

The University of New Mexico Faculty Senate

Meeting Agenda August 25, 2015 3:00 P.M. Scholes Hall Roberts Room

	AGENDA TOPICS	TYPE OF ITEMS/ PRESENTER(S)
3:00	1. Approval of Agenda	Action: Stefan Posse
	2. Acceptance of the April 28, 2015 Summarized Minutes	Action: Stefan Posse
3:05	3. President's Report	Information: Robert Frank
3:20	4. Faculty Senate President's Report	Information: Stefan Posse
3:35	5. Provost's Report	Information: Chaouki Abdallah
CONSENT AGENDA TOPICS		
3:50	6. Summer degree candidates	Action: Pamela Pyle
	7. 2015-2016 Faculty Senate Committee Appointments	Action: Pamela Pyle
AGENDA TOPICS		
3:55	8. Policy E90: Human Beings as Subjects in Research	Information: Linda Petree, Director, Institutional Review Board
4:05	9. Policy E40: Research Miconduct Memo from Office of Research Integrity regarding Policy E40 Draft Point by Point Supplemental Statements Draft Health Science Center Supplement to UNM Faculty Handbook Policy E40	Information: Richard Larson, Executive Vice Chancellor and Vice Chancellor for Research, Health Science Center
4:15	10. Change of the Board of Regents Policy 7.14	Information: Dorothy Anderson, Vice President for Human Resources
4:20	11. New Business and Open Discussion	Discussion: Stefan Posse
	Faculty Senate Curricula Committee Membership Faculty Senate Undergraduate Committee Chair Vacancy	Carolyn Montoya, Faculty Senate Curricula Chair
4:30	12. Faculty Senate Social	

NOTES:

1. All faculty are invited to attend Faculty Senate meetings.
2. Full agenda packets are available at <http://www.unm.edu/~facsen/>
3. All information pertaining to the Faculty Senate can be found at <http://www.unm.edu/~facsen/>
4. Questions should be directed to the Office of the Secretary, Scholes 103, 277-4664
5. Information found in agenda packets is in draft form only and may not be used for quotes or dissemination of information until approved by the Faculty Senate.

FACULTY SENATE SUMMARIZED MINUTES

2014-2015 FACULTY SENATE April 28, 2015

(Draft – Awaiting Approval at the August 25, 2015 Faculty Senate meeting)

The Faculty Senate meeting for April 28 was called to order at 3:00 p.m. in the Roberts Room of Scholes Hall. Faculty Senate President Pamela Pyle presided.

ATTENDANCE

Guests Present: Donald Bellew-Chemistry; Tim Lowrey – Biology; Sarah Kostelecky – Library; Paul Roth – Health Science Center; Barbara Reyes – History and Women Studies; Scott Tonigan - Psychology

APPROVAL OF THE AGENDA

The agenda was approved as written.

1. Approval of summarized minutes for March 24, 2015 meeting

The minutes were approved as written with one abstention.

2. Faculty Senate President's Report

Faculty Senate President Pamela Pyle reported to the Faculty Senate that premiums for health insurance will be released sometime today. The LoboCare Insurance will be decreasing in cost, BlueCross Blue Shield is increasing 4.9% and Presbyterian will remain the cost that it's at currently. There will be a holiday break in December meaning the premiums will not be increased for the year because of the holiday break.

Faculty Senate President Pamela Pyle announced that she was nominated to run again as Faculty Senate President for the term 2016-2017.

Faculty Senate President Pamela Pyle discussed the list of tasks that were completed during the 2014-2015 term. The Faculty Senate worked on putting the awareness on faculty on what we do in research reaching out to administrators, Regents, and other faculty. There were a couple of events that were supported by the Faculty Senate this year; Faculty Focus, Regent Adopt A College and having two Regents attend Faculty Senate meetings. There was a special meeting to discuss the Results Oriented Management. Faculty

Senate President Pamela Pyle stated that because of the 95% allocation of budget and the 5%, pullback the enrollment and other predetermined ROM factors will determine the reallocations of each School/College budget. A resolution was passed that got the faculties voice heard by the Regents even though it was not successful; the Faculty Senate did allow the re-incorporation of the per-65 back into the retirement pool. The Faculty Senate with the Health Science Center made an unprecedented trip to Santa Fe to interact with the legislators and Mayor Berry. Faculty Senator Geoffrey Miller brought up an idea regarding the review of policies throughout the University to see if they were compliant or skirted in any way, first amendment concerns. Faculty Senate President Pamela Pyle suggested to President Frank to host a forum in the Fall 2015 for faculty to voice what their opinions are on what should be the Universities Legislative Priorities.

3. President's Report

President Frank reported that the University is closing on another fiscal year. In working together, The Board of Regents and The Budget Leadership Team passed a model that lead to a recommendation of a 3% tuition increase that would be for four years. This will provide the University with budget stability. The model is if a student graduates in four years, the student will not have to pay for tuition in their last semester. This will encourage students to be on a four year plan. The outcome should attract out of state students and in-state students to attend the University. The prediction of stability across four years at 3% is still a challenge for the University regarding increases for employees.

President Frank acknowledged the faculty's disagreement in how the reserved funds were utilized to fill gaps in the budget. President Frank stated that, in his opinion, this should not ever happen again.

The Provost and the Office of Development Enrollment Management has secured the enrollment pipeline by encouraging students to enroll to stabilize the University's enrollment base. Other ways it has been secured is when The Honors College was created, the procedure in recruiting students has changed, there have been new ways created in identifying student's in-state and out state etc.

We haven't heard if the legislature will go back in session. It has been discussed that they might the third week in May. In this meeting, the University is hoping to receive \$6 million for the Ferris Engineering building, Interdisciplinary Science building which would be Physics

and Biology coming together and will be the final stages for Health Science Center phase of the Teaching Center.

The Spring 2015 Graduate Commencement ceremony speaker is Kathleen Kennedy Townsend, Managing Director of The Rock Creek Group and graduate law student from the University. The Undergraduate Commencement ceremony speaker is Jim Hinton, Chief Information Officer of Presbyterian Hospital and an undergraduate student of the University.

President Frank expressed his gratitude to the Faculty Senators for all of their hard work and their passage of the policy, Professor of Practice.

4. Provost's Report

Undergraduate enrollment projections look good but not graduate enrollment which means that the Deans need to continue to talk with their Chairs regarding completion of applications and other situations that could be causing low enrollment for graduate students.

Dean David Herring has submitted his resignation as School of Law Dean as of Monday, April 27, 2015. He will continue as a faculty and there will be an internal appointment for the position.

Dean Craig White from the Anderson School of Management had to undergo surgery. Please keep your thoughts with him.

Regarding insurance, Presbyterian continues to be the highest priced insurance but the rates will remain the same as last year. Blue Cross Blue continues to be the moderately priced insurance, this increased by 4.9% depending on leverage of coverage and income. UNM Health is the lowest priced insurance that is decreasing by \$1.80 to \$10.00. There is a premium holiday that is only for active employees, there will be no medical premium deductions for the December paycheck for all three insurance with the University continuing to contribute to the benefits. For VEBA contributors UNM will also defer the scheduled .25% fee to the salary of the employees.

5. Chancellor's Report

Health Science Center (HSC) Chancellor Paul Roth reported that HSC is recommending a 1% increase for the faculty. At the School of Medicine, Nursing, and Pharmacy colleges have the Faculty Incentive Base Compensation which is an incentive base plan. On average in the School of Medicine about 30% of the faculty's compensation is

held at risk for producing certain performance measures. The 1% will be applied to contract salary but even in the contract salary there is a supplement which is the amount in the contract is based on productivity measures for the next year and at the end of the year there are incentives on any faculty who have exceeded over their expected goal. In the School of Medicine there is 90% of total compensation in the contracts salary with a little available for incentives but at some departments its flipped 85% faculty compensation is completely driven by work that is completed. There is a School of Medicine overarching policy that defines the plan and it is up to the departments and the faculty within the departments to add more specifics.

The Health Science Center Chairs are going through an exercise to re-design the Plan Faculty Incentive Based Compensation Incentive (FIBCI) to take into consideration not just quantitative elements but the qualitative parts.

Essentially when the Health Science Center hires faculty they are viewed as a small business so cost vs. revenue is reviewed. Tuition is 0.7% of HSC budget where as 80% is driven by clinical revenue. The Health Science Center is recommending an average of a 1% against a contract salary. Currently, there are a number of faculty that are below the 25% nationally.

The Health Science Center is working on ways to construct new facilities. Both the age of the facility and inadequate numbers of beds are the problems that they are facing. The operating rooms were built in the 1950's. The sewage pipes are crumbling, the lights are turning off during different cases, etc.

6. CONSENT AGENDA TOPICS

Spring 2015 Degree Candidates

The Spring 2015 Degree Candidates were approved by unanimous voice vote of the Faculty Senate.

Form C from the Curricula Committee

The following form C's were approved by voice vote of the Faculty Senate:

UG French Minor Revision

Grad MA Science in Dental Hygiene Major Revision

UG BA Women Studies Major Revision

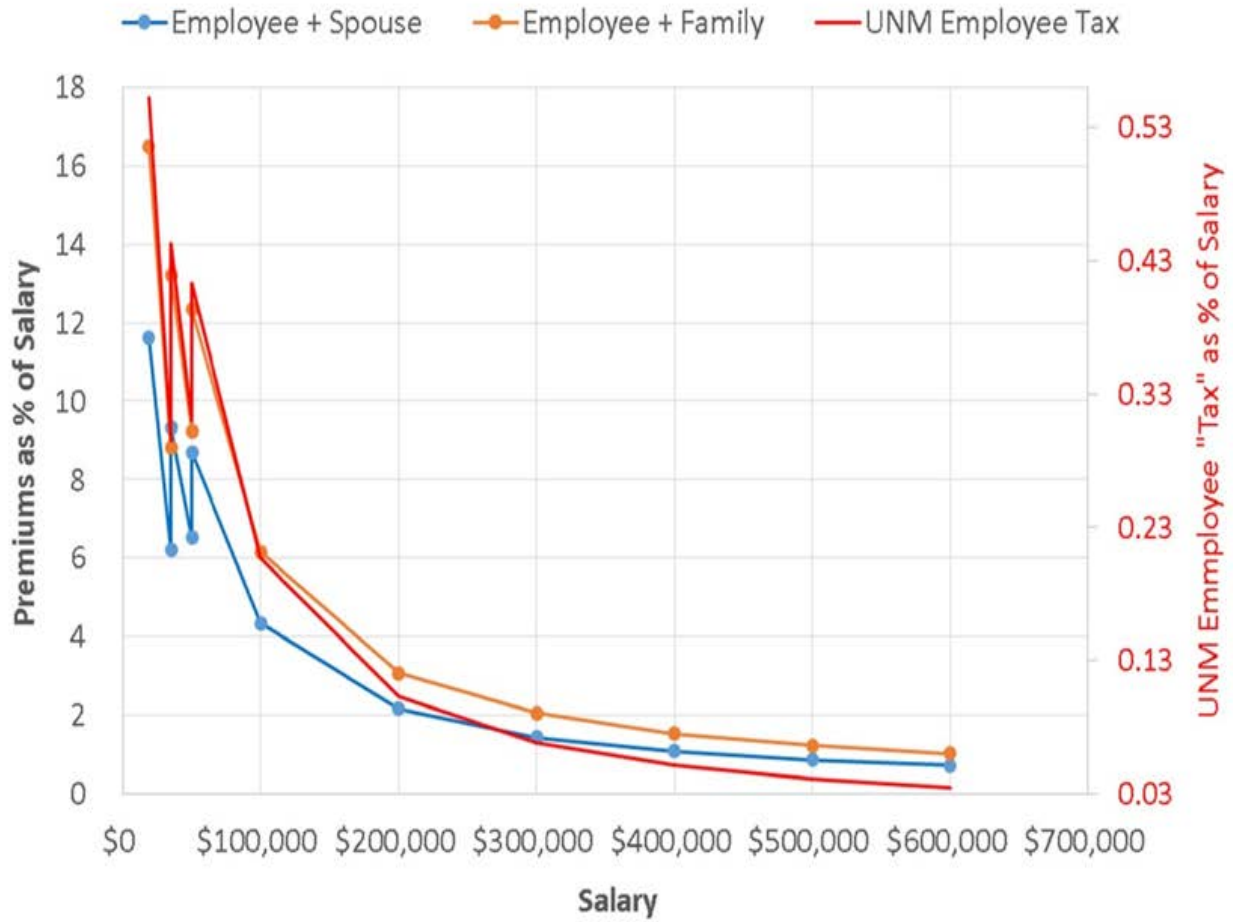
UG BFA Art Studio Major Revision
Grad MA Architecture Major Revision
UG Science, Technology and Society Minor Deletion
UG BA Architecture Major Revision
UG BS Chemical Engineering Degree Revision
Grad MA Music, Concentration in Performance Revision
UG BA Music Education, Instrumental Concentration Revision
UG BA Music Education, Vocal Concentration Revision
UG Minor in Music Education Revision
Grad BA Interdisc. Liberal Arts and MALatinAmericanStudiesDeg
New
UG BS Construction Management Major Revision
UG BS Construction Engineering Major Revision
UG BS Civil Engineering Major Revision
UG BA Russian Major Revision
Grad Ph.D. Medicine Degree Revision
UG AA Criminal Justice Major Revision
UG Cert. Human Services Revision
UG BA Theatre Major Revision

AGENDA TOPICS

7. Self-Insurance Reserve Fund Usage

Operations Committee member, Howard Snell presented the following information. The 2014 UNM Plan Premiums percent of Salary graph shows that the lowest paid colleagues that get paid around \$19,000 annually pay around 17% of their total income in healthcare premiums. The highest paid colleagues pay 0.3% of their annual income. When the \$1.6 million is converted into a portion of that percentage you can see that it is a regressive tax in that the lowest paid colleagues pay around one half of 1% of their total income to the University for uses other than health insurance. The highest paid colleagues pay around .03% of their annual income. This shouldn't be a regressive tax, it should be a set amount that everyone is charged or the University shouldn't tax University employees and therefore in the future the University would use self-insurance funds access rolled into next year's premiums and reduce the University's contribution and the employee's contribution.

