair of the UNM Faculty 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 will arrange for a peer hearing and appoint a hearing panel composed of five (5) members of the FMRC. The hearing will be held as soon as reasonably possible and shall be conducted according to the Model 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. Decisions from the FMRC will be submitted to AF&T for confirmation. If the FMRC's decision is to reverse the proposal, the 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 FMRC's decision may be reviewed on the record by the Provost/EVPHS, but the 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 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, 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. Provost/EVPHS. unless the President allows for additional time.

### **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. within ten (10) working days of the date of the written decision from the President.

### **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.

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## DRAFT HISTORY

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[October 30, 2020 –revise to address campus comments](#)

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.

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## HISTORY

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December 13, 2011 – Approved by Board of Regents

March 22, 2011 – Approved by Faculty Senate

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## A53.1 Faculty Misconduct Review Committee

Approved By: Faculty Senate and Academic Freedom and Tenure Committee

Effective: **Draft 10/9/20 NEW Policy**

Responsible Faculty Committees: Academic Freedom and Tenure Committee

Office Responsible for Administration: Office of the Provost and Office of the Executive Vice President for Health Sciences

**Legend: For review ease ONLY suggested changes to address campus comments are highlighted in [Blue](#) text.** This is a new proposed policy.

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the Academic Freedom and Tenure Committee

### POLICY RATIONALE

Because the Academic Freedom and Tenure Committee (AF&T) is responsible for reviewing significant decisions affecting faculty tenure, promotion, sabbatical leave and employment, the Faculty Misconduct Review Committee (FMRC) is a standing committee of AF&T and appointed by AF&T to conduct a peer hearing requested by a faculty member who has been accused of misconduct and has received notice from the chair that proposed disciplinary action includes suspension without pay for any faculty member or dismissal of faculty member without tenure.

### POLICY STATEMENT

Faculty may volunteer or be recommended to serve on the FMRC. AF&T will appoint at least nine (9) FMRC members and provide training. The FMRC will normally confer within thirty (30) days after being appointed and elect a chair.

Membership: The FMRC consists of nine (9) faculty members. Normally, at least two (2) members will be former AF&T members. They will serve two-year staggered terms. Terms may be renewed, but members may not serve more than four (4) consecutive years. Pending cases shall continue with original panel members until closed even if a faculty member's term expires during process.

When the Chair of the FMRC receives a request for a peer hearing in accordance with Faculty Handbook Policy **C07**, the Chair will appoint a Hearing Panel composed of five (5) FMRC members. [If the hearing is requested by a graduate or professional student, a graduate or professional student, appointed by the Graduate and Professional Student Association, shall serve on the Hearing Panel.](#) The hearing will be held as soon as reasonably possible and shall be conducted according of the Model Hearing Procedures. The Panel will send a recommendation to the FMRC for a final decision. Decisions from the FMRC will be submitted to AF&T for confirmation.

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## APPLICABILITY

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All UNM faculty, including the Health Sciences Center and Branch Community Campuses.

Revisions to the remaining sections of this document may be amended with the approval of the Academic Freedom and Tenure Committee.

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## DEFINITIONS

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There are no specific definitions required by this Policy.

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## WHO SHOULD READ THIS POLICY

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- All UNM faculty.
- Academic administrators and staff.
- Administrative staff responsible for policy development.

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## RELATED DOCUMENTS

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*Faculty Handbook:*

[Policy A51](#) “Faculty Constitution”

[Policy A52.1](#) “Academic Freedom and Tenure Committee”

[Policy C07](#) “Faculty Misconduct and Progressive Discipline Policy”

[Model Hearing Procedures](#)

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## CONTACTS

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Direct any questions about this policy to Office of the University Secretary.

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## PROCEDURES

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The FMRC will meet as required to appoint hearing panels and approve panel decisions. The Committee Chair will report Committee decisions to the AF&T Committee.

