

Faculty Senate Policy Committee
Meeting Agenda, Scholes Hall Room 101, October 14, 2015, 3:30 pm –5:00 pm

Action Items

Consent Agenda Topics:

E40 “Research Misconduct” enclosed draft contains the changes approved at the September Policy Committee meeting. **pg. 1**

Agenda Topics

1. COG Taskforce recommendations: Pamela Cheek, COG Task Force Chair, will present the proposed policy document A53.1 “Policies Applicable to Faculty,” and a memorandum from the task force which identifies references to be added to current faculty policies and also some concerns and/or recommendations the task force would like the Policy Committee to consider. **pg. 17**

Key pre-meeting preparation: Review A53.1 and task force memorandum.

Desired outcome: Approval of A53.1 “Policies Applicable to Faculty.” Develop an action plan to address the issues raised in the task force memorandum.

2. A53 “Development and Approval of Faculty Policies” Proposing changes to Procedures (1) to include requirements for faculty member or academic administrator wishing to request a change to a current policy or request a new policy. These procedures are designed to ensure the Policy Committee gets all the information it needs to process the request, and that the requestor is informed of what action the Committee has taken. **pg. 30**

Key pre-meeting preparation: Review attached draft of A53 with proposed changes highlighted.

Desired outcome: Approval of changes to procedures.

3. C07 “Faculty Disciplinary Policy”

a) Discuss Carol Parker’s proposed changes. **pg. 35**

Key pre-meeting preparation: Review information provided by Carol Parker.

Desired outcome: Discussion and recommendations for next step.

b) The Office of University Secretary (OUS) has been assigned responsibility for conducting peer hearings pertaining to the C07 Faculty Disciplinary Policy, and C07 does not contain procedures for conducting such hearings. OUS has developed proposed procedures, and the Office of University Counsel has reviewed proposed procedures.

Key pre-meeting preparation: Review attached draft of C07, which highlights changes proposed by OUS. Review policy draft with Kimberly Bell’s recommendations, concerns, and/or questions.

Desired outcome: Discussion and recommendations for next step.

4. C09 “Respectful Campus” The Committee needs to discuss the best course of action due to the various concerns about this policy from the Provost’s Office, Professor G. Miller re: FIRE Report, and others.

Updates

E90 “Human Subjects in Research” Discussion with R. Larson on review process.

A88 “Creation and Reorganization of UNM Academic Units” and **E60 “Sponsored Research”** forwarded to Faculty Senate for Approval.

C200 “Sabbatical Leave” forwarded to AF&T for review.

E40: Research Misconduct

Approved By: Faculty Senate, Board of Regents

Last Updated: **Draft 9/29/15**

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

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. This policy and these procedures regarding research misconduct are intended to protect the integrity of the University of New Mexico's (UNM) research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

POLICY STATEMENT

Because UNM as well as the general public and government are affected by research misconduct, UNM 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 designed to:

- Ensure that ethical standards for research at UNM are clearly stated and applied.
- Inquire into allegations of misconduct promptly 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.

This policy is intended to carry out **UNM's** responsibilities under the PHS regulations on Research Misconduct, 42 CFR Part 93. UNM extends this policy to PHS and non-PHS supported research.

Scope. This policy applies 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 UNM; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of UNM's academic community and
- one or more of the following:
 - (1) Public Health Service (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 supported biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism or 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 any 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).

General Principles

1. Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.
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. All applicable persons (as described in Applicability section below) 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 President for Research, Vice Chancellor for Research, or the appropriate Research Integrity Office (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.

~~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.~~

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.

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

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.

7. Conflict of Interest. If the Provost, [the Vice Chancellor for Health Sciences](#), Vice [President Provost](#) for Research or Vice [Chancellor for Research](#) ~~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.

[8. UNM will respond to each research misconduct allegation in a thorough, competent, objective, and fair manner.](#)

[9. UNM will ensure its deans, directors, chairs, and graduate advisors are reminded annually of the UNM's policies and procedures on Research Misconduct. UNM will also inform all faculty, students, and staff of the need and importance of research integrity and the importance of compliance with applicable policies and procedures.](#)

APPLICABILITY

All academic and research UNM units, 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 Research Policy Committee, Policy Committee, and Operations Committee.
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DEFINITIONS

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

Deciding Official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. The Provost is the deciding official for cases where the respondent is not a HSC employee. The Chancellor for Health Sciences is the deciding official for cases where the respondent is a HSC employee.