2014 UNM Plan Premiums % Of Salary



Faculty Senator from the School of Law Scott Hughes presented on the following information.

April 28, 2015

Tax, duty, prejudice, & contract issues arising from the raiding of the health care fund by the UNM Regents

Scott H. Hughes, UNM School of Law

	1. Typical	2. Impact	3.UNM says	4.	5.	6.
Gross Pay	\$ 1,000.00	\$1,000.00	\$ 998.00			
Pre-tax *Note 1						
Health Care	\$ 50.00	48.00	48.00			
*Note 2	\$950.00	952.00	950.00 *Note 3			
Fed. W/H	Varies	increase	original			
State W/H	Varies	increase	original			
Soc. Sec.	Fixed %	increase	original			
FICA	Fixed %	increase	original			

*Note 1: Pre-Tax – Other things that come out pre-tax include dental, eye care, vision, PERA, FSA – Health Care

*Note 2: Withholding for State and Federal Taxes, Social Security, and FICA are Calculated from this Figure. UNM has a duty to calculate and report these figures to the appropriate agencies.

*Note 3: UNM says "No harm, no foul."

What happens when we add the question of retirement?

	7. Typical	8. Impact	9. UNM says	10.	11.	12.
Gross Pay	\$ 1,000.00	\$1,000.00	\$ 998.00			
Pre-tax *Note 1						
Health Care	\$ 50.00	48.00	48.00			
Retirement	\$ 115.00	115.00	115.00	115.00		
				403(b)?		
*Note 2	\$ 835.00	837.00	950.00 *Note 3			
Fed. W/H	Varies	increase	original			
State W/H	Varies	increase	original			
Soc. Sec.	Fixed %	increase	original			
FICA	Fixed %	increase	original			

President Frank responded regarding the concern for lower paid employees, the University hugely subsidized the health insurance for the lower employees while there is a difference in that the University provides a very significant subsidy to those employees already in that process so they are well taken care of in the health insurance. The \$1.6 million does not come from just employees it comes from other mixed source of funds that the University receives. There is a rebate

this year, for one month the employees of the University will not be paying their health insurance. This shows that the University is considering a need to recognize something. The University made the decision to utilize the self-insurance fund of \$1.6 million to avoid a number of various difficult decisions. If that money were to not be used, the money would have had to come out of the funds of College/Schools University wide. This would have resulted in permanent downsizes we would be unable to recover from.

Operations Committee member, Howard Snell made a motion for the Faculty Senate to authorize the Operations Committee to wordsmith the resolution stated below. The final resolution would then be submitted through email to the Faculty Senators for a vote. Faculty Senator from the School of Medicine, Jeffrey Norenberg seconded the motion. All were in favor by unanimous vote with one abstention.

"The Faculty Senate requests that financial resources associated with UNM's self insurance program remain within that program to defray the costs of employee health care shared by employees and UNM. If funds in excess of the amounts necessary for a particular year's claims, payments, and/or reserves accumulate, those funds will be used to reduce the following year's premiums paid by employees and UNM. Reductions in premiums will be split between contributions by UNM and contributions by employees in proportions equal to the proportions of regular premium payments. Thus any savings in a following year's premiums will be shared between UNM and employees."

8. Faculty Senate Council Structure and Council Chair Requirements

Faculty Senate President Pamela Pyle requested that the Faculty Senate Council Structure be approved. The Operations Committee feels that this has been a very useful structure and is happy with the communication process that is in place that is very effective with a quick response.

In April of 2014 a motion was passed that by the end of 2015 it be decided to continue the Council Structure or to revert back to just the Faculty Senate Committee's. The Faculty Senate Council Structure was approved by unanimous voice vote of the Faculty Senate.

9. Approval of Faculty Handbook Policy A53 “Development and Approval of Faculty Senate Policies

Faculty Senate President Pamela Pyle presented the request of approval of Faculty Handbook Policy A53 “Development and Approval of Faculty Senate Policies.”

A53: Development and Approval of Faculty Policies



Approved by: Faculty Senate

Effective Date: August 27, 2013

Responsible Faculty Committees: Policy ~~Research Policy, Academic Freedom & Tenure~~, and Operations

Office Responsible for Administration: Office of the University Secretary

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

POLICY RATIONALE

The *Faculty Handbook* provides University of New Mexico (UNM) faculty with a written record of faculty policies and procedures. Policies in the *Faculty Handbook* are unifying documents that describe academic principles, the reasoning behind the principles, and institutional procedures necessary for implementation. *Faculty Handbook* policies contain governing principles and procedures that mandate or constrain actions and apply to UNM faculty; therefore, the development of policies requires input from faculty members who have extensive knowledge on the subject matter and review by faculty members from a variety of academic disciplines at UNM.

POLICY STATEMENT

All UNM policies which pertain primarily to faculty and academic matters are placed in the *Faculty Handbook* and are subject to the review and approval requirements defined in this Policy Document, with the exception of Section B “Academic Freedom and Tenure” which follows a separate review and approval protocol. The scope of *Faculty Handbook* policies is established by the Faculty Constitution and the right to review and take action on these policies is granted to the faculty by UNM Board of Regents Policy 5.1 “The Faculty’s Role in the University’s Academic Mission.”

This policy describes the process used to develop or amend *Faculty Handbook* policies, solicit input, and obtain approval.

1. Proposing a New Policy or Changes to Existing Policy. Any faculty member wishing to propose a change to an existing *Faculty Handbook* policy or propose a new policy should send their request to the Office of the University Secretary, who will forward it to the Faculty Senate Policy Committee (FSPC) ~~, the Faculty Senate Research Policy Committee (FSRPC), or the Academic Freedom and Tenure Committee (AF&T)~~ for consideration. The ~~designated policy committee~~ FSPC will review the request and work with the appropriate Faculty Senate committee(s) to determine the most effective course of action.

2. Approval. Proposed new faculty policy statements, in their entirety, and changes to the Policy Rationale, Policy Statement, and Applicability sections of existing policies will be posted on the *Faculty Handbook* website for review by UNM faculty members. The Office of the University Secretary in consultation with the Chair of the FSPC ~~,FSRPC, or AF&T~~ will address any comments received from faculty and will forward the final proposed draft to the Faculty Senate for approval. Due to the nature of the policy or previous approval history, specific policies will also require approval by University faculty, the UNM Board of Regents, and/or the UNM President and/or Provost or the Chancellor for Health Sciences. Proposed changes to definition, procedural, and information portions of a policy document will be reviewed by the FSPC ~~,FSRPC, or AF&T~~ in consultation with the responsible Faculty Senate Committee(s) listed in the Policy Heading. After review and consultation, the proposed changes can be made with approval by both the FSPC ~~,FSRPC, AF&T~~ and the Faculty Senate Operations Committee.

3. Distribution and Notification of New or Amended Policy.

Upon approval, the new or amended policy will be placed on the *Faculty Handbook* website and announced to the campus. Deans and department chairs, or their designees, are responsible for:

- informing their faculty members of new policies or changes to existing policies; and
- updating all related departmental processes, procedures, and/or documents to reflect new or amended policies.

APPLICABILITY

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

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Policy and Operations Committee in consultation with the responsible Faculty Senate Committee listed in Policy Heading.

DEFINITIONS

No specific definitions are required for this Policy Statement

WHO SHOULD READ THIS POLICY

- Board of Regents
- Faculty
- Academic staff
- Academic deans and other executives, department chairs, directors, and managers

RELATED DOCUMENTS

[UNM Regents' Policy Manual 5.1](#) “The Faculty’s Role in the University's Academic Mission”

Faculty Handbook: [Policy A50](#) “The Faculty’s Role in the University's Academic Mission”

Faculty Handbook: [Policy A51](#) “Faculty Constitution”

[University Administrative Policies](#)

[University Catalog](#)

[Pathfinder](#)

HSC Policy on Policies, which contains procedures specific to the HSC

CONTACTS

Direct any questions about this Policy to the [Office of the University Secretary](#).

PROCEDURES

Faculty Handbook policies are designed to ensure that policy level portions can only be changed with approval of the Faculty Senate, but also allow for a streamlined approval process for definition, procedural and information oriented sections of the policy to allow for timely updating to reflect new practices and/or information.

1. *Faculty Handbook* policies are composed of the following sections.

1.1 Heading. In addition to policy title and number, the heading of the policy identifies:

- The approving bodies (i.e. Faculty Senate, Provost/Chancellor for Health Sciences, President, Board of Regents, and/or University Faculty).
- Responsible Faculty Senate committee(s).
- Office responsible for administration of the Policy.

1.2 Policy Rationale. Describes the reason for the policy, its relationship to UNM’s academic values and/or mission, and any philosophical, stewardship, legal, regulatory, or other requirements the policy aims to meet.

1.3 Policy Statement. Includes the overall intention and direction of the policy and major mandated actions or constraints. It does not include procedures, which are placed in a separate section to allow for greater flexibility when updating is necessary.

1.4 Applicability. Identifies which individuals and/or University units are subject to the policy. Some policies may apply to the entire academic community, while others may apply only to Main Campus, the Health Sciences Center, and/or Branch Campuses.

1.5 Definitions. Defines terms that have specialized or particular meaning in the policy.

1.6 Who Should Read This Policy. Lists individuals who must understand the policy in order to make decisions and/or do their jobs.

1.7 Related Documents. Lists related UNM policy documents and other UNM and external documents that provide helpful, relevant information.

1.8 Contacts. Contains information to assist faculty members in complying with the policy.

1.9 Procedures. Includes procedures necessary for policy compliance and outlines how the policy's requirements will be met.

1.10 History. Lists dates of amendments and summary information on changes approved.

2. Approval process for Policy Level Portions of Faculty Policies. Changes to policy level portions of the policy (sections 1.2 –1.4, herein) require approval by the approving bodies listed in the policy heading. At a minimum this includes the Faculty Senate and depending on the impact of the policy, approval may also require action by the President or Provost/Chancellor for Health Sciences, Board of Regents, and/or University faculty.

3. Approval process for Definitions, Procedures, and Information Portions of Faculty Policies. Changes to definition, procedural and information portions of the policy (sections 1.5 – 1.10, herein) can be made with approval by both the Faculty Senate Policy Committee (FSPC), ~~the Faculty Senate Research Policy Committee (FSRPC), or the Academic Freedom and Tenure Committee (AF&T)~~ and the Faculty Senate Operations Committee in consultation with the responsible Faculty Senate Committee(s) listed in the policy heading.

HISTORY

February 4, 2014 – Amended procedures approved by Faculty Senate Operations Committee

January 29, 2014 – Amended procedures approved by Faculty Senate Policy Committee

August 27, 2013 – Approved by the Faculty Senate

DRAFT HISTORY

~~January 20, 2015—Draft revised to remove AF&T and Research Policy Committees from process.~~

The A53 “Development and Approval of Faculty Senate Policies.” was approved by unanimous voice vote of the Faculty Senate.

10. Approval of Faculty Handbook Policy A91 “Creation, Review, Reorganization, and Termination of Research Centers and Institutes’

Faculty Senate President Pamela Pyle presented the request of approval of Faculty Handbook Policy A91 “Creation, Review, Reorganization, and Termination of Research Centers and Institutes”


A91: Creation, Review, Reorganization, and Termination of UNM Research Centers and Institutes
Approved By: Faculty Senate
Last Updated: Draft 2/4/15
Responsible Faculty Committee: Research Policy Committee
Office Responsible for Administration: Vice President for Research and HSC Vice Chancellor for Research
Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the full Faculty Senate.