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## DRAFT HISTORY

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[October 9, 2020 – change made by AF&T to address campus comments.](#)

June 19, 2020 – approved by AF&T

June 3, 2020 – approved by Policy Committee

May 29, 2020 – change for Section B taskforce meeting

April 17, 2020 – change Chancellor to EVPHS

January 27, 2018 – New Policy draft

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## HISTORY

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New Policy in Draft

## Possible Changes to C07 to Address Campus Comments (11/2/20)

1. C07, pg 1, Policy Statement, 1<sup>st</sup> sentence –Commenter concerned that faculty working in non-traditional academic units or components might be overlooked. **Suggested change** add: [assigned to any site or component of UNM.](#)
2. C07, pg 2, Policy Statement, 2<sup>nd</sup> paragraph. Commenters concerned about what the complainant could do if the Chair determined the complaint was not credible or after the investigation there was a finding of no misconduct. **Suggested change** to add the following sentence: [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.](#)
3. C07, pg 2, Policy Statement, last sentence – a few comments were received asking which personnel file? **Suggested change:** It is up to the faculty member [to decide what information](#) if such action is documented in their [any](#) personnel file [maintained by UNM or any component thereof.](#)
4. C07, pg 2, Applicability – commenter felt we needed to clarify the policy is applicable to TAs, Ras, and GAs. **Suggested change** add: [and teaching, research, and graduate assistants when acting in their faculty capacity](#) The commenter also felt all UNM sites was sufficient to cover HSC and Branch community colleges and therefore **suggested deletion** of the last sentence. ~~[This includes all Health Sciences Center colleges and schools, and Branch Community Colleges.](#)~~
5. C07, pg 3, Definitions, Misconduct –commenter felt strongly this bullet should be removed. The commenter’s statement, begins “It is not clear why possession of pornographic material which would otherwise not be considered illegal be grounds for misconduct, particularly when such possession would be at a person’s home or on their personally owned computing devices ...” **Suggested change:** Since this is a list of examples the reviewers felt it was okay to delete this bullet. ~~[Possession of/or distribution of obscene or pornographic material unrelated to UNM’s academic or research mission.](#)~~ The full description of this type of misconduct is described in UAP **Policy 2500** “Acceptable Computer Use.” The reviewers also recommended adding policies related to the examples of misconduct to the Related Documents Section.
6. C07, pg 3, Definitions – Personnel File –comments similar item 2 above, concern about what is meant by personnel file; **Suggested change** add e a definition for personnel file-- [Personnel File: Faculty personnel files as described in Policy C70 “Confidentiality of Faculty Records.”](#)
7. C07, pg 3, Definitions – Warning --there were a few comments about how a warning might be documented. This had been discussed quite a bit when the policy draft was developed with the conclusion being that a supervisor can note the warning took place but not to the degree that it becomes a written warning. ; **Suggested change** add [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.](#)
- 8 C07, pgs 4 & 5, Related Documents –In discussing #4 above **Suggested changes** add policies related to the examples of misconduct to the Related Documents Section. 10 policies were added to this section.
9. C07, pg 5, Procedures Section, end of 1<sup>st</sup> paragraph. Commenter asked what happens if the Chair is accused of misconduct? **Suggested change** repeat in this section information that is in the definition of Chair which states, [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.](#) (Comes from definition of Chair.)
10. C07, pgs 5 & 6, Procedures Section, subsection 1. Commenter expressed confusion about differing processes between investigations and sanctions. The commenter stated, “It is unclear to me what happens if a case is initiated through E40, and then a faculty member goes to the C07 process.” **Suggested changes** work to clarify that this subsection pertains to investigations not discipline decisions:
  - To 1<sup>st</sup> sentence add phrase [the investigation process;](#)
  - Move sentence highlighted below from the end of the paragraph to be the second sentence. [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;

- add the following sentence [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.](#)

11. C07, pg 6, Procedures Section. Subsection 2, commenter felt title was unclear. **Suggested change:** Rename as follows [Academic Freedom and Tenure Jurisdiction Section B Concerns](#)

12. C07, pg 6, Procedures Section. Subsection 3 Preliminary Assessment -- comments similar item 9 above **Suggested change:** clarify this only happens if the misconduct is not being investigated under the jurisdiction of another UNM policy. Add phrase [the investigation of.](#) There is also an editorial suggested change ~~se~~ [and consequently.](#)

13. C07, pg 8, Procedures Section. Subsection 4 Investigation ...—commenter asked it be clarified that the faculty member is given the written report. **Suggested change** add [No disciplinary action shall take place without providing said written report to the faculty member.](#)