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

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.

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

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.

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.

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

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.

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.

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.

WHO SHOULD READ THIS POLICY

- Faculty, staff, students, [contractors, visiting scholars, and any other member of UNM's academic community involved in the conduct or research or the reporting of research results.](#)
- Members of the Faculty Senate and the Research Policy Committee
- Academic deans or other executives, department chairs, directors, and managers
- Administrative staff responsible for sponsored research management.
- [Any person who brings forth any allegation of research misconduct.](#)
- [Any person against whom an allegation of research misconduct is directed or the person who is the subject of a research misconduct inquiry or investigation.](#)

RELATED DOCUMENTS

UNM Regents' Policy Manual

[Policy 5.10](#) "Conflicts of Interest in Research"

[Policy 5.13](#) "Research Fraud"

[Policy 5.14](#) "Human Beings as Subjects in Research"

[Policy 5.15](#) "Use of Animals in Education and Research"

Faculty Handbook

[E90](#) "Human Beings as Subjects in Research"

[E100](#) "Policy Concerning Use of Animals"

[E110](#) "Conflicts of Interest in Research"

CONTACTS

Direct any questions about this policy to Office of the Vice President for Research or the HSC Office of Research.

PROCEDURES

1. Preliminary Assessment of Allegations

1.1 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 [President Provest](#) for Research (for allegations concerning a main campus researcher) or Vice [Chancellor for Research](#) [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 [President Provest](#) for Research or Vice [Chancellor for Research](#) [President for Health Sciences](#), as appropriate.

1.2 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 ~~President Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate.

1.3 Upon receiving an allegation of research misconduct, the Vice President for Research or 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.

~~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.~~

2. Inquiry

2.1 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 ~~President Provost~~ for Research or Vice Chancellor for Research ~~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.

2.2 Securing Research Records

Prompt securing of the research records is in the best interest of both the respondent and UNM. After determining that an inquiry will occur, the Vice President for Research or 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.

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.

~~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.~~

2.3 Inquiry Committee

The inquiry shall be carried out by a committee of three persons appointed by the Vice ~~President~~ ~~Provost~~ for Research or Vice Chancellor for Research ~~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 ~~President~~ ~~Provost~~ for Research or Vice Chancellor for Research ~~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 ~~President~~ ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice ~~President~~ ~~Provost~~ for Research or Vice Chancellor for Research ~~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 ~~President~~ ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, defining the subject matter of its inquiry prior to beginning its work.

2.4 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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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.

2.5 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.

2.6 Inquiry Determination

The Inquiry Committee final report will be sent to the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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.

3. Investigation

3.1 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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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.

3.2 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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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.

3.3 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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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 ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, defining the subject matter of its investigation prior to beginning its work.

3.4 Investigation Process

~~The investigation will normally involve examination of all relevant documentation.~~ 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. 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 ~~President Provost~~ for Research or Vice Chancellor for Research ~~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.

3.5 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 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.

~~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 Vice President for Research or Vice Chancellor for Research ~~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.

3.6 Institutional Review and Determination

The Investigation Committee final report will be forwarded to the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate. The Vice President ~~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 Chancellor ~~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.

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.

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

4. Actions Following Investigation

4.1 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.

4.2 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 President Provost for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate.

4.3 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 President Provost for Research or Vice Chancellor for Research ~~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.

4.4 Allegations Made in Bad Faith

If relevant, the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~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.

5. Other Considerations

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

5.1.1 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.

5.1.2 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.

5.1.3 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.

5.1.4 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.

5.1.5 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 a risk, including an 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.

~~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.~~

5.2 Requirements for Reporting When NSF Funding Is Involved

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

5.2.2 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.

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

5.2.4 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.

5.3 ~~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. UNM 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.

5.4 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.

5.5 Record Retention

Records of the research misconduct proceeding will be maintained in a secure manner for seven (7) years after completion of any proceeding by UNM 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 determine that an investigation is not warranted, detailed documentation of the inquiry must be retained for at least seven (7) years after termination of the inquiry, so that ORI may assess the reasons why UNM decided not to conduct an investigation.

~~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.~~

5.6 Reimbursement

If requested, the UNM 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.

5.7 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.

5.8 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.