POLICY RATIONALE

Research centers and institutes play an inevitable, integral, and increasing role in modern research universities. These roles stem from two facts. First, cutting edge research in most academic disciplines is increasingly multidisciplinary, interdisciplinary, and trans-disciplinary in nature. Second, research centers and institutes encourage thematically focused but synergistic collaborations that go beyond those that occur in traditional academic departments. This enhances both the intellectual impact of the activities as well as extramural funding opportunities.

From time to time it is necessary for the University of New Mexico (UNM) to consider proposals for the creation of new research centers and institutes, or for major restructuring or termination of existing research centers and institutes. This Policy document provides policies and procedures for consideration of such actions regarding research centers and institutes.

POLICY STATEMENT

The creation of a new research center or institute located on or off the UNM Albuquerque campus, or major changes to an existing research center or institute require approval of the Faculty Senate and the Provost or HSC Chancellor. Approval of the proposed action must be obtained prior to initiating operation of a new research center or institute, or making permanent major changes to an existing research center or institute. In no case is this to be construed as prohibiting an existing research center or institute from experimenting with temporary major changes prior to seeking approval of these on a continuing basis. However, it is expected that even in the case of experimental changes, stakeholders, such as affected faculty, staff, and students will be informed in advance and their input considered by the appropriate dean, director, or other administrator proposing the changes, prior to initiation.

All proposals to create, re-organize, or terminate a research center or institute shall follow the policies and procedures described herein, and any applicable standards or guidelines established by the Faculty Senate Research Policy Committee in consultation with representatives of the Provost or the HSC Chancellor and relevant research center or institute heads.

APPLICABILITY

All UNM units, including the Health Sciences Center (HSC) and Branch Campuses.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Research Policy Committee, Policy Committee, and Operations Committee.

DEFINITIONS

Major actions. A merger of two or more research centers or institutes, a division or dissolution of a research center or institute, or a change in the basic mission of a research center or institute.

WHO SHOULD READ THIS POLICY

- Directors of research centers and institutes.
- Academic deans or other executives, department chairs, directors, and managers responsible for research centers and institutes.
- Administrative staff responsible for research centers and institutes.
- Faculty interested in creating a new center or institute

RELATED DOCUMENTS

Faculty Handbook:

[Policy A61.16](#) "Research Policy Committee"

[Policy A88](#) "Creation, Review, Reorganization, and Termination of UNM Academic Units"

[Policy E60](#) "Sponsored Research"

[Standard A91#1](#) "Creation, Review, Reorganization, and Termination of Non-HSC Research Centers and Institutes"

UNM Board of Regents' Policy Manual:

[Policy 5.9](#) "Sponsored Research"

University Administrative Policies and Procedures Manual:

[Policy 2425](#) "Recovery of Facilities and Administration Costs"

CONTACTS

Direct any questions about this policy to Office of the Vice President for Research, the HSC Office of the Vice Chancellor for Research, or the Faculty Senate Research Policy Committee.

PROCEDURES

Research centers and institutes have three conceptual phases in their life cycle: the proposal phase, the operational phase, and the termination/reinvention phase.

Proposal Phase. The life cycle of a research center or institute begins with the proposal phase, during which faculty, staff, and administrators must work together to build a strong case for UNM to invest in a research center or institute. UNM administration should be provided evidence of the intellectual value of the research center or institute beyond that which can be achieved within the departmental or college structure. The proposal shall clearly identify the scope of the research center or institute; in particular which academic units will be contributing resources, including faculty time, staff, facilities and funds. The proposal should have funding plans for the short (e.g., one to five years) and the long (e.g., decades) terms.

Operational Phase. Once established, all resources for a research center or institute shall be defined, including building space, equipment, staff, faculty appointments, and effort shares. The director is appointed by the administrator appropriate to the research center or institute, and the conditions of the appointment and the term of service, including options for renewal, shall be clearly stated in the appointment letter. Directors shall be evaluated annually by a representative group of individuals. Guidance for the review is drawn from the proposal for the research center or institute and must include criteria for evaluation of the research center or institute vitality, achievement of goals, resource allocations, and budgets.

Termination/Reinvention Phase. The annual review processes from the Operational Phase shall reveal when a research center or institute is experiencing difficulty in managing resources or achieving its expressed goals. Although the director and other applicable administrators shall be expected to take action to support and revive the research center or institute, they are also responsible for terminating or “sunsetting” the research center or institute, as well as redirecting the resources to other areas of UNM when necessary. The reinvention and redirection of research center or institute activities shall be completed via a process similar to that for creating a new research center or institute.

The website maintained by the Office of the Vice President for Research (OVPR) or the Office of the HSC Vice Chancellor for Research shall contain an annually updated list of all research centers and institutes governed by the Provost and HSC Chancellor and a summary of the most recent review for each research center or institute.

Division Specific Standards. Standards for the organization and review of research centers and institutes may vary within major components at UNM. To accommodate these differences each component should develop a standards document specific to the component. This document will provide standards and guidelines to ensure compliance with this Policy. [Standard A91#1](#) provides standards and guidelines applicable to non-HSC research centers and institutes. A

standards document will be developed to provide standards and guidelines applicable to HSC research centers and institutes. In the event that a research center or institute has substantial involvement in both the HSC and non-HSC divisions of UNM, the director will work with the Provost and HSC Chancellor to determine which standard is applicable or if another standard needs to be developed.

HISTORY

No history because a new policy is being proposed.

DRAFT HISTORY

February 4, 2015—Revised to incorporate HSC changes.

December 4, 2014—Revised to remove reference to Standard #2 until this standard has been developed.

November 19, 2014 --Revised to reflect input from the Research Policy Committee

October 18, 2014—Restructured to use the Standards process: one for non- HSC and one for HSC research centers and institutes.

April 10, 2014 – Revised wording with FSRPC Chair’s approval

March 5, 2014—Chair of FSRPC presented draft to Faculty Senate Policy Committee (FSPC) for review.

September 25, 2013--Draft developed by the Faculty Senate Research Policy Committee (FSRPC).

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

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[UNM HOME](#)

The A91 “Creation, Review, Reorganization, and Termination of Research Centers and Institutes” was approved by unanimous voice vote of the Faculty Senate.

11. Office of the Vice President for Research – Procedures for IRB

Associate Vice President of Research and Compliance Carlos Romero reported on the following information.

Update on Main Campus Office of the IRB

Michael Dougher
Vice President for Research

Carlos Rey Romero
Associate Vice President for Research & Compliance

Office of the IRB

- **Timeline**

- April 2008 – Viola Flores, Interim Provost, decides to move IRB operations and oversight to UNM Health Sciences Center. MOU entered into between MC & HSC
- June 2013 – Mike Dougher becomes VPR and hears from faculty IRB is a major issue for Main Campus researchers
- July 2013 – Based on faculty input VPR decided to bring IRB operations back to Main Campus
- July 2013 – VPR hired University of Maryland to consult on transition and staffing plan
- August 2013 – HSC details Fernando Torres to Main Campus to assist with Main Campus IRB submissions
- October 2013 – Office of Research Compliance established
 - Office of the IRB
 - Industrial Security
 - Export Control
 - Financial Conflicts of Interest
- Office of the IRB staff hired in the Fall 2013
 - Office staffing designed based on data from HSC data (350-400 transactions per year)
 - 1 – manager, 2 – analysts, 1 – Admin III and 2 – graduate students
- RFP for eIRB software went out in Fall 2013
- IRBNet chosen as eIRB software system (SAS)
- Fall 2014 – analysis done on turn around times and transaction (nearly 800 transactions in first year)
- Spring 2015 – Request made to VPR to increase staffing for OIRB and upgrade positions
- Spring 2015 – New staffing plan to match workload
 - 1 – Director, 1 – Senior Analyst, 2 – Analysts and 1 – Admin III

FY2015 OIRB Stats (4/21/15)

Month	Consultations	Submissions
July	19	66
August	17	50
September	24	69
October	15	51
November	11	69
December	13	46
January	15	45
February	26	61
March	21	76
April	23	54
May	-	-
June	-	-
FY to Date	184	587

Type	Currently in Process
Pre-Review	25
Waiting for PI	80
At Review	38

OIRB Turnaround Times as of 4/21/15

Type	Mean	St Dev	Median	Mode	Min	Max
All Submissions	42.3	32.8	34.0	21.0	1.00	228
Pre-Review	17.5	15.1	15.0	1.00	1.00	117
With PI	20	31	11	2	1	366
At Review	8.25	13.1	3.50	1.00	1.00	101

How to Improve Service?

- Office Structure & Personnel
 - Hire new Analysts – Completed
 - New Director Hired – Linda Petree (start 5/11/15)
 - Promotion of Analyst to Senior Analyst – In process
- Unchecking the Box
 - Ability to treat federally funded research and non-federal research differently
- Review and Revisions to SOPs
- Enhance training and partnerships with departments, faculty and students
 - Improve ease of IRB process
 - maintain necessary safeguards and protections
 - reduce transaction processing times in each category

12. New Business and Open Discussion

Meeting adjourned at 5:00 p.m.

President Frank Report

- Benefits holiday in December
- Branding
- Innovate ABQ
- Enrollment
- Budget process

Provost Abdallah Report

- Plans for Academic Affairs in the upcoming Year
- Updates on enrollment/metrics
- Update on Benefits Studies
- Future of Public Higher Education discussion & structure of universities.

Faculty Senate Committee Appointments Needing Senate Approval

Academic Council

First	Last	Title	Department
Charlie	Steen	Associate Professor	History

Admissions and Registration

First	Last	Title	Department
Marjori M.	Krebs	Assistant Professor	Department of Teacher Education
Amy	Neel	Associate Professor	Speech and Hearing Sciences
Charlie R	Steen	Professor	History Department

Budget

First	Last	Title	Department
Fran	Wilkinson	Senior Associate Dean	College of University Libraries & Learning Sciences

Business Council

First	Last	Title	Department
Fran	Wilkinson	Deputy Dean	College of University Libraries & Learning Sciences

Campus Development Advisory Committee

First	Last	Title	Department
Gabriella F	Gutierrez	Associate Professor	School of Architecture and Planning

Curricula

First	Last	Title	Department
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Mary Margaret	Rogers	Associate Professor	ASM Mrkting Info Decision Sci MIDS
Alfred	Simon	Associate Dean	School of Architecture and Planning
Sherri	Thomas	Associate Professor	School of Law Administration
Lindsay	Eakes	Assistant Director	Emerg Med EMS Academy

Faculty & Staff Benefits Committee

First	Last	Title	Department
Doleswar	Bhandari	Senior Research Scientist 1	Bureau of Business Economic Rsrch
Marc	Maddaleni	Financial Officer Operator	Arts Sciences Admn Support
Karen L	Mann	Manager	Associate VP Aux Enterprise Staff
Marcia	Sletten	Manager	HSC Library Informatics Ctr.

Faculty Ethics & Advisory Committee

First	Last	Title	Department
Luis	Campos	Assistant Professor	RWJF Center for Health Policy
David	Cavazos	Assistant Professor	ASM Organizational Studies
Martha	Faulkner	Lecturer III	Psych Child Adolescent Div C A
Ann	Murphy	Assistant Professor	Philosophy Department
David	Witherington	Associate Professor	Psychology Department
Nicholas	Schlereth	Student, GPSA	ASM Finance Intl Tech Mngt FIT

Governmental Relations Committee

First	Last	Title	Department
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Nick Vincent	Flor	Associate Professor	ASM Mrkting Info Decision Sci MIDS
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Graduate & Professional Committee

First	Last	Title	Department
Hsuan-Chi	Chen	Associate Professor	Anderson School of Management
Nikki	Jernigan	Assistant Professor	Cell Biology
Wei	Wang	Professor	Chemistry Department
Mark J	Peceny	Professor	Political Science Department
John	Quale	Professor	School of Architecture and Planning
Cassiano	De Oliveira	Professor	Chemical Nuclear Engineering
Marsha	Baum	Professor	School of Law Administration
Texanna	Martin	Graduate Student	Graduate and Professional Student Association

Information Technology Use Committee

First	Last	Title	Department
Deborah	Fort	Associate Professor	Cinematic Arts
Frederick	Gibbs	Assistant Professor	History Department
Bruce Joel	Perlman	Professor	School of Public Administration
Barbara	Shaffer	Associate Professor	Linguistics
Melissa	Thompson	Assistant Professor	Anthropology Department

Library Committee

First	Last	Title	Department
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Richard	Brody	Professor	Anderson School of Management
Beverly	Singer	Associate Professor	Anthropology Department
Matthew	Rangel	Assistant Professor	Art and Art History
Katherine	Morris	Assistant Professor	CRTC Surgical Oncology
Vanessa	Svihla	Assistant Professor	Organizational Learning and Instructional Technology Program (OLIT)

Policy Committee			
First	Last	Title	Department
Barbara	Hannan	Professor	Philosophy Department
Leslie	Oakes	Associate Professor	ASM Department of Accounting
Marsha	Baum	Professor	School of Law Administration

Research Allocations Committee			
First	Last	Title	Department
Robert	Montgomery	Associate Professor	Art and Art History

Teaching Enhancement			
First	Last	Title	Department
Karen	Champine	Lecturer II	Mathematics Statistics
Brian	Goldstein	Assistant Professor	Sch of Architecture Planning SAAP

Undergraduate Committee			
First	Last	Title	Department
Jenny	Ross	Lecturer II	Mathematics Statistics

Micheaele	Pride	Professor	School of Architecture and Planning
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University Press Committee			
First	Last	Title	Department
Mark	Childs	Associate Dean	School of Architecture and Planning
Sara	Niedzwiecki	Assistant Professor	Political Science

E90: Human ~~Beings as~~ Subjects in Research

Policy

The following operating policy governs the participation of human ~~beings as~~ subjects in research:

POLICY AND PROCEDURES CONCERNING RESEARCH INVOLVING HUMAN SUBJECTS

(Revised ~~November 15, 1966~~ July 1, 2015)

The University of New Mexico recognizes research as one of its chartered enterprises and shares with its individual faculty ~~members~~ member's responsibility for promoting and defending this activity when conducted under its auspices. The following policy is not intended to relieve the individual scientist of his/her ultimate responsibility for moral and ethical conduct nor to deny her/him/her the right to reasonable freedom of inquiry. The policy does make explicit the criteria ~~, largely self evident,~~ by which the propriety of an action should be judged. ~~T~~he procedure is designed to protect human subjects who participate in research and the University (including faculty, students, and the administration) against alleged violation of these criteria.