14. C07, pg 9, Procedures Section. Subsection 5.1.1.1 commenter asked for clarification that the AF&T process would be followed as pertains to appeals. **Suggested change** add [with further appeals determined by the AF&T process per Policy B6.](#)

15. C07, pg 9, Procedures Section. Subsection 5.1.2 Appeal to the President – commenter asked it be clarified that the timeline for appeal to the President begins after either a decision by the Provost/EVPHS or AF&T **Suggested changes:**

- add to 1<sup>st</sup> sentence [and/or AF&T determines the mater does not fall in its jurisdiction,](#)
- add to last sentence [or AF&T if a review was requested by the faculty member.](#)

A different commenter asked that this section allow for the President to grant additional time if the President so determines. **Suggested change** add [unless the President allows for additional time.](#)

16. C07, pg 9, Procedures Section. Subsection 5.1.3 Appeal to the Board of Regents –the Regents are proposing changes to their policy on appeals that include changing the time requirements. **Suggested change:** Instead of including a timeline say request must be filed in the President’s Office [in accordance with Regent Policy 1.5.](#)

17. C07, pg 10, Procedures Section. Subsection 6 Suspension Without Pay or Dismissal Proposed –commenter felt there needed to be greater clarity pertaining to the faculty member’s rights. **Suggested change:** rewrite last sentence of 1<sup>st</sup> paragraph sentence as follows: 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.](#) ~~The Chair must provide the faculty member with a written notification of their right to a peer hearing and the process involved.~~

18. C07, pg 10, Procedures Section. Subsection 6.2.1 Peer Hearing – commenters felt the 2<sup>nd</sup> and 3<sup>rd</sup> sentences were confusing and not necessary. Reviewers agreed to delete the two sentences as follows: ~~If the alleged faculty misconduct is influenced by a violation of academic freedom, improper consideration, or procedural violations per Faculty Handbook Section B6 the Chair of AF&T will refer the request to AF&T for action in accordance with Policy B6 “Academic Freedom and Tenure Committee.” If the alleged faculty misconduct is NOT influenced by a violation of academic freedom, improper consideration, or procedural violations per Faculty Handbook Section B6~~

19. C07, pg 11, Procedures Section. Subsection 6.2.2 Appeal to the President similar to item 13 above **Suggested change** add and correct the following phrase to last sentence. 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, Provost/EVPHS, unless the President allows for additional time.](#)

20. C07, pg 11, Procedures Section. Subsection 6.2.3 Appeal to the Board of Regents same as item #14 above.

21. A53.1, pg 1, Policy Statement 3<sup>rd</sup> paragraph. A commenter indicated concern that if the individual were a student or adjunct that they wouldn't be receiving a peer hearing from their peers. Reviewers discussed this and felt that FRMC could serve as peers for any faculty member, but did agree that graduate and professional students might not and since the FMRC is replacing the Ethics Committee in this role and the Ethics Committee allows for a member to be a graduate or professional student for a student's case only, the FMRC language should mirror the Ethics Committee charge.

**Suggested change** add [If the hearing is requested by a graduate or professional student, a graduate or professional student, appointed by the Graduate and Professional Student Association, shall serve on the Hearing Panel.](#)

## Comments received in response to comment period

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Angela Wandinger-Ness <AWandinger-Ness@salud.unm.edu>

Sent: Wednesday, August 12, 2020 5:17 PM

I appreciate the expanded clarification regarding faculty misconduct policies.

I am happy to see the tiered approach to faculty discipline. Thank you for moving this forward to allow a fairer and graded approach to disciplinary actions.

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David Hanson <[dthanson@unm.edu](mailto:dthanson@unm.edu)>

Sent: Thursday, August 13, 2020 6:20 AM

Although the additions to C07 refer to other existing processes, the line between them is confusing and could be a problem, especially with time constraints on actions. For example, E40 states that research misconduct queries can go straight to the VPR for the initial termination of the validity of the charge and then proceed without ever involving the Chair (which I think is good for confidentiality), and E40 doesn't mention C07 anywhere. It is unclear to me what happens if a case is initiated through E40, and then a faculty member goes to the C07 process. Also, E40 should state when C07 or the new A52.3 committee could get involved. It is much clearer about how to handle cases that start in C07 and determining if they move to E40, but not the other way around. I am also concerned that there could be fundamentally different processes between the various misconduct investigations that might need to be reconciled.