HISTORY

Effective:

Research Misconduct Policy (amended) Approved by UNM Board of Regents April 13, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate February 24, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate April 22, 2003
Research Misconduct Policy (amended) Approved by UNM Board of Regents May 10, 2002
Research Misconduct Policy (amended) Approved by Faculty Senate April 23, 2002
Research Fraud Policy Approved by UNM Board of Regents October 10, 1996
Research Fraud Policy Approved by Faculty Senate September 10, 1996

DRAFT HISTORY

September 9, 2015—Proposed revised draft placed in new policy format for review by Vice Chancellor for Research, Richard Larson and the Faculty Senate Policy Committee

July 1, 2015 Supplemental Policy with proposed changes to E40 prepared by HSC

COMMENTS TO:
handbook@unm.edu

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Committee on Governance

Date: September 25, 2015
To: Faculty Senate Policy Committee
From: COG Faculty Policy Analysis Task Force
RE: Addition of References to Faculty Policies

The recent change to the Faculty Constitution requires that all policies that are applicable to faculty be identified and listed in the *Faculty Handbook (FH)*. The COG Policy Analysis Task force was appointed to achieve this goal. The task force reviewed Regent (RPM) and University Administrative Policies (UAP) to identify policies that apply to faculty, so that references could be included in the *FH*. The task force has identified a two-step process to provide this information in a meaningful manner. The first step was to develop a table sorted by subject matter that lists RPM and UAP policies that apply to faculty. This Table is included in the attached draft of proposed policy A53.1 "Policies Applicable to Faculty." The task force would appreciate the Committee taking prompt action on the proposed policy so that it can be in place before the end of the fall semester. Since it would be beneficial for the Faculty Handbook to include links to policies developed by schools and colleges, A53.1 may need to clarify or reinforce the hierarchy of university policies overall.

The second step will be to include references to the RPM and UAP policies in the applicable FH policy, if one exists. Below is a list of FH policies that will need to be revised to include the applicable references.

The task force also reviewed these policies for any policy conflicts between the FH and/or RPM and UAP policy and identified any required corrections. Requests for policy corrections or updates have been forwarded to the Policy Office for revisions to RPM and UAP policies. Concerns or corrections pertaining to the FH are included in the tables below for your review and action. In addition, some RPM and UAP policies have been identified that should be reviewed by the Policy Committee to determine if changes need to be made to the RPM or UAP policies, or if a separate Faculty Handbook policy should be developed to more adequately address faculty issues. Please let us know if you need further information, and we appreciate your assistance with this important project. Pamela Cheek and Melinda Tinkle would both be happy to attend a meeting of the Policy Committee to address any questions or concerns.

FH policies that need to be revised to include the applicable references and/or corrections.

FH Policy	References to be added	Reason and/or Other Recommendations or Concerns
A20	RPM 2.14 Branch Colleges and Off Campus Education Centers RPM 3.4 Health Sciences Center and Services UAP 1000 UNM History, Mission, and Organizations	A20 should be revised to better articulate the scope and how it relates to other policy documents.
A50	RPM 5.1 The Faculty's Role in the University's Academic Mission	Regent policy that authorizes A50. Should RPM 2 nd para info be in A50? Is requirement for Regent approval too general?