Policy

1. In considering the participation of humans as research subjects, the guiding principle is that no one should be exposed to risk to health or well-being without being given all reasonable protection and without being adequately informed. The rights and welfare of the study subjects are of paramount importance.

2. In general, ~~the purpose of the study, the procedures to be followed, and the possible risks involved must be explained to the~~ informed consent must be obtained from all human subjects prior to their participation in research. The investigator must be satisfied that the explanation of participation has been understood, and consent must be obtained without duress, coercion, or undue influence. ~~or deception.~~

~~Such an explanation may be postponed or even omitted where there are no risks to the subject, and a full account of the purposes and procedure in advance might bias the results.~~

3. It is the responsibility of the individual investigator to have adequate knowledge of the possible consequences of his/her research, or of research done under his/her direction.

4. Whenever possible, any hazards to health or well-being of each procedure must first be investigated with animals.

5. Whenever medication or physical intervention is used, or whenever the subject is exposed to unusual environmental conditions, proper protection and supervision must be provided.

6. The ~~individual's subject's~~ personal privacy and the confidentiality of information received from ~~her/him/-her~~ must be protected.
7. ~~An individual~~The subject's time should not be invaded to the extent that the participation creates conflict with other obligations.
8. Remuneration may be offered for the time involved in a study, provided the remuneration is not so large as to constitute an improper inducement to participate.
9. Any individual may request termination of his/her participation at any time and this request will be honored promptly and without prejudice.
10. The review procedures as described below are intended to help maintain a positive attitude toward scientific research. ~~Unless there are reliable indications to the contrary, a~~All University of New Mexico faculty members are presumed to behave responsibly, and in accordance to applicable local, state, and federal regulations, laws, and statutes, and all experimental research subjects should be willing to contribute to the advancement of knowledge, provided their personal rights are respected.

Procedures

The policy described above shall be implemented as follows.

1. ~~Several Human Research Review Committees~~All Institutional Review Boards (IRBs) shall be established ~~in the manner described below~~in accordance with relevant federal regulations (45 CFR 46.107, 21 CFR 56.107). ~~;~~ In addition:
 - (a) The ~~dean~~Dean of each school or college, or the ~~chief administrative officer of each UNM division or agency~~Chair of each department involved in human research ~~of this type, is directly responsible that a Human Research Review Committee exist for establishing procedures~~ to evaluate the scientific merit of proposals which may come from her/his faculty or professional staff.

~~In carrying out this responsibility, the administrative officer may establish a Human Research Review Committee to serve his/her particular school, college or agency. Or, if deemed desirable and feasible, she/he may cooperate with another dean or administrative officer in setting up a joint committee to serve more than one group. (In any case, any proposed research involving human beings as subjects would have to be reviewed in advance by some Human Research Review Committee.)~~
 - (b) The number of persons to serve on ~~a Human Research Review Committee~~an IRB, the term of ~~office~~membership, and the type of faculty representation and expertise on such a committee would be ~~at the discretion of those responsible for establishing these committees~~consistent with the policies and procedures developed by the respective IRB Office. However, each ~~Human Research Review Committee~~IRB must include in its membership one or more non-scientists and at least one persons ~~outside-unaffiliated with~~

the college, school, or agency it specifically serves. ~~FDA-regulated p~~Projects involving ~~investigational new drugs (INDS)~~ must be reviewed by a committee ~~quorum~~ that includes ~~not less than two members who are licensed to administer drugs, and one who is not so licensed~~ at least one licensed physician.

2. The ~~Human Research Review Committees~~IRBs shall evaluate ~~procedures-proposals~~ against the Policy described above and the specific standards ~~described in item 4 below of the federal regulations and/or IRB policies~~, as well as such additional standards as may be appropriate to the research area. All federally funded research shall be reviewed according to relevant federal regulations (45 CFR 46.111, 21 CFR 56.111). In so doing, ~~they~~ the IRB ~~shall~~ can call upon specialists, including, where appropriate, consultants not on the University faculty, and may interview the investigator and his/her staff. ~~Decisions shall be reached in executive session by the MANN rule (majority aye, no nay).~~

3. Each ~~Human Research Committee~~IRB shall maintain formal records of its decisions for at least ~~five~~ three years. It shall ~~receive and, where deemed appropriate, verify reaffirmations by the researcher that her/his methods are essentially unchanged and that no adverse consequences have occurred. Such reaffirmation must be made at~~ conduct continuing review of federally funded non-exempt research at ~~six-month intervals~~ least annually and according to IRB policies, although the ~~committee~~ IRB may require more frequent reporting on some research and may make inspections or take other such ~~other~~ actions as found necessary to insure compliance with the policyies and procedures herein stated.

4. The investigator shall be responsible for obtaining approval from ~~a Human Research Review Committee~~ an IRB prior to conducting any research involving human subjects. Application for approval is submitted according to the IRB's policies and procedures. in the form of a memorandum approved by the department chairperson or other appropriate person and must contain complete and explicit information concerning each of the following:

~~(a) Name of the responsible faculty member.~~

~~(b) Name(s) of any others who will make contact with human subjects. In the case of continuing research programs with standard procedures, it may be sufficient to indicate the type of assistants to be used (e.g., graduate research assistant) and the method used to insure that they are properly trained.~~

~~(c) Title of the research. Also indicate its status (e.g., grant supported dissertation, independent study, etc.).~~

~~(d) Objectives of the research. Indicate the type of conclusions anticipated. Especially when any risks are involved, the description of the objectives should be sufficiently detailed so that the potential benefits of the research can be weighed against those risks.~~

~~(e) Methods of procedure. Interest here is in those procedures that make actual contact with the human subject. Specifically, if any medications are to be used, list their names and dose ranges. If "deception" is involved, describe the extent of deception and why it is deemed necessary. If~~

remuneration is involved, state how the level was arrived at. In general, describe the nature of the experiences that the subjects will encounter. Include also the methods for selecting and screening subjects, and the amount of time expected of them.

(f) Protection measures. Give the techniques used to protect the subject against unnecessary risk in relation to the procedures just described. For example, if medication is used, for how long will observation be maintained to insure that no residual effects are present? If electric stimulation is involved, how will the subject be protected from the chance of a serious shock? If deception or stress is involved, how will the subject be relieved of these after the experiment? If personal or private information is to be revealed, how will security of such information be guaranteed? In general, describe the precautions that will be taken to preclude physical, social, or psychological harm. Where possible, include reference to similar procedures previously used either by the investigator or in other laboratories.

(g) Consent. The matter of consent involves three issues: 1) is consent necessary? 2) if so, who is the appropriate consenting agent? and 3) what information is necessary to insure that consent is adequately "informed"? In her/his application, the investigator must deal with these issues so as to justify the procedure according to the following guidelines:

(1) Where no risks or harmful disclosures are involved, where the research is a by-product of ordinary training or treatment, and where no permanent effect upon the subject is anticipated, consent is not required. Where some degree of deception, stress, or discomfort is involved, where the research requires specific participation, or where significant changes in health or well-being are intended by the use of procedures that are controversial, or not proved, consent may or may not be required depending upon the particular study proposed. Where risk or invasion of privacy is involved, where abnormal conditions will be encountered, or where treatment is proposed by new methods, consent is required.

(2) The consenting agent shall normally be the parent or guardian of minors, except that the consent of college students may in some cases be acceptable. Consent by an adult is acceptable provided there is no question about the soundness of her/his understanding of the information given in obtaining consent; where such question exists, the next-of-kin or legal guardian is appropriate.

(3) The amount of information necessary for consent to be adequately "informed" varies with the nature of the research and the amount of risk involved. The investigator must submit in writing an account in lay language of what he/she intends to tell the subjects in soliciting their participation, in instructing them as to procedures, and in insuring them their right to withdraw without prejudice. The experimenter may, but is not required to, obtain consent in writing from the subjects. In any event, she/he is required to maintain a record identifying the subjects, to note therein that each subject was informed in the manner described in the written account, and to sign his/her name indicating that the subject understood the research to the extent indicated and agreed to participate.

~~(h) Changes. Any changes in methods or procedure from those described above in risk or any unexpected consequences/problems adversely affecting the subjects or others will be brought reported promptly to the attention of the Human Research Review Committee involved IRB.~~

~~5. The investigator shall obtain cContinuing IRB approval may be granted when the essentials of methods of procedure remain unchanged over an extended series of studies; in this case, reassurance must be provided at six-month intervals. Minor modifications of procedure may be approved as a supplement to prior general approval for all non-exempt studies.~~

~~6. Where relatively standardized methods and procedures have been developed (e.g., ethnographic field studies, learning of paired associates, etc.), the appropriate department chairperson or other persons responsible for the agency or division in which the research is being conducted may, on application, be granted blanket authorization to approve such studies without further review. The semi-annual report must include a listing of specific approvals granted in sufficient detail to permit the Human Research Review Committee to review this standing authorization.~~

~~7. A student's advisory committee may authorize preliminary pilot research.~~

~~86. A faculty member must retain adequate records concerning the procedures described above. Specifically, Research records, including those indicating documenting informed consent, should be held for at least three years after a subject has participated, and especially where invasion of privacy might be at issue, after the results have been published and the final disposition of the original protocols has been made the study is closed with the IRB. Sponsors and federal agencies may have other retention requirements beyond three years that must be adhered to.~~

~~97. Whenever a procedure study has been disapproved by either a department chairperson or a Human Research Review Committee the IRB, the investigator may appeal to the department chairperson, or the college dean the decision to the IRB, as appropriate. The mechanism for reconsideration, if warranted, is discretionary. The committee may be asked to reconsider; an ad hoc committee of the faculty may be appointed to act as an appeal group; experts not on the faculty may be consulted. The IRB has the final decision should rest with whatever appeal mechanism is established in the individual case. If the appeal should result in approval, the records of the disapproval shall be retained but, in the case of an application for grant support, only the record of approval shall be forwarded to the granting agency regarding disapproval and this cannot be appealed to or overturned by any Institutional Official.~~

~~108. All faculty members share the responsibility for compliance with the policy as herein stated, but first-line responsibility resides with the individual faculty member for all work done under his/her direction (including student research) and second-line responsibility resides with the department chairperson who should remain cognizant of the research activities within her/his/her department.~~

E40: Research Misconduct



Policy

(Research Fraud Policy approved by UNM Faculty Senate, September 10, 1996; approved by the UNM Board of Regents, October 10, 1996; revised as "Research Misconduct Policy" approved by the UNM Faculty Senate, April 23, 2002; approved by the UNM Board of Regents, May 10, 2002; approved by the Faculty Senate, April 22, 2003 and February 24, 2004; approved by UNM Board of Regents, April 13, 2004.)

1. INTRODUCTION AND SCOPE

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, research misconduct threatens both to erode the public trust and to cast doubt on the credibility of all researchers.

Because the University of New Mexico as well as the general public and government are affected by this issue, the faculty and administration have created a process to deal with research misconduct if it arises and to ensure the credibility and objectivity of research activities. In broad terms this process is to:

- Ensure that ethical standards for research at UNM are clearly stated and applied.
- Promptly inquire into allegations of misconduct and, where appropriate, initiate formal investigations and advise sponsors of action taken.
- Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
- Respect the principles of academic freedom.