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From: Cameron S Crandall <[CCrandall@salud.unm.edu](mailto:CCrandall@salud.unm.edu)>

Sent: Thursday, August 13, 2020 8:20 AM

In my review of the proposed changes to C07, I am concerned about that the language below:

“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:

...

· Possession of/or distribution of obscene or pornographic material unrelated to UNM’s academic or research mission”

It is not clear why possession of pornographic material which would otherwise not be considered illegal be grounds for misconduct, particularly when such possession would be at a person’s home or on their personally owned computing devices (which might be with them on campus). Portions of this language should remain. Possession of illegal materials (e.g., child pornography) is clearly grounds for misconduct (as it is criminal) as would be distribution of any pornographic materials on campus or via UNM’s computing services.

This language appears in a few places in existing policy. Notably, Administrative Policies and Procedures Manual - 3215: Performance Improvement (<https://policy.unm.edu/university-policies/3000/3215.html>) and Administrative Policies and Procedures Manual - Policy 2500: Acceptable Computer Use (<https://policy.unm.edu/university-policies/2000/2500.html>).

In 2500, it is clear that use of UNM computing services to possess or distribute pornography is not permitted. In 3215, the existing language appears similar to the proposed language.

I propose that the language be clarified in C07 (and 3215) to eliminate the prohibition of possession at home or on personally owned devices as grounds for misconduct. I would distinguish illegal materials (such as child pornography) and maintain the language regarding prohibition of distribution of all pornographic materials unrelated to UNM’s academic or research mission.

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**From:** Robert L Rubin <[RLRubin@salud.unm.edu](mailto:RLRubin@salud.unm.edu)>

**Sent:** Thursday, August 13, 2020 1:23 PM

Overall, there seems to be substantial power given to the departmental Chair in judging how or whether alleged misconduct should be investigated. This in itself seems arbitrary. But most significantly, this runs the risk of bias for or against individual faculty members by the Chair. And what happens if there is alleged, potential misconduct by the Chair? Overall, the role of the Chair in the investigation of misconduct seems inappropriate.

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**From:** Stephen Bishop <[sbishop@unm.edu](mailto:sbishop@unm.edu)>

**Sent:** Monday, August 17, 2020 11:30 AM

Hello Policy Committee Members (as well as AF&T Chairs),

I have submitted comments (see below) through the official channel ([handbook@unm.edu](mailto:handbook@unm.edu)), but wanted to also write the committee directly. I wanted to convey that the FEC roster of last year and this year (13 total) is in agreement with the comments. I am always available to bring matters concerning the FEC before the full Faculty Ethics Committee, and then to give a formal response to the Policy Committee in person or in writing. To be more blunt than in the official comments, it completely baffles me as to why the people directly impacted by a policy change would not be asked to submit an official response since they are the ones who know best how their committee functions and will be most immediately affected. I strongly urge you to consult with and get feedback from all similar committees in the future before making such decisions.

Sincerely,

Stephen L. Bishop Chair, Faculty Ethics Committee

"While FEC endorses the substantive changes to C07 and the creation of A52.3 as improvements to UNM policy concerning the handling of faculty discipline and misconduct, we have two objections we would like to see rectified: 1) One of the justifications for the C07 changes is "The FRMC would take over the peer hearing role of the Ethics Committee, thereby eliminating any potential conflict that may result from ethics misconduct investigations conducted by the Ethics Committee." This statement implies that the FEC has regular conflict issues when conducting investigations. To even imply, especially without proof, that a committee on ethics may have such problem is insulting to the committee and risks undermining confidence in it. Since we can see no reason why this explanation is necessary to insure passage of the proposed change, we ask that it be removed from future statements. 2) Far more importantly, this change to a fundamental aspect of the FEC's charge was done with no official participation by the FEC. That makes no sense as a matter of good policy or as a simple question of courtesy. Again, the FEC does support the change, but nonetheless protests having no official representation or presence in the form of a memo or testimony at the Policy meeting(s) where the decision was made. We ask that such lack of voice concerning the FEC's own charge be avoided in the future."