A60	RPM 1.7 Advisors to the Board of Regents	Regent policy lists Faculty Senate President as advisor to the Board of Regents.
A88	RPM 5.1 The Faculty's Role in the University's Academic Mission	RPM 5.1 gives faculty a role in the creation and reorganization of academic units.
A91	RPM 5.1 The Faculty's Role in the University's Academic Mission	RPM 5.1 gives faculty a role in the creation and reorganization of research centers and institutes.
C05	RPM 2.4 Diversity and Campus Climate RPM 5.1 The Faculty's Role in the University's Academic Mission UAP 2210 Campus Violence	These policies provide important information that should be referenced in the Faculty Handbook. Policy content which focuses on a state of emergency seems inconsistent with C05 title. Content that should be in this policy seems to be missing. The task force requests the Committee conduct a full review of this policy and perhaps broaden C05 to provide a positive description of faculty rights and responsibilities.
C07	RPM 2.5 Sexual Harassment RPM 2.6 Drug Free Environment RPM 2.9 University Archives and Records RPM 6.4 Employee Code of Conduct and Conflicts of Interest policy UAP 2140 Possession of Alcohol on University Property UAP 2200 Whistleblower Protection and Reporting Suspected Misconduct and Retaliation UAP 2210 Campus Violence UAP 2215 Consensual Relationships and Conflicts of Interest UAP 2730 Sexual Harassment UAP 3715 Code of Conduct UAP 3720 Conflicts of Interest UAP 3270 Suspected Employee Impairment at Work UAP 3290 Professional Development and Training	These policies provide important information that should be referenced in the Faculty Handbook. Include these references in C07 because they discuss behavior that can result in disciplinary action.
C09	UAP 2200 Whistleblower Protection and Reporting Suspected Misconduct and Retaliation UAP 2210 Campus Violence	These policies provide important information that should be referenced in the Faculty Handbook.
C20	RPM 5.3 Employment of UNM Graduates	Regent policy that authorizes C20. Update HSC Chancellor title.
C70	RPM 2.17 Public Access to University Records RPM 5.7 Confidentiality of Faculty Records RPM 6.8 Disclosure of Information About Employees	These policies contain information that is important for faculty to know—such as “opt out procedures” to protect home address, phone#, personal cell phone #, and personal email addresses.

	UAP 2300 Inspection of Public Records UAP 3710 Personnel Information Disclosure Policy	
C130	RPM 5.5 Outside Employment RPM 6.4 Employee Code of Conduct and Conflicts of Interest Policy UAP 3720 Conflicts of Interest	RPM 5.5 authorizes C130. RPM 6.4 and UAP 3720 provide conflict of interest restrictions and state law pertaining to financial disclosure requirements.
C140	RPM 5.6 Extra Compensation	Update Chancellor title.
C150	RPM 2.7 Use of University's Name and Symbols RPM 6.5 Political Activity UAP 1010 University External Graphic Identification Standards UAP 2060 Political Activity UAP 3740 Media Response	Useful information for faculty engaging in political activity. Newly revised political activity policy number changed to 2060. Either revise C150 to state UAP 2060 does not apply to faculty or ask Policy Office to update 2060 to reference process for leave for faculty to serve in legislature.
C220	Holidays	Update for current holidays and add language asking instructors to accommodate student religious holidays. See UAP 3405 for useful language.
C225	RPM 7.7 Travel UAP 4030 Travel Reimbursement and Per Diem	These policies provide important information that should be referenced in the Faculty Handbook.
C230	Military Leave of Absence	Required by law, C230 is outdated and provides little guidance. Needs to address tenure clock—tricky because based on federal law; need assistance from legal counsel. See UAP 3425 for guidance.
NEW	Domestic Abuse Leave	This leave is required by NM State Law. Do faculty need a separate policy?
C240	RPM 6.5 Political Activity by Employees	Regent policy authorizes C240.
C305	RPM 6.3 Privileges and Benefits	Regent policy authorizes C304.
NEW	Copyright Policy and Law	Consider developing a policy on copyrights. See Pathfinder for useful language.
D100	RPM 4.8 Academic Dishonestly	Regent policy that authorizes D100. Does D100 need to be revised to include full RPM definition?
D170	Student Attendance	Need to add a section to address military withdrawal, recognize the use of on-line systems to drop, and make it clear it is the student's responsibility to make sure a drop happens.
D175	RPM 4.2 Student Code of Conduct RPM 4.3 Student Grievances	Regent policy that authorizes D175; and RPM 4.2 describes conduct subject to D175.
D176	RPM 4.3 Student Grievances	Regent policy that authorizes D176. Update to allow for appeal to BOR.

E10	RPM 5.11 Classified Research	Regent policy authorizes and restricts classified research. Update E10 #4 for HSC counterparts.
E20	RPM 5.12 Overseas Research	Discusses overseas research. Revise references in E20 to state the provisions of E40. E60 & E70 apply.
E40	RPM 5.13 Research Fraud	Authorizes and requires E40. Update HSC titles.
E60	RPM 5.9 Sponsored Research UAP 2425 Recovery of Facilities and Administration Costs UAP 2480 Incentives to Program Participants UAP 2470 Sub-Award Administration	These policies provide important information that should be referenced in the Faculty Handbook.
E70	RPM 2.15 Science and Technology Corporation at UNM RPM 5.8 Intellectual Property	Describes requirements for protection and commercialization of intellectual property. Update HSC titles; possibly add sentence from RPM 2.15; add STC requirements from RPM 2.15 to E70.
E80	RPM 5.17 Conflict of Interest Waiver for Technology Transfer	Authorizes E80. Update HSC title.
E90	RPM 5.14 Human Beings as Subjects in Research	Provides guidance for E90.
E100	RPM 5.15 Use of Animals in Education and Research	Provides guidance for E100. Is the FH Policy title complete?
E110	RPM 5.10 Conflict of Interest in Research	Provides guidance for E110.