The policy and procedures regarding research misconduct are intended to protect the integrity of the University's research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

This policy applies to all individuals who may be involved with a research project, including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the University's academic community.

2. DEFINITIONS

2.1 "Complainant" means a person who makes an allegation of research misconduct. There can be more than one complainant in any inquiry or investigation.

2.2 "Fabrication" is making up data or results and recording or reporting them.

2.3 "Falsification" is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

2.4 "NSF" means the National Science Foundation. The NSF has adopted rules establishing standards for institutional responses to allegations of research misconduct.

2.5 "ORI" means the Office of Research Integrity, an office within the U.S. Department of Health and Human Services that is responsible for overseeing the implementation of PHS policies and procedures on research misconduct.

2.6 "PHS" means the Public Health Service, a component of the U.S. Department of Health and Human Services. The PHS has adopted rules establishing standards for institutional responses to allegations of research misconduct.

2.7 "Plagiarism" is the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

2.8 "Recklessly" means that a person acts in such a manner that the individual consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that a reasonable individual would observe.

2.9 "Research misconduct" is defined as fabrication, falsification or plagiarism in proposing, conducting, reporting or reviewing sponsored or unsponsored research. The misconduct must have been committed intentionally, knowingly or recklessly. Research misconduct is further defined to include gross carelessness in conducting research amounting to wanton disregard of truth or objectivity, or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research misconduct is more than a simple instance of an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, an error in planning or carrying out experiments, or a calculation mistake.

2.10 "Respondent" means the person against whom an allegation of research misconduct is directed or the person who is the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

3. GENERAL PRINCIPLES

3.1 Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.

3.2 For purposes of resolving allegations of research misconduct, the process established by this policy shall apply to allegations of fabrication, falsification or plagiarism. All other allegations of research misconduct shall be resolved utilizing other applicable University policies and procedures.

3.3 Charges of research misconduct shall be promptly reviewed and a copy of this policy shall be made available to the complainant. Allegations must be made in writing, and signed and dated by the complainant. If health or safety is involved, prompt remedial action shall be taken.

3.4 Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). A good faith allegation is made with the honest belief that research misconduct may have occurred. Persons making a good faith allegation shall be protected against retaliation. However, persons making allegations in bad faith will be subject to disciplinary action, up to and including termination or expulsion. An allegation is made in bad faith if the complainant knows that it is false or makes the allegation with reckless disregard for or willful ignorance of facts that would disprove it.

3.5 All members of the University community are expected to cooperate with committees conducting inquiries or investigations.

3.6 Confidentiality

Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the privacy of persons involved in the research under inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the maximum 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.

3.7 Conflict of Interest

If the Provost, the Vice Provost for Research, or Vice President for Health Sciences, as appropriate, has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The President of the University shall appoint designates to act instead.

When a case continues to the Inquiry and Investigation stages (Sections 5.3 and 6.3), if the President of the Faculty Senate has any actual or potential conflict of interest, the person shall recuse him/herself from the case and the Senate President-Elect shall appoint a designate to act instead.

If any member of the Faculty Senate Operations Committee or the Chair of the Research Policy Committee has any actual or potential conflict of interest, the persons shall recuse themselves

from the case. The Faculty Senate President, or designate as appropriate, shall appoint faculty members to act instead.

4. PRELIMINARY ASSESSMENT OF ALLEGATIONS

4.1 An initial report of alleged research misconduct shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question, or to the dean of the researcher's college, or to the Vice Provost for Research (for allegations concerning a main campus researcher) or Vice President for Health Sciences (for allegations concerning a HSC researcher). The person receiving the initial report shall, in turn, make an immediate confidential report of the allegations to the Vice Provost for Research or Vice President for Health Sciences, as appropriate.

4.2 An initial report of research misconduct might arise as part of an administrative review. Such a report will be acted upon in accordance with this policy. The report should be brought confidentially to the Vice Provost for Research or Vice President for Health Sciences, as appropriate.

4.3 Upon receipt of an initial report of alleged research misconduct, the Vice Provost for Research or Vice President for Health Sciences, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation falls within the definition of research misconduct and whether there is sufficient evidence to warrant an inquiry. If both conditions are met the inquiry process shall be initiated. If the allegation is vague, an effort should be made to obtain more information before deciding whether there is sufficient evidence to warrant an inquiry. If the preliminary assessment finds insufficient information to allow specific follow-up or the allegation falls outside the definition of research misconduct, the matter will not proceed to an inquiry, and the Vice Provost for Research or Vice President for Health Sciences shall so inform the respondent and complainant in writing. The allegation may be referred for review under another University policy, as appropriate.

5. INQUIRY

5.1 Purpose and Initiation

If the preliminary assessment reveals that the allegation falls within the definition of research misconduct and there is sufficient information to allow specific follow-up, the inquiry process shall be initiated by the Vice Provost for Research or Vice President for Health Sciences, as appropriate. The initiating official will clearly identify the original allegation and any related issues that should be evaluated in the inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred. The findings of the inquiry shall be set forth in an inquiry report.

Securing Research Records

After determining that an inquiry will occur, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, will direct the process whereby all original research records (or copies if originals cannot be located) and materials which may be relevant to the allegation are immediately secured. Prompt securing of records is in the best interests of both the respondent and UNM. Immediately upon ensuring that the research records are secure, the respondent shall be notified that an inquiry is being initiated and an inventory of the secured records shall be provided him/her. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested. The respondent shall be notified of the charges and the procedures to be followed.

Inquiry Committee

The inquiry shall be carried out by a committee of three persons appointed by the Vice Provost for Research or Vice President for Health Sciences, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate. At least two Inquiry Committee members shall be tenured faculty. One of the tenured faculty members shall chair the committee.

Committee members should be selected on the basis of relevant research background and experience. Faculty members from other universities may be named to the Inquiry Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the inquiry.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. The Vice Provost for Research or Vice President for Health Sciences, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate, will consider the objection and if it has merit, shall make appropriate substitution(s). In the case of disagreement regarding appointments, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall designate an official to assist the committee in conducting the inquiry. The committee shall receive a written charge from the Vice Provost for Research or Vice President for Health Sciences, as appropriate, defining the subject matter of its inquiry prior to beginning its work.

Inquiry Process

The respondent and complainant shall be given an opportunity to interview with the Inquiry Committee. The committee may interview others and examine relevant research records, as necessary, to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. University legal counsel shall be available to the committee for consultation.

The length of the inquiry shall not exceed sixty (60) days unless prior written approval for a longer period is obtained from the Vice Provost for Research or Vice President for Health Sciences as appropriate. If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

Inquiry Report

The Inquiry Committee shall prepare a report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) the conclusions of the inquiry as to whether an investigation is recommended; and
- (8) whether any other action should be taken if an investigation is not recommended.

The respondent shall be given fourteen (14) days to review the report and to add his or her comments, which will become part of the final inquiry report and record. Based upon the respondent's comments, the Inquiry Committee may revise its report.

Inquiry Determination

The Inquiry Committee final report will be sent to the Vice Provost for Research or Vice President for Health Sciences, as appropriate, who will determine whether the results of the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation or whether the matter will not be pursued further. The respondent and complainant shall be notified in writing of the decision.

6. INVESTIGATION

6.1 Purpose and Initiation

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether research misconduct has been committed, by whom, and to what extent. If instances of possible misconduct involving a different respondent are uncovered, the matter should be sent to the Vice Provost for Research or Vice President for Health Sciences, as appropriate, to initiate a preliminary assessment.

The Investigation Committee will be appointed and the process initiated within thirty (30) days after the conclusion of the inquiry. If required by sponsoring agency regulations, the office of the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall notify the agency of its decision to commence an investigation on or before the date the investigation begins.

Securing Research Records

Any additional pertinent research records that were not previously sequestered during the inquiry will be immediately sequestered when the decision is made to conduct an investigation. The Vice Provost for Research or Vice President for Health Sciences, as appropriate, will direct this process. This sequestration should occur before or at the time the respondent is notified that an investigation will begin. The need for additional sequestration of records may occur for any number of reasons, including a decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested.

6.3 Investigation Committee

The investigation shall be conducted by a committee of five persons appointed by the Faculty Senate Operations Committee, in consultation with the Chair of the Research Policy Committee or his/her designate. Committee members should be selected on the basis of relevant research background and experience. All persons appointed from UNM shall be tenured faculty. Tenured faculty members from other universities or senior researchers from research institutions may be named to the Investigation Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the investigation. No more than two members of the Inquiry Committee may be appointed to serve on the Investigation Committee.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. The Faculty Senate Operations Committee will consider the objection and if it has merit, shall make appropriate substitution(s), in consultation with the Chair of the Research Policy Committee or his/her designate. In the case of disagreement regarding appointments made by the Faculty Senate Operations Committee, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice Provost for Research or Vice President for Health Sciences shall designate an official to assist the committee in conducting the investigation. The committee shall receive a written charge from the Vice Provost for Research or Vice President for Health Sciences, as appropriate, defining the subject matter of its investigation prior to beginning its work.

6.4 Investigation Process

The investigation will normally involve examination of all relevant documentation. The committee shall make diligent efforts to interview the complainant, the respondent, and other individuals who might have information regarding aspects of the allegations. The interviews will

be recorded on a recording device provided by the office of the Vice Provost for Research or Vice President for Health Sciences as appropriate. A verbatim written record shall be made of all interviews. A transcript of his/her interview shall be provided to each witness for review and correction of errors, which shall be returned and become part of the investigatory file. University legal counsel shall be available to the committee for consultation.

6.5 Investigation Report

The Investigation Committee shall prepare a draft of the final report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) findings and basis for each finding;
- (8) conclusion(s) as to whether research misconduct occurred; and
- (9) recommendations for institutional action.

Copies of all significant documentary evidence that is referenced in the report should be appended to the report.

A finding of research misconduct requires that four conditions be met:

- (1) the conduct at issue falls within this policy's definition of research misconduct;
- (2) the misconduct be committed intentionally, or knowingly, or recklessly;
- (3) there be a significant departure from accepted practices of the relevant research community; and
- (4) the allegation be proven by a preponderance of the evidence. This means that the evidence shows that it is more likely than not that the respondent committed research misconduct.

The respondent will be provided with a copy of the draft investigation report for review and comment. The respondent will be allowed fourteen (14) days for review and any comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all of the other evidence. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation, and the complainant will have fourteen (14) days to review and submit any comments to the Investigation Committee. The report may be modified, as appropriate, based on the complainant's comments.

If the Investigation Committee puts forward a final report with a finding of research misconduct, the respondent has 14 days to elect a hearing before the Provost or Vice President for Health Sciences, as appropriate. The hearing will allow for argument, rebuttal, cross-examinations and a written record of the proceedings.

6.6 Institutional Review and Determination

The Investigation Committee final report will be forwarded to the Vice Provost for Research or Vice President for Health Sciences, as appropriate. The Vice Provost for Research will transmit the report to the Provost who is the University deciding official for cases where the respondent is not a Health Sciences Center employee. The Vice President for Health Sciences is the deciding official for cases where the respondent is a Health Sciences Center employee. The deciding official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions.

If the respondent has elected a hearing, the deciding official will conduct the hearing following the University model hearing procedure, available from the University Counsel's office. The Investigation Committee presents the case consistent with its report. The respondent presents the rebuttal. The respondent may have an advisor present.

The deciding official's decision should be consistent with the definition of research misconduct, the University's policies, and the evidence reviewed and analyzed by the Investigation Committee. The deciding official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. The deciding official's final determination will be sent to the respondent and complainant. If the deciding official's decision varies from that of the Investigation Committee, the basis for rendering a different decision will be explained in the report to ORI and other agencies as appropriate.

Respondent may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

The investigation shall be completed within 180 days of the first meeting of the Investigation Committee. However, if PHS sponsored the research, the investigation shall be completed, with the final investigation report and final determination submitted to ORI, within 120 days of the first meeting of the Investigation Committee, unless ORI grants an extension.

7. ACTIONS FOLLOWING INVESTIGATION

7.1 Finding of Research Misconduct

If the final determination is that research misconduct occurred, UNM shall take appropriate action, which may include but is not limited to:

- (1) notifying the sponsoring agency;
- (2) withdrawal or correction of all pending or published abstracts and papers emanating from the research;
- (3) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, rank reduction or termination of employment in accordance with UNM policies and procedures. In cases involving faculty, implementation must be consistent with the Policy on Academic Freedom and Tenure;

(4) determining whether law enforcement agencies, professional societies, professional licensing boards, collaborators of the respondent, or other relevant parties should be notified; and
(5) any other steps deemed appropriate to accomplish justice and preserve the integrity of UNM and the credibility of the sponsor's program.