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**From:** Bethany Davila <[bdavila@unm.edu](mailto:bdavila@unm.edu)>

**Sent:** Thursday, August 27, 2020 1:41 PM

**To:** Faculty Handbook <[handbook@unm.edu](mailto:handbook@unm.edu)>

**Subject:** Comments on changes to C07

Following are comments to the C.07 policy changes

Small comments:

- Under applicability, add "Teaching, research, and graduate assistants in their faculty capacity are considered faculty for purposes of this policy."
- Reference 6.2.1 on first mention of peer hearing
- 3.3 – pertaining (not pertain)

Questions:

Last sentence of policy statement: what is "such action"—the attempt to protect, restore, or maintain the reputation? Or the determination of no misconduct? I believe there should be a record of the complaint and investigation in the faculty member's file—even if the process determines that no misconduct has occurred—to establish pattern should another situation come up in the future

- Procedures states the chair or dean “should also review the department’s processes and procedures for reviewing the specific type of complaint.” Why would a department have a separate process? Shouldn’t all departments follow this process?
- Does step 1 under procedure mean that misconduct can’t be considered as violation of multiple policies, laws, standards? It seems like the alleged misconduct should be investigated according to all of the violations.
- Does the written discipline notice for a verbal warning go into the faculty member’s file? Again, written documentation is important in case the behavior continues or worsens.

Thank you,  
Beth

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**From:** Billy Brown <[wbrown01@unm.edu](mailto:wbrown01@unm.edu)>  
**Sent:** Tuesday, September 15, 2020 4:27 PM  
**To:** Faculty Handbook <[handbook@unm.edu](mailto:handbook@unm.edu)>  
**Cc:** welbert53 <[welbert53@aol.com](mailto:welbert53@aol.com)>  
**Subject:** Comment on Faculty Discipline and Discipline Hearing Committee from Billy Brown

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It occurred to me when reading these new (or revised) policies that there are no arrangements for Graduate TAs or Adjunct Faculty representation here.

Yet is stated in the policy that it applies to ALL faculty and to graduate students to the extent to which they act as faculty ...

It seems to me that a hearing before a panel of their peers would not be possible for graduate TAs or Adjunct faculty, unless there were TA and Adjunct MEMBERS of such a hearing committee.

Please make appropriate changes to this (these) policies to allow for TA and Adjunct membership so that such people being accused of violations of university policy would enjoy a hearing before their peers.

Thanks,

Billy Brown, PhD  
 Adjunct, Part-Time Instructor  
 Department of Mathematics & Statistics  
 cell: 505-401-8139

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To: OUS, [handbook@unm.edu](mailto:handbook@unm.edu)

Date 9.10.20

Re: Comments about proposed amended C07 and proposed A42.3 FMRC faculty policies

1. Which personnel file is being referenced when the draft names the personnel file (i.e., in the Policy Statement, “It is up to the faculty member if such action is documented in their personnel file.”)? Is this one of the C70 “personnel files”? I am also concerned the faculty member will not understand the consequences of having an action in a personnel file, and that a number of “no misconduct” determinations will be used against a faculty member to imply a pattern of misconduct based on multiple unproven complaints. Has UNM conducted a study to determine whether there is a pattern of characteristics of faculty who are accused of misconduct? Do members of a protected class tend to be accused due to implicit bias or worse?

2. Misconduct in Definitions section. I believe one reason this C07 update is proposed is to follow AAUP and create a progressive discipline policy for other policies where misconduct currently does not allow for progressive discipline and gives rise to more serious discipline when misconduct is found, because nothing less is available or lesser discipline is limited. I am concerned that this update may create confusion about which policy a claim is made under, and may not provide notice to faculty of what is misconduct.

Does C07 give rise to causes of action that are not claims made under other policies? What are those separate C07 claims? Do the examples of misconduct that fall under other policies have discipline procedures that are not progressive? Is that why these examples are here? By adding them here, are new causes of action created under C07 that do not fall under the other policies? Are there examples of misconduct listed that do not fall under other policies? Which ones are those? Can this definition reference the other policies so there is notice to faculty, as opposed to a list of Related Documents at the end that include policies?