Placeholder Policies in FH: In addition to the references listed below, the task force identified a few general topics that are not discussed in the FH, but that have a number of important RPM or UAP policies that are applicable to faculty, which made it difficult to associate the applicable policies with a FH policy that would reference them. These topics include employee benefits, information technology, safety and security, and student policies. The task force recommends that the Policy Committee review these topics to determine if a high level faculty policy should be developed to address the issue and contain references to applicable RPM or UAP policies.

Employee Benefits	RPM 6.11 Dependent Education Benefits UAP 3600 Eligibility for Employee, Retiree, and Dependent Benefit Plans UAP 3625 Retirement UAP 3630 Worker's Compensation UAP 3635 Unemployment Compensation UAP 3640 Supplemental Retirement Savings Plans UAP 3650 Flexible Spending Accounts UAP 3700 Education Benefits UAP 3745 Service Awards UAP 3750 Counseling, Assistance, and Referral Service UAP 3790 Domestic Partners
Information Technology and Security—Does there	UAP 2000 Responsibility and Accountability for University Information and Transactions

need to be a separate IT Policy in the Faculty Handbook?	UAP 2030 Social Security Numbers UAP 2500 Acceptable Computer Use UAP 2510 Computer Use Guidelines UAP 2520 Computer Security Controls and Access to Sensitive and Protected Information UAP 2540 Student Email UAP 2550 Information Security UAP 2570 Official University Webpages
Payroll	UAP 2615 Non Standard Payment Processing UAP 2620 Distribution of Pay UAP 2635 Payroll Deductions, W-2s, and Tax Reporting UAP 2650 Payment When Terminating Employment UAP 2670 Garnishments and Other Wage Withholdings UAP 2680 Payroll Overpayments and Collection
Safety and Security	RPM 3.7 Health Sciences Center Institutional Compliance Program RPM 7.14 Risk Management and Insurance RPM 8.2 Law Enforcement on Campus RPM 8.3 Parking and Vehicles on Campus UAP 2210 Campus Violence UAP 2250 Tobacco-Free Campus UAP 2260 Bicycles and Other Non-Motorized Vehicles UAP 2290 Animal Control on University Property UAP 6100 Risk Management UAP 6110 Safety and Risk Services UAP 6130 Emergency Control UAP 6150 Casualty and Liability Insurance and Claims
Student Policies	UAP 2310 Academic Adjustments for Student with Disabilities UAP 2710 Education Abroad Health and Safety

Major Concerns with:

UAP 2100 “Sustainability” Please review UAP 2100 pertaining to academic freedom. Sec 3.2.2 of UAP 2100 addresses faculty's role and Sec 5 addresses curriculum and research. The task force raised the following concerns about 2100:

- 1) Does there need to be a partner policy that protects academic freedom?
- 2) Should University Counsel be asked if this should even be a policy—isn't it more a value?
- 3) Can a faculty member be disciplined for not complying with UAP 2100? If so, should C07 be revised to address academic freedom concerns?

UAP 3425 “Military Leave and Related Service” Please review UAP 3425 to determine applicability to faculty and students. There is concern as to how the policy would relate to the tenure clock. Also there are specific grade, credit, and graduation legal requirements for faculty pertaining to students who are called to active service during a semester. The Policy Committee should determine if changes need to be made to UAP 3425 or whether a separate Faculty Handbook policy should be developed.

Political Activities, Freedom of Speech and Media Response Policies. Please review UAP 3740 to determine if changes are needed to address the faculty role. This should be done in conjunction with a review on C150, RPM 2.1, RPM 6.5, UAP 2220, and UAP 3735, which pertain to political activity and

freedom of speech. After review by the Policy Committee, requests should be made to the Policy Office for any revisions to applicable RPM and/or UAP policies.

Public Records. The Committee may want to revisit the discussion of public records and how faculty information is or is not released in response to an Inspection of public records request.