7.2 Restoration of Respondent's Reputation

If the final determination is that no research misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the respondent, the sponsor and others who were involved in the investigation or deleteriously affected thereby. Depending on the circumstances, consideration should be given to notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, expunging all reference to the research misconduct allegation from the respondent's personnel files, or reviewing negative decisions related to tenure or advancement to candidacy that occurred during the investigation. Any institutional actions to restore the respondent's reputation must first be approved by the Vice Provost for Research or Vice President for Health Sciences, as appropriate.

7.3 Protection of the Complainant and Others

Regardless of whether UNM determines that research misconduct occurred, reasonable efforts will be undertaken to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. The Vice Provost for Research and Vice President for Health Sciences, or designee, will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant. If a complainant believes that retaliation was threatened, attempted or occurred, he or she may file a complaint with the UNM Audit Department.

7.4 Allegations Made in Bad Faith

If relevant, the Vice Provost for Research or Vice President for Health Sciences will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was made in bad faith, appropriate disciplinary action will be taken in accordance with UNM policies and procedures. If the complainant is not associated with UNM, appropriate organizations or authorities may be notified and administrative or legal action considered.

8. OTHER CONSIDERATIONS

8.1 Requirements for Reporting to ORI When Funding from PHS Is Involved

8.1.1 The decision to initiate an investigation must be reported in writing to the Director, ORI, on or before the date the investigation begins. The notification must include at a minimum the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved.

8.1.2 If UNM plans to terminate an inquiry or investigation without completing all relevant requirements of the PHS regulation, a report of such planned termination shall be made to ORI, including a description of the reasons for the proposed termination.

8.1.3 If UNM determines that it will not be able to complete the investigation within 120 days, a written request for an extension shall be submitted to ORI that explains the delay, reports on the progress to date, estimates the date of completion and describes other necessary steps to be taken. If the request is granted, UNM must file periodic progress reports as requested by ORI.

8.1.4 UNM will keep ORI apprised of any developments during the course of an investigation that may affect current or potential Department of Health and Human Services funding for the individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

8.1.5 ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) there is an immediate health hazard involved;
- (2) there is an immediate need to protect federal funds or equipment;
- (3) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
- (4) it is probable that the alleged incident is going to be reported publicly;
- (5) the allegation involves a public health sensitive issue (e.g. a clinical trial); or
- (6) there is reasonable indication of possible criminal violation in which case UNM must inform ORI within 24 hours of obtaining that information.

8.2 Requirements for Reporting When NSF Funding Is Involved

8.2.1 The decision to initiate an investigation must be reported immediately in writing to NSF.

8.2.2 NSF shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) public health or safety is at risk;
- (2) NSF's resources, reputation, or other interests need protecting;
- (3) there is reasonable indication of possible violations of civil or criminal law;
- (4) research activities should be suspended;
- (5) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
- (6) the scientific community or the public should be informed.

8.2.3 NSF shall be provided with a copy of the final investigation report.

8.2.4 The inquiry shall be completed within 90 days and the investigation completed within 180 days of its initiation. If completion of an inquiry or investigation will be delayed, NSF shall be notified and may require submission of periodic status reports.

8.3 Interim Administrative Action

UNM officials will take interim administrative actions, as appropriate, to protect federal funds and insure that the purposes of the federal financial assistance are carried out.

8.4 Termination of UNM Employment

The termination of the respondent's UNM employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent refuses to participate in the process after termination of employment, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

8.5 Record Retention

All documentation of an inquiry that does not lead to an investigation shall be maintained in University Counsel Office files for at least three (3) years after the conclusion of the inquiry. All documentation of an investigation shall be maintained in University Counsel Office files for five (5) years after the end of the investigation. Documentation shall be provided to the sponsoring agency and ORI upon request or if required by the agency's regulations. Documentation shall be treated as confidential personnel information to the extent provided for by law.

8.6 Reimbursement

If requested, the Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the respondent and/or the complainant for legal fees in cases of unusual hardship.

8.7 Federal Regulatory Changes

If PHS, ORI, NSF or any other federal agency amends its requirements on research misconduct, those amendments shall govern where applicable and shall be incorporated into this policy by reference herein. Such changes in federal requirements shall supersede all relevant portions of this policy.

8.8 Revision

The Faculty Senate is authorized to make minor technical and implementing modifications to the detailed Research Misconduct Policy subject to approval of the President of the University.

Office of Research Integrity (ORI)

Review of Policies and Procedures for Addressing Research Misconduct Allegations

As Required by 42 CFR Part 93

Institution: University of New Mexico Health Sciences Center (UNM)

Date: December 2, 2014

A review of the UNM Faculty Handbook – E40: Research Misconduct policy for responding to research misconduct allegations indicates that the following requirements of the research misconduct regulation at 42 CFR Part 93¹ either are or are not appropriately reflected in the institution's policies and procedures, as noted in the comment sections below.² The comment section(s) indicate the needed modification(s).

Applicability

Establishes policies and procedures according to 42 CFR Part 93, keeps them in compliance with this part, and upon request, provides them to ORI, other U.S. Department of Health and Human Services (HHS) personnel, and members of the public (§93.302(a)).

Comment: Partially Addressed – The policy notes certain requirements for reporting to ORI when U.S. Public Health Service (PHS) funding is involved but does not reference the citation (42 CFR Part 93).

Relationship to PHS Support. Applies to allegations of research misconduct involving: “institutional members,” as defined in § 93.214,³ and one or more of the following:

(1) applications or proposals for PHS support for biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information; (2) PHS supported research, research training, or activities related to that research or research training; or (3) plagiarism of research records produced in the course of PHS supported research, research training or activities related to that research or research training (§93.102).

¹This form does not encompass all of the obligations of institutions under 42 CFR Part 93.

²Under § 93.319 institutions may have internal standards of conduct different than those set forth in 42 CFR Part 93. An institution may find conduct to be actionable under its standards, even if the action does not meet the definition of research misconduct in the HHS regulation.

³Institutional member or members means a person who is employed by, is an agent of, or is affiliated by contract or agreement with an institution. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

Comment: Partially addressed – The introduction section of the policy notes that the policy applies to most, if not all, members of the University’s academic community, but there are only general references to PHS funding.

Time Limitations. Includes or incorporates by reference the limitation to research misconduct occurring within six years of the date that HHS or the institution receives an allegation of research misconduct.⁴

Comment: Not addressed.

General Policies and Principles

Informs its scientific and administrative staff of the policies and procedures and the importance of compliance with those policies and procedures (§93.302(a)(2)(I)).

Comment: Partially addressed – The policy is found in the faculty handbook, but there is no further information on how the requirements are further disbursed to faculty and staff.

Defines allegation as any disclosure of possible research misconduct through any means of communications, i.e., by written or oral statements or other communications to an institutional or HHS official (§93.201).

Comment: Not properly addressed – The policy, in Section 3.3, states that “allegations must be made in writing, and signed and dated by the complainant.” The PHS regulation requires institutions initiate an inquiry into allegations of research misconduct if the allegations are “sufficiently credible and specific” without qualification. Anonymous and/or oral allegations that are credible and specific must be addressed.

Defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results (§93.103).

Comments: OK, Section 2.9.

An ORI finding of research misconduct requires that there be a significant departure from accepted practices of the relevant research community, that the misconduct be committed intentionally, knowingly, or recklessly, and the allegation be proven by the preponderance of the evidence (§93.104, 106(a)).

⁴Time limit exceptions: (1) continuation of renewal of any incident of research misconduct that occurred before the 6-year limit through the citation, republication, or other use for the potential benefit of the respondent of the research record that is the subject of the allegation, (2) alleged research misconduct that, if it occurred, would have a substantial adverse effect on the health or safety of the public, as determined by ORI or by the institution in consultation with ORI, or (3) receipt of the allegation by HHS or the institution before June 16, 2005 (§93.105).

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Comment: OK, Section 6.5.

Affording the affected individual(s) confidential treatment to the maximum extent possible (§93.108, §93.300(e)).

Comment: OK, Section 3.6.

Responding to each allegation of research misconduct in a thorough, competent, objective, and fair manner (§93.300(b)).

Comment: Policy generally meets this criteria.

Notify ORI immediate if the health and safety of the public is at risk, if HHS resources or interests are threatened, if research activities should be suspended, if federal action is required to protect the research misconduct proceedings, if the alleged incident might be publically reported, or if the research community or public should be informed (§93.318). If a reasonable indication of possible criminal violations is found, ORI must be notified immediately (§93.318(d)).

Comment: Generally OK, Section 8.1.5.

Provides for appropriate interim institutional actions, such as additional monitoring of the research process or the handling of federal funds or equipment, reassignment of personnel, or additional review of research data and results, during a research misconduct proceeding to protect public health, federal funds and equipment, and the integrity of the PHS supported research process (§93.304(h)).

Comment: OK, Section 8.3.

Preparation and maintenance of the documentation of the research misconduct proceedings in a secure manner for at least seven (7) years after completion of any PHS proceedings involving the research misconduct allegations (§93.317(b)) and providing them to ORI or other HHS personnel upon request (§93.309(d)).

Comment: Retention terms for inquiry (3 years) and investigations (5 years) do not meet the current requirement of 7 years after the completion of the proceedings.

Provides for reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses and committee members and protect them from actual or potential retaliation by respondents or other institutional members (§§93.300(d), 93.304(l)).

Comment: OK, Section 7.3.

Make all reasonable and practical efforts to protect or restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed (§93.304(k)).

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Comment: OK, Section 7.2.

Notify ORI in advance if the investigation process is to close prematurely, based on the admission of guilt or settlement agreement with the respondent, or for any other reason (§93.316).

Comment: OK, Section 8.1.2.

Enforcing any HHS administrative actions imposed on institutional members (§93.300(h)).

Comment: Not addressed.

Assessment of Allegations to Determine if an Inquiry is Warranted

Provides for assessment of the allegation to determine if an inquiry is warranted because the allegation: (1) is within the definition of research misconduct in § 93.103; (2) is an allegation to which the research misconduct regulation applies under § 93.102; and (3) is sufficiently credible and specific so that potential evidence of research misconduct may be identified (§ 93.307(a)).

Comment: Generally OK, Section 4.3.

Inquiries

The purpose of an inquiry is to perform an initial review of the evidence to determine whether to carry out an investigation; a full review of all of the evidence related to the allegation is not needed (§ 93.307(c)).

Comment: OK, Section 5.1.

On or before the respondent is notified of the research misconduct allegations, take all practical steps to sequester, inventory, and secure the research record and other relevant evidence (§93.305(a), §93.307(b), §93.310(d)(2)), and after sequestration, allowing the respondent copies of, or reasonable, supervised access to the research records (§93.305(b)).

Comment: Generally OK, Section on “Securing Research Record” (section number missing, but passage should be identified as Section 6.2.)

Completion of each inquiry within 60 calendar days from receipt of allegation (§93.307(g)), including the receipt and evaluation of comments by the respondent (§93.307(f)), and the preparation of a written report⁵ (§93.307(e)). If the inquiry is not completed within the 60-day

⁵Inquiry report should include the name and position of the respondent, a description of the allegations of research misconduct, the PHS support involved, the basis for recommending an investigation, and any comments on the report by the respondent or complainant.

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period, the reasons for exceeding that period will be included in the record of the inquiry (§93.307(g)).

Comment: OK.

Provide written notification to the respondent before an inquiry is initiated (§93.307(b)).

Comment: OK, Section “Securing Research Records.”

Precautions against real or apparent conflicts of interest in inquiries (§93.300(b), §93.304(b)).

Comment: OK, Section “Inquiry Committee.”

Provide the respondent an opportunity to review and comment on the inquiry report (§93.307(f)).

Comment: OK, Section “Inquiry Report.”

Provide for documentation in inquiries in sufficient detail to permit a later assessment by ORI of the reasons why the institution decided not to conduct an investigation (§93.309(c)).

Comment: Generally OK, under Section 8.5.

Initiate an investigation if the preliminary information-gathering and preliminary fact-finding from the inquiry indicate that the allegations may have substance (§93.307(d)).

Comments: OK, under Inquiry determination.

Investigations

Initiation of an investigation within 30 calendar days after a determination that an investigation is warranted (§93.310(a)).

Comment: OK, Section 6.1.

Notification to the Office of Research Integrity (ORI), PHS, prior to the initiation of an investigation (§93.310(b)), including a copy of the inquiry report (§93.309(a)).

Comment: OK, Section 8.1.1.

Selection of impartial experts to conduct investigations (§93.310(f)).

Comment: OK, Section 6.3.

Precautions against real or apparent conflicts of interest in investigations (§93.310(f)).

Comment: OK, Section 6.3.

Provide written notification to the respondent when a determination is made that an investigation is warranted (§93.308(a), §93.310(c)).⁶

Comment: OK, under “Inquiry Determination.”