If C07 is being modified to add progressive discipline when misconduct is found under another policy that does not allow for it, maybe C07-based misconduct should be pulled and given its own policy, so C07 can focus on the disciplinary procedures.

3. Disciplinary probation in Definitions: What is the superscript i reference in the last bullet point?

4. Procedures section 1.: Which personnel file? I could be wrong about the following, but as an example, if a C09 investigation finds no misconduct I thought the report is sent to OUC and destroyed at some point determined under some other policy. What is that policy? Should C07 follow that policy's procedures? What happens when there are conflicting procedures?

5. Procedures section 2.: Does this section refer to the complainant or respondent's academic freedom, etc.?

6. Procedures section 3.: What are these misconduct allegations that do not fall under another policy? I am concerned there is insufficient notice to a faculty member of what is misconduct if it is not defined earlier as specific C07 misconduct.

The faculty member should have the right to bring someone to that meeting with the department chair, including an attorney, as the potential discipline is serious, including suspension without pay or dismissal.

7. Section 3.1: Reference to "personnel file."

8. Section 3.4: Is C07 creating a discipline process when the misconduct does not fall under another policy? What is that possible C07 misconduct? What misconduct is so serious that it may result in suspension without pay or dismissal, but is not under the scope of another policy? I am concerned there is lack of notice and due process. I am also concerned this policy and procedure might be abused because the C07 misconduct is not well defined.

9. Section 4: The department chair must reasonably grant additional time, or additional time must not be unreasonably withheld. Five days is not very much time for faculty to gather materials.

Reference to "personnel file."

10. Sections 5.1.1.1 and 5.1.2: Are these simultaneous procedures? Consecutive? What if there are conflicting decisions? How does this work with regard to the process for appeals of AF&T decisions, if the faculty has already appealed the Provost/EVPHS decision to the President?

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### **From AF&T and Section B Taskforce meetings**

- AF&T members discussed whether Crandall's comment be noted and recommended to the Policy Office for 3215? Recommended getting rid of this line:
  - "Possession of/or distribution of obscene or pornographic material unrelated to UNM's academic or research mission". Concern about expanding the list of misconduct examples.
- Where did this misconduct list come from? Recommendation to not list any examples.
- Misconduct should be defined in FHB/in policy C07. Be sure misconduct examples are current or strike.
- Sentence is vague too open, "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". Can we have something more declarative and categorical like everything must be kept confidential, to the extent possible. Somehow strengthen this sentence.
- Concern over this sentence, "It is up to the faculty member if such action is documented in their personnel file". Why is it written this way? Need to be able to prove if there is a pattern of misconduct behavior. Workplace

bullying was used as an example. Part of the way you define it is to demonstrate there is a pattern. How can that be accomplished when there is no documentation?

- Applicability and definitions. Should the definition of faculty member be repeated in Applicability section.
- Question about the suspension without pay and whether you can work 40 days per C130. Do we have to tackle this in here? Need to think about this. [This is perhaps best addressed in C130](#)
- First paragraph under Procedures, last sentence should be clarified: “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”.
- Concern about five working days and OUC working within that timeframe.
- Preliminary Assessment. It was recommended to insert, “The faculty member may be accompanied by one (1) person in meeting with the department chair” sentence after last sentence in paragraph when discussing meeting with faculty member and chair.

#### **Section B Taskforce**

- Section 6.2.1 Peer Hearing. 2<sup>nd</sup> and 3<sup>rd</sup> sentences are confusing and AF&T suggests deleting them
  - Section B Taskforce feels the title of Procedures Section 2 “Section B Concerns” is unclear
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The Faculty Senate Operations Committee discussed the campus comments and suggested changes and agreed to them with two additional changes.

Policy Statement Section, 2<sup>nd</sup> paragraph, page 2

They were concerned about what the complainant could do if the Chair determined the complaint was not credible or after the investigation there was a finding of no misconduct. To address this, they would like to add the following sentence:

“If the complainant feels the concerns raised were not adequately addressed, the complainant may file a complaint in accordance with UAP Policy 2200.”

Procedures Section, 5.1.2 they would like to provide the opportunity for the President to allow more time for an appeal and would like to add the following phrase to the end of the last sentence.

“unless the President allows for additional time.”