FIRE Report: The Foundation for Individual Rights in Education issued the report “Spotlight on Speech Codes 2015: The State of Free Speech on our Nation’s Campuses.” Professor Geoffrey Miller performed an analysis on UNM policies that he feels support or undermine academic free speech. He raised concerns, which may or may not be valid about the policies listed below. The task force wanted to bring his concerns to the attention of the Policy Committee for possible review.

FH A20 Vision, Mission, and Value Statements

FH C05 Rights and Responsibility at UNM

FH C09 Respectful Campus

FH C150 Political Activity—Professor Miller had only positive comments for this policy, but as the Committee reviews it for other issues raised by the task force, it might be helpful to read Professor Miller’s analysis on this policy.

A53.1 Policies Applicable to Faculty

Approved By: Faculty Senate

Last Updated: **Draft 9/14/15**

Responsible Faculty Committee: Policy Committee

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.

POLICY STATEMENT

Faculty policies are governed by UNM Board of Regents' Policies. The [Board of Regents' Policy Manual](#) shall be controlling in any matters in which there is an inconsistency between the *Faculty Handbook* and the *Board of Regents' Policy Manual*. All UNM policies which pertain primarily to faculty and academic matters are placed in the *Faculty Handbook*. 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."

The *Faculty Handbook* shall be controlling in any faculty and academic matters in which there is an inconsistency between the *Faculty Handbook* and the [University Administrative Policies and Procedures Manual](#), the [University Catalog](#), or the [Pathfinder](#). It is not the purpose of the *Faculty Handbook* to serve as a manual of school/college and departmental policies or procedures; however, the *Faculty Handbook* shall be controlling in all matters in which there is inconsistency. Although, policies applicable to faculty are primarily published in the *Faculty Handbook*, some policies published in the *University Administrative Policies and Procedures Manual* also apply to faculty and these policies are described and listed in the Procedures Section of this document.

APPLICABILITY

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

DEFINITIONS

No specific definitions are required for this Policy

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

WHO SHOULD READ THIS POLICY

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

RELATED DOCUMENTS

[Board of Regents' Policy Manual](#)
[University Administrative Policies and Procedures Manual](#)

CONTACTS

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

PROCEDURES

Topic	Board of Regents' Policies (RPM)	Faculty Handbook Policies (FH)	University Administrative Policies (UAP)
Academic Adjustments for Students with Disabilities			UAP <u>2310</u>
Academic Dishonesty	RPM <u>4.8</u>	FH <u>D10</u> ; <u>D100</u> ; <u>D175</u>	
Academic Freedom and Tenure	RPM <u>1.5</u> ; <u>2.1</u> ; <u>2.3</u> ; <u>5.2</u> ; <u>5.16</u> ; <u>6.5</u>	FH <u>A51</u> ; <u>Section B1-B6</u> ; <u>C09</u> ; <u>C150</u>	UAP <u>2060</u> ; <u>2220</u>
Academic Mission	RPM <u>5.1</u>	FH <u>A20</u> ; <u>A50</u> ; <u>A51</u> ; <u>A88</u> ; <u>A91</u>	UAP <u>1000</u>
Acceptable Computer Use			UAP <u>2500</u>
Access to Sensitive and Protected Information			UAP <u>2520</u>
Accommodation for Employees with Disabilities			UAP <u>3110</u>
Accommodation for Students with Disabilities,			UAP <u>2310</u>