Provide for interviewing each respondent, complainant, and any other available person having information regarding any relevant aspect of the investigation, and recording and transcribing each interview, and providing the recording or transcript to the interviewee for correction (§93.310(g)).

Comment: OK, Section 6.4.

Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion (§93.310(h)).

Comment: Not specifically stated, but generally implied.

Completion of an investigation within 120 calendar days (§93.311(a)), including the preparation of the report of findings, providing the draft report for comment (§93.312), and sending to ORI the investigation report.

Comments: OK, Section 6.6 and 6.5.

If unable to complete the investigation in 120 days, the institution must ask ORI for an extension in writing (§93.311(b)).

Comment: OK, Section 8.1.3.

Provide the respondent an opportunity to review and comment on the draft investigation report and, concurrently, a copy of (or supervised access to) the evidence on which the report was based (§93.312(a)).

Comment: Partially met– Section 6.5 provides the respondent an opportunity to review and comment on the draft report, but there is no specific provision to provide access to the relevant evidence on which the report was based.

⁶The institution must give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of investigation.

At the completion of the investigation process, provide ORI with the investigation report⁷ (including the report, all attachments, and any appeal), the final institutional actions (that is, was there research misconduct, and if so, who was responsible), the institutional findings (the institution's acceptance of the investigation's findings) and any administrative actions against the respondent (§93.315).

Comment: The provision is generally met by procedures in Section 6.6, Institutional Review and Determination.

Institution Appeal Process

If an institution's procedures provide for an appeal by the respondent that could result in the reversal or modification of the findings of research misconduct in the investigation report, the institution must complete any such appeal within 120 days of its filing. Appeals from personnel or similar actions that would not result in a reversal or modification of the findings of research misconduct are excluded from the 120-day limit.

Comment: Not applicable – The appeal process in this policy is limited to claims of procedural error, or a claim that the sanctions imposed as a result of a finding of research misconduct were inappropriate.

⁷Body of report to include the allegations, the PHS support, the institutional charge, the policies and procedures, the research records and evidence, the statement of findings (§93.313(f)), and comments by the respondent and complainant (§93.313).

**Point by Point Supplemental Policy Statements in response to
ORI review of FHB Policy E40 dated December 2, 2014**

This document addresses areas of the current *FHB Policy E40*, by section, that ORI identified as either partially addressed, not properly addressed, not addressed or needing clarification in order to meet the current PHS regulations at 42 CFR Part 93. UNM HSC's Supplement to UNM Faculty Handbook Policy E40: Research Misconduct, dated February 9, 2015, is derived from these statements and has been implemented to ensure UNM HSC compliance with the current PHS regulations.

APPLICABILITY

Comment 1:

FHB Policy E40 notes certain requirements for reporting to ORI when U.S. Public Health Service (PHS) funding is involved but does not reference the citation (42 CFR Part 93). (§93.302(a))

Comment 2:

The introduction section of *FHB Policy E40* notes that the policy applies to most, if not all, members of the University's academic community, but there are only general references to PHS funding, as required. (§93.214 and §93.102)

Comment 3:

FHB Policy E40 does not include or incorporate by reference the limitation to research misconduct occurring within six years of the date that HHS or the institution receives an allegation of research misconduct. (§93.105)

HSC E40 Supplement Policy Statement:

1. INTRODUCTION AND SCOPE

- Change title of section 1. From "INTRODUCTION AND SCOPE" to "INTRODUCTION"
- Eliminate last paragraph of section 1. INTRODUCTION AND SCOPE
- Address "scope" in new section titled APPLICABILITY (see below)

2. APPLICABILITY (new section)

FHB Policy E40, along with this supplement, are intended to carry out UNM HSC's responsibilities under the PHS regulations on Research Misconduct, 42 CFR Part 93. *FHB Policy E40* and this supplement apply to allegations of research misconduct (as defined in *FHB Policy E40*), or in reporting research results involving:

- any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the University's academic community and
- one or more of the following:
 - (1) PHS supported or non-PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research

information, (2) applications or proposals for PHS support or non-PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal resulted in a grant, contract, cooperative agreement, or other form of support.

These policies and procedures do not apply to authorship or collaboration disputes and apply only to allegations of research misconduct that occurred within six (6) years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

GENERAL PRINCIPLES

Comment 4:

Responding to each allegation of research misconduct in a thorough, competent, objective, and fair manner. (§93.300(b)) The E40 policy “generally meets” these criteria, but it is inferred rather than stated.

HSC E40 Supplement Policy Statement:

3. GENERAL PRINCIPLES

- Add the following language:

3.8. The institution will respond to each research misconduct allegation in a thorough, competent, objective and fair manner.

Comment 5:

FHB Policy E40 does not currently include information on how the institution informs its faculty and staff, beyond publication of the *FHB Policy E40*, of the policies and procedures related to allegations of research misconduct and the importance of compliance with those procedures. (§93.302(a)(2)(i))

HSC E40 Supplement Policy Statement:

3. GENERAL PRINCIPLES

- Add the following language:

3.9. UNM HSC will ensure its deans, directors, chairs, and graduate advisors are reminded annually of the institution’s policies and procedures on Research Misconduct including *FHB Policy E40* and the UNM HSC Supplement to *FHB Policy E40*. The HSC will also inform all faculty, students, and staff of (1) the need and importance of research integrity and (2) the importance of compliance with these policies and procedures.

Comment 6:

Section 3.3 states that “allegations must be made in writing, and signed and dated by the complainant”. The PHS regulation requires institutions initiate an inquiry into allegations of research misconduct if the allegations are “sufficiently credible and specific” without qualification. Anonymous and/or oral allegations that are credible and specific must be addressed. (§93.201)

HSC E40 Supplement Policy Statement:

3. GENERAL PRINCIPLES

- Replace section 3.3 with the following revised language:

3.3 All faculty and staff will report observed, suspected, or apparent research misconduct in accordance with section 4.1 of this policy. Allegations may be made in writing, orally or anonymously and in all cases, must be sufficiently credible and specific. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the Vice Chancellor for Research or HSC Research Integrity Officer (RIO) to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. A copy of this policy shall be made available to the complainant.

PRELIMINARY ASSESSMENT OF ALLEGATIONS

Comment 7:

The PHS regulations require that the policy provides for assessment of the allegation to determine if an inquiry is warranted because the allegation: (1) is within the definition of research misconduct in §93.103; (2) is an allegation to which the research misconduct regulation applies under §93.102; and (3) is sufficiently credible and specific so that potential evidence of research misconduct may be identified (§93.307(a))

HSC E40 Supplement Policy Statement:

4. PRELIMINARY ASSESSMENT OF ALLEGATIONS

- Replace section 4.3 with the following revised language:

4.3 Upon receiving an allegation of research misconduct, the Vice Chancellor for Research, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation (1) is sufficiently credible and specific so that potential evidence of research misconduct may be identified, (2) whether the allegation falls within the definition of research misconduct and (3) whether it is within the jurisdictional criteria of this policy. An inquiry must be conducted if these criteria are met.

In conducting the preliminary assessment, the complainant, respondent, or other witnesses need not be interviewed and data need not be gathered beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

INQUIRY

Comment 8:

On or before the respondent is notified of the research misconduct allegations, take all practical steps to sequester, inventory, and secure the research record and other relevant evidence (§93.305(a), §93.307(b), (§93.310(d)(2))), and after sequestration, allowing the respondent copies of , or reasonable, supervised access to the research records (§93.305(b))

HSC E40 Supplement Policy Statement:

5. INQUIRY

- *Replace section 5.2 with the following revised language:*

5.2 Securing Research Records:

Prompt securing of the research records is in the best interest of both the respondent and UNM HSC. After determining that an inquiry will occur, the Vice Chancellor for Research will direct a process to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. Sequestration of research records must occur on or before the date on which the respondent is notified of the allegation.

INVESTIGATION

Comment 9:

Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence or additional instances of possible research misconduct, and continue the investigation to completion (§93.310(h))

HSC E40 Supplement Policy Statement:

6. INVESTIGATION

- *Replace first sentence of section 6.4 Investigation Process with the following:*

The Investigation Committee will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence or additional instances of possible research misconduct, and continue the investigation to completion.

Comment 10:

Section 6.5 provides the respondent an opportunity to review and comment on the draft report, but there is no specific provision to provide access to the relevant evidence on which the report was based. (§93.312(a))

HSC E40 Supplement Policy Statement:

6. INVESTIGATION

- Replace section 6.5 Investigation Report, paragraph 4 (beginning “The respondent will...”) with the following revised language:

The respondent shall be given a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) days from the date he/she received the draft report to submit comments. The respondent's comments must be included and considered in the final report. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation, and the complainant will have thirty (30) days to submit any comments to the investigation committee. The report may be modified, as appropriate, based on the complainant's comments.

Comment 11:

The appeal process identified in FHB Policy E40, section 6.6 is limited to claims of procedural error, or a claim that the sanctions imposed as a result of a finding of research misconduct were inappropriate. If an institution's procedures provide for an appeal by the respondent that could result in the reversal of the findings of research misconduct in the investigation report, the institution must complete any such appeal within 120 days of the appeal's filing. Appeals from personnel or similar actions that would not result in a reversal or modification of the findings of research misconduct are excluded from the 120-day limit.

HSC E40 Supplement Policy Statement:

6. INVESTIGATION

- Replace 6.6 Institutional Review and Determination, paragraph 4 with the following revised language:

Respondents may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

Comment 12:

At the completion of the investigation process, provide ORI with the investigation report (including the report, all attachments, and any appeal), the final institutional actions (that is, was there research misconduct, and if so, who was responsible), the institutional findings (the institution's acceptance of the investigation's findings) and any administrative actions against the respondent (§93.315) while ORI considers this provision “generally met” there are omissions of details outlined in the PHS regulations.

HSC E40 Supplement Policy Statement:

6. INVESTIGATION

- Replace 6.6 Institutional Review and Determination, paragraph 5 with the following revised language:

Except as to PHS funded research, the investigation shall be completed within 180 days of the first meeting of the Investigation Committee. However, for PHS sponsored research, unless an extension has been granted, the institution must submit the following to ORI within 120 days of the first meeting of the Investigation Committee: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

OTHER CONSIDERATIONS

Comment 13:

Notify ORI immediately if the health and safety of the public is at risk, if HHS resources or interests are threatened, if research activities should be suspended, if federal action is required to protect the research misconduct proceedings, if the alleged incident might be publically reported, or if the research community or public should be informed (§93.318). If a reasonable indication of possible criminal violations is found, ORI must be notified immediately (§93.318(d))

HSC E40 Supplement Policy Statement:

8. OTHER CONSIDERATIONS

- *Replace section 8.1.5 with the following language:*

ORI shall be notified immediately, at any time during a research misconduct proceeding, if there is any reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. HHS resources or interests are threatened;
3. Research activities should be suspended;
4. There is a reasonable indication of possible violations of civil or criminal law;
5. Federal action is required to protect the interests of those involved in the research misconduct proceeding;
6. The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or
7. The research community or public should be informed

Comment 14:

Section 8.5 Record Retention, does not meet current PHS requirements for record retention) (§93.317(b) and §93.309(d))

Comment 15:

Provide for documentation in inquiries in sufficient detail to permit a later assessment by ORI of the reasons why the institution decided not to conduct an investigation (§93.309(c))

HSC E40 Supplement Policy Statement:

8. OTHER CONSIDERATIONS

- Replace section 8.5 Record Retention with the following language:

8.5 Record Retention:

Records of the research misconduct proceeding will be maintained in a secure manner for 7 years after completion of any proceeding by the institution involving research misconduct allegation, or the completion of any ORI proceeding involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained. When it is determined that an investigation is not warranted, detailed documentation of the inquiry must be retained for at least 7 years after termination of the inquiry, so that ORI may assess the reasons why the institution decided not to conduct an investigation.

Comment:

Assist in administering and enforcing any HHS administrative actions imposed on its institutional members; (§93.300(h))

HSC E40 Supplement Policy Statement:

8. OTHER CONSIDERATIONS

- Change sub-heading of section 8.3 from “Interim Administrative Action” to “Administrative Action”
- Add the following provision to section 8.3:

UNM HSC Officials shall ensure that administrative actions taken by the institution and ORI are enforced and shall take appropriate action to notify other involved parties such as sponsors, law enforcement agencies, professional societies, and licensing boards, of those actions.