Academic Adjustments			
Accountability for University Information and Transactions			UAP 2000
Advisors to Board of Regents	RPM 1.7	FH A60	
Alcohol Use and Possession on UNM Property	RPM 2.6	FH C05	UAP 2140
Allocation and Assignment of Space		FH A70.4; A89	UAP 5200
Allowable and Unallowable Expenditures			UAP 4000
Alternative Retirement Program			UAP 3625
Animal Control on University Property			UAP 2290
Animal Use in Education and Research	RPM 5.15	FH E100	
Animals, Service			UAP 2295
Annual Leave	RPM 5.4	FH C50; C205	
Appeals	RPM 1.5	FH Section B; D175, D176	
Archives and Records--UNM	RPM 2.9	FH C05; C07	
Award Payments			UAP 2615
Awards and Recognition, Special	RPM 1.6	FH A61.12	
Benefits	RPM 6.3		UAP 3600; 3625; 3630; 3635; 3640; 3650; 3700
Bicycles and Other Non-Motorized Vehicles			UAP 2260
Campus Violence			UAP 2210
CARS			UAP 3750
Casualty and Liability Insurance and Claims			UAP 6150
Classified Research	RPM 5.11	FH E10	
Clinical Practice Payments			UAP 2615
Code of Conduct (Employee)	RPM 6.4		UAP 3715; 3720
Code of Conduct (Student)	RPM 4.2; 4.3	FH C175	
Collections and Museums			UAP 6410
Commercialization of Intellectual Property	RPM 2.15; 5.8	FH E70	
Compliance, HSC Institutional	RPM 3.7		
Computer Security Controls and Access to Sensitive and Protected Information			UAP 2520
Computer Use, Acceptable			UAP 2500
Confidentiality of Faculty Records	RPM 2.17; 5.7; 6.8	FH C70	UAP 2300; 3710
Conflict of Interest	RPM 6.4	FH C130	UAP 3720
Conflict of Interest Waiver for Technology Transfer	RPM 5.17	FH E80	UAP 3720
Conflicts of Interest in Research	RPM 5.10	FH E110	UAP 3720
Consensual Relationships and Conflicts of Interest	RPM 2.5	FH C05, C07	UAP 2215
Constitution (Faculty)	RPM 5.1	FH A51	
Counseling, Assistance, and Referral Service			UAP 3750
Creation and Reorganization of Academic Units	RPM 5.1	FH A88	
Creation and Reorganization of Research Centers and Institutes	RPM 5.1	FH A91	
Deductions from Payroll			UAP 2635
Dependent Care Spending Account			UAP 3650
Dependent Education Benefits	RPM 6.11		UAP 3700
Dental Insurance Benefits	RPM 7.14		UAP 3600
Disabilities			UAP 2310; 3110
Dishonest or Fraudulent Activities			UAP 7205
Dishonesty in Academic Matters	RPM 4.8	FH D100	
Distribution of Paychecks			UAP 2620
Diversity and Campus Climate	RPM 2.4	FH C05, C09;	

		C50	
Domestic Abuse Leave	RPM 5.4		UAP 3445
Domestic Partners			UAP 3790
Drug Free Environment	RPM 2.6	FH C05, C07	
Education Abroad Health and Safety			UAP 2710; 6110
Education Benefits	RPM 6.11		UAP 3700
Education Retirement Plan, New Mexico			UAP 3625
Educational Records, Student	RPM 4.4	FH Information Section	
Email, Student			UAP 2540
Emergency Control			UAP 6130
Emeriti Status	RPM 6.3	FH C305	
Employee Impairment at Work		FH C07	UAP 3270
Employment of UNM Graduates	RPM 5.3	FH C20	
Endowed Faculty Chairs	RPM 5.18	FH C170	
Endowed Faculty Payments			UAP 2615
Equal Opportunity and Affirmative Action	RPM 5.2		UAP 2720
Extra compensation	RPM 5.6	FH C140	UAP 2615
Faculty's Role in the University's Academic Mission	RPM 5.1	FH A88; A89; A91	
Family and Medical Leave	RPM 5.4		UAP 3440
Flexible Spending Accounts			UAP 3650
Foreign Nationals			UAP 2180
Fraudulent or Dishonest Activities			UAP 7205
Free Expression and Advocacy	RPM 2.1	FH Section B; C150, C240	UAP 2060; 2220
Garnishments			UAP 2670
Graphic Identification Standards			UAP 1010
Gratuities			UAP 3715
Grievances-- Student	RPM 4.2; 4.3	FH D175; D176	
Honorarium Payments			UAP 2170
Honorary Degrees	RPM 1.6	FH A61.12	
HSC Institutional Compliance	RPM 3.7		
HSC Performance Payments			UAP 2615
Human Beings as Subjects of Research	RPM 5.14	FH E90	
ID Cards (UNM Lobo Card)			UAP 1050
Impairment at Work		FH C07	UAP 3270
Inclement Weather	RPM 5.4		UAP 3435
Information and Transactions, Systems			UAP 2000; 2500;
Information Security			UAP 2000; 2030; 2500; 2550
Inspection of Public Records	RPM 2.17; 4.4; 5.7; 6.8	FH C70	UAP 2030; 2300; 3710
Insurance, Employee Benefits	RPM 7.14		UAP 3600
Insurance Loss Claims			UAP 6150
Intellectual Property	RPM 2.15; 5.8	FH E70	
Jury Duty	RPM 5.4	FH C255	UAP 3415
Keys			UAP 5010
Law Enforcement on Campus (UNM Police)	RPM 8.2		
Leaves of Absence	RPM 5.4	FH C50; C200 – C280	UAP 3415; 3425; 3435; 3440; 3445
Leave with Pay	RPM 5.4		UAP 3415
Leave Without Pay	RPM 5.4	FH C280	
Life Insurance Benefits	RPM 7.14		UAP 3600
Mailing Services			UAP 6340