HSC Supplement to UNM Faculty Handbook Policy E40: Research Misconduct

Title: HSC Supplement to UNM Faculty Handbook Policy E40: Research Misconduct		
Doc Type: Policy	Policy #: R.01.003.P	Effective Date: 7/1/2015
Owner(s) (Name and Title): Richard S. Larson, MD, PhD. Executive Vice Chancellor Vice Chancellor for Research	Revision Date:	Applies To: See applicability

PURPOSE

The University of New Mexico’s current *Faculty Handbook Policy E40: Research Misconduct (FHB Policy E40)*, revised in 2002 and approved by the UNM Board of Regents on April 13, 2004, predates the issuance of the current Public Health Service (PHS) regulation (42CFR Part 93) dated June 16, 2005. *FHB Policy E40* (Section 8.7) provides that any amendment to the Federal requirements in addressing research misconduct shall supersede the relevant portions of the UNM policy. UNM is committed to taking the appropriate steps to address the necessary updates to the *FHB Policy E40* to meet the requirements of the current PHS regulations. However, given the time involved in addressing updates and obtaining approval of a Faculty Handbook policy, UNM HSC has implemented this supplement to the *FHB Policy E40* to ensure UNM HSC compliance with the current PHS regulations. Although the UNM HSC remains governed by the University’s policies, it has the authority to implement additional or more restrictive policies to meet the needs of its operations and all federal laws and regulations.

APPLICABILITY

FHB Policy E40, along with this supplement, are intended to carry out UNM HSC’s responsibilities under the PHS regulations on Research Misconduct, 42 CFR Part 93. *FHB Policy E40* and this supplement apply to allegations of research misconduct (as defined in *FHB Policy E40*), or in reporting research results involving:

- any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the University’s academic community and
- one or more of the following:
 - (1) PHS supported or non-PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support or non-PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal resulted in a grant, contract, cooperative agreement, or other form of support.

These policies and procedures do not apply to authorship or collaboration disputes and apply only to

allegations of research misconduct that occurred within six (6) years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

POLICY STATEMENT

This UNM HSC supplemental policy addresses omissions or areas that require additional clarification in *FHB Policy E40* in order to meet the current PHS regulations at 42 CFR Part 93. Section numbers refer to sections of *FHB Policy E40*. Only sections requiring modifications or additions are listed.

1. INTRODUCTION AND SCOPE

- Change title of section 1. From “INTRODUCTION AND SCOPE” to “INTRODUCTION”
- Eliminate last paragraph of section 1. INTRODUCTION AND SCOPE
- Address “scope” in new section titled APPLICABILITY (see below)

2. APPLICABILITY (new section)

FHB Policy E40, along with this supplement, are intended to carry out UNM HSC’s responsibilities under the PHS Policies on Research Misconduct, 42 CFR Part 93. *FHB Policy E40* and this supplement apply to allegations of research misconduct (as defined below),, or in reporting research results involving:

- any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the University’s academic community and
- one or more of the following
 - (1) PHS supported or non-PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support or non-PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal resulted in a grant, contract, cooperative agreement, or other form of support.

These policies and procedures do not apply to authorship or collaboration disputes and apply only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

3. GENERAL PRINCIPLES

- Replace section 3.3 with the following revised language:

3.3 All faculty and staff will report observed, suspected, or apparent research misconduct in accordance with section 4.1 of this policy. Allegations may be made in writing, orally or anonymously and in all cases, must be sufficiently credible and specific. If an individual is unsure

whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the Vice Chancellor for Research or HSC Research Integrity Officer (RIO) to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. A copy of this policy shall be made available to the complainant.

- Add the following provision to section 3:

3. 8. The institution will respond to each research misconduct allegation in a thorough, competent, objective and fair manner.

3. 9. UNM HSC will ensure its deans, directors, chairs, and graduate advisors are reminded annually of the institution's policies and procedures on Research Misconduct including *FHB Policy E40* and this UNM HSC Supplement to *FHB Policy E40*. The HSC will also inform all faculty, students, and staff of (1) the need and importance of research integrity and (2) the importance of compliance with these policies and procedures.

4. PRELIMINARY ASSESSMENT OF ALLEGATIONS

- Replace section 4.3 with the following revised language:

4.3 Upon receiving an allegation of research misconduct, the Vice Chancellor for Research, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation (1) is sufficiently credible and specific so that potential evidence of research misconduct may be identified, (2) whether the allegation falls within the definition of research misconduct and (3) whether it is within the jurisdictional criteria of this policy. An inquiry must be conducted if these criteria are met.

In conducting the preliminary assessment, the complainant, respondent, or other witnesses need not be interviewed and data need not be gathered beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

5. INQUIRY

- Replace section 5.2 with the following revised language:

5.2 Securing Research Records:

Prompt securing of the research records is in the best interest of both the respondent and UNM HSC. After determining that an inquiry will occur, the Vice Chancellor for Research will direct a process to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. Sequestration of research records must occur on or before the date on which the respondent is notified of the allegation.

6. INVESTIGATION

- Replace first sentence of section 6.4 Investigation Process with the following:

The Investigation Committee will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence or additional instances of possible research misconduct, and continue the investigation to completion.

- Replace section 6.5 Investigation Report, paragraph 4 (beginning “The respondent will...”) with the following revised language:

The respondent shall be given a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) days from the date he/she received the draft report to submit comments. The respondent's comments must be included and considered in the final report. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation, and the complainant will have thirty (30) days to submit any comments to the investigation committee. The report may be modified, as appropriate, based on the complainant's comments.

- Replace 6.6 Institutional Review and Determination, paragraph 4 with the following revised language:

Respondents may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

- Replace 6.6 Institutional Review and Determination, paragraph 5 with the following revised language:

Except as to PHS funded research, the investigation shall be completed within 180 days of the first meeting of the Investigation Committee. However, for PHS sponsored research, unless an extension has been granted, the institution must submit the following to ORI within 120 days of the first meeting of the Investigation Committee: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

8. OTHER CONSIDERATIONS

- Replace section 8.1.5 with the following language:

ORI shall be notified immediately, at any time during a research misconduct proceeding, if there is any reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;

2. HHS resources or interests are threatened;
 3. Research activities should be suspended;
 4. There is a reasonable indication of possible violations of civil or criminal law;
 5. Federal action is required to protect the interests of those involved in the research misconduct proceeding;
 6. The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or
 7. The research community or public should be informed.
- Replace section 8.5 Record Retention with the following language:

8.5 Record Retention:
Records of the research misconduct proceeding will be maintained in a secure manner for 7 years after completion of any proceeding by the institution involving research misconduct allegation, or the completion of any ORI proceeding involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained. When it is determined that an investigation is not warranted, detailed documentation of the inquiry must be retained for at least 7 years after termination of the inquiry, so that ORI may assess the reasons why the institution decided not to conduct an investigation.
 - Change sub-heading of section 8.3 from “Interim Administrative Action” to “Administrative Action”
 - Add the following provision to section 8.3:

UNM HSC Officials shall ensure that administrative actions taken by the institution and ORI are enforced and shall take appropriate action to notify other involved parties such as sponsors, law enforcement agencies, professional societies, and licensing boards, of those actions.

DEFINITIONS

See UNM Faculty Handbook Policy E40

REFERENCES

UNM Faculty Handbook Policy E40
PHS regulations at 42 CFR Part 93

RESPONSIBILITY

This supplemental policy applies to any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the University of New Mexico Health Sciences Center (UNM HSC); including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the UNM HSC.

RESOURCES AND TRAINING

Resource/Department	Contact Information
<i>Vice Chancellor for Research</i>	Richard S. Larson, MD, PhD rlarson@salud.unm.edu 505-272-6950
<i>Research Integrity Officer</i>	Catherine Penick cpenick@salud.unm.edu 505-272-6950
<i>Compliance Hotline and Online Reporting</i>	HSC Compliance Hotline 1-888-899-6092. Anonymous online reporting EthicsPoint
<i>Deans and Department Chairs</i>	Consult UNM Directory

DOCUMENT APPROVAL & TRACKING

Item	Contact	Date	Approval
Owner	Richard S. Larson, MD, PhD, Vice Chancellor for Research		
Consultant(s)	[Name, Title]		
Recommender(s)			N/A
Committee(s)	Research Strategic Planning Committee		Yes
HSC Legal Office	Ariadna Vazquez, Esq. Associate University Counsel	July 9, 2015	Yes
Official Approver	Paul B. Roth, MD, MS Chancellor for Health Sciences CEO, UNM Health System Dean, School of Medicine		Yes
Official Approver Signature		Date: July 9, 2015	
2nd Approver			
2nd Approver Signature (Optional)		Date:	
Policy Origination Date: 7/9/2015			

ATTACHMENTS

UNM Faculty Handbook Policy E40

Regents' Policy Manual - Section 7.14: Risk Management and Insurance

Adopted Date: 09-12-1996

Amended: 12-14-2010

Amended: 08-14-2015



Applicability

This policy applies to all members of the University community and to all property owned or controlled by the University.

Policy

1. Safety and Loss Prevention Program

It is the policy of the University to take reasonable steps to avoid accidents or other incidents that could result in injury or death to students, faculty, staff, and visitors, and to protect the physical resources of the University against loss or damage. The University, therefore, will have an active safety and loss prevention program. Because of the unique and distinct manner in which the Health Sciences Center operates and the unique nature of the risks of loss with respect thereto, the governance and oversight of the safety and loss prevention program for the Health Sciences Center (and each of its component colleges, schools, centers, units, and subsidiary corporations as described in Section 1 of [RPM 3.4](#)) shall be as described in Section 3i of [RPM 3.5](#) for the Health Sciences Board of Directors and Exhibit A Section 12 of [RPM 3.6](#) for the UNM Hospital Board of Trustees. The program will also provide for the proper handling and disposition of hazardous materials, pursuant to applicable laws.

Liability insurance covering the University and its "public employees," as defined in the New Mexico Tort Claims Act, property and casualty insurance, workers' compensation insurance, and health care liability coverage for health care students are provided by the Risk Management Division, General Services Department, of the State of New Mexico.

Recognizing that the University's and its "public employees" tort liability to third parties is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act and the Eleventh Amendment to the U.S. Constitution, in cooperation with the Risk Management Division of the New Mexico General Services Department under and pursuant to the New Mexico Tort Claims Act, the University will carry (a) fire and extended coverage insurance on its buildings, heating and cooling systems, and major equipment; (b) workers' compensation and unemployment compensation as required by applicable law, (c) medical malpractice, professional liability, and comprehensive general liability insurance under the Public Liability Fund administered by the Risk Management Division to protect itself and its "public employees," as defined in and consistent with the New Mexico Tort Claims Act; (d) such other and further insurance coverage as may be necessary and appropriate under the circumstances of a particular situation.

2. Insurance for Employees and Students

The University will provide opportunities for its students and employees to purchase medical insurance.

The Board must approve the establishment or elimination of any alternative insurance or self-insurance program. In 2009, the Board approved a self-funded employee health plan.

The University will offer to all its active permanent faculty and staff employees, and certain retirees, group health insurance coverage which the University co-pays in accordance with state law. University employees may also purchase group life insurance, accidental death and dismemberment insurance, and short- and long-term disability insurance coverage for themselves and their families through the University.

The University will offer one or more health insurance policies to its students each year.

2.1. Reserve Fund Maintained for Self-Insurance Plan

The University maintains a reserve fund for its self-insured health, prescription drug, and dental benefits covering active employees and eligible retirees. Third Party Administrators (TPA) are contracted to process claims and perform certain administrative functions. In addition to claims payments and TPA administrative fees, the three components of the reserve fund (discussed below) may be used, as appropriate, for medical and non-medical costs such as stop-loss premiums, wellness initiatives, onsite clinic costs, telemedicine services, disease management services, and outside consulting fees.

The reserve fund has three distinct components: an Incurred But Not Reported (IBNR) reserve, a Claims Fluctuation Reserve (CFR), and a general reserve.

- The IBNR reserve is maintained to fund terminal liabilities in the event that the self-funded plan, or any subset of it, were to cease. The amount of the IBNR reserve is calculated and certified annually by an independent credentialed healthcare actuary.
- The CFR reserve provides budget certainty to any given fiscal year should actual costs exceed the expected amounts. The amount is calculated to reflect a percentage of budget certainty between 50% and 100%.
- The general reserve represents any funds that exceed the combined IBNR and CFR reserves, and may include earnings created by the reserve.

2.2. Use of the General Reserve Component of the Self-Insurance Reserve Fund

The Board in its discretion may approve the allocation of funds from the general reserve component for other University purposes. The premium amounts paid by covered employees constitute assets of the self-insurance plan, and can be used for no other purpose. Any interest paid on the employees' premiums, and other monies that exceed participant contributions and form the basis of the general reserve component, however, are considered general assets of the University and may be used for purposes unrelated to the self-insurance plan.

3. Reports to the Board

The President shall report annually to the Board on the status and financial condition of the University's risk management and insurance programs. In this regard, the Chancellor for Health Sciences shall coordinate reporting for the Health Sciences Center's safety and loss prevention program with the President of the University.

References

Tort Claims Act, § 41-4-1 et seq., NMSA 1978; Workers' Compensation Act, § 52-1-1, et seq.; Group Benefits Act, § 10-7B-1, et seq.