Media Response		FH C150	UAP 3740
Medical Insurance Benefits	RPM 7.14		UAP 3600
Medical Reimbursement Account			UAP 3650
Military Leave and Related Service Leave	RPM 5.4	FH C230	UAP 3425
Misconduct --Research	RPM 5.13	FH E40	
Museums and Collections			UAP 6410
New Mexico Education Retirement Plan			UAP 3625
Non-Motorized Vehicles			UAP 2260
Non-Standard Payment Processing			UAP 2615
Webpages, Official University			UAP 2570
Outside Employment	RPM 5.5	FH C130	
Overseas Research	RPM 5.12	FH E20; E40; E60; E70	
Parental Leave	RPM 5.4	FH C215	
Parking and Vehicles on Campus	RPM 8.3		UAP 2260
Paycheck Distribution			UAP 2620
Payroll Deductions			UAP 2635
Payroll Overpayments and Collection			UAP 2680
Per Diem and Travel Reimbursement	RPM 7.7	FH C225	UAP 4030
Personal Information Disclosure	RPM 2.17; 4.4; 5.7; 6.8	FH C70	UAP 2300; 3710
Photo Identification Cards (UNM Lobo Card)			UAP 1050
Police, UNM Law Enforcement on Campus	RPM 8.2		
Political Activity	RPM 6.5	FH Section B; C150; C240	UAP 2060; 2220; 3740
Possession of Alcohol on University Property	RPM 2.6	FH C05	UAP 2140
Post Tenure Review	RPM 5.16	FH Section B4	
Postal Services			UAP 6340
Prizes - Payments			UAP 2615
Professional Development and Training			UAP 3290
Professional Leave	RPM 5.4	FH C225	
Protected and Sensitive Information			UAP 2520
Public Information and/or Access to University Records	RPM 2.17; 4.4; 5.7; 6.8	FH C70	UAP 2300; 3710
Reasonable Accommodation for Employees with Disabilities			UAP 3110
Recognition and Awards, Special	RPM 1.6	FH A61.12	
Recycling			UAP 2100; 6350
Reporting Suspected Misconduct and Retaliation, Whistleblower Protection			UAP 2200
Research -- Classified	RPM 5.11	FH E10	
Research, Conflicts of Interest in	RPM 5.10	FH E110	UAP 3720
Research Misconduct	RPM 5.13	FH E40	
Research -- Overseas	RPM 5.12	FH E20	
Research -- Sponsored	RPM 5.9	FH E60	UAP 2425; 2430; 2470; 2480
Research Subjects	RPM 5.14; 5.15	FH E90; E100	
Respectful Campus		FH C09	UAP 2240
Responsibility and Accountability for University Information and Transactions			UAP 2000
Retirement			UAP 3600; 3625; 3640; 3700
Retirement, Supplemental Savings Plans			UAP 3640
Rights and Responsibilities	RPM 2.4, 2.5, 2.6, 2.7, 2.9	FH C05	UAP 1010, 2140, 2215, 2730, 3290,

			5010, 6110; 6150
Risk Management	RPM 7.14		UAP 6100
Sabbatical Leave	RPM 5.4	FH C200	
Safety and Risk Services		FH C05	UAP 6110; 3290
Science and Technology Corporation at UNM	RPM 2.15; 5.8	FH E70	
Security, Information			UAP 2550
Sensitive and Protected Information			UAP 2520
Service Abroad	RPM 5.4	FH C235	
Service Animals			UAP 2295
Service Awards			UAP 3745
Sexual Harassment	RPM 2.5	FH C05, C07	UAP 2210; 2730; 3290
Sick Leave	RPM 5.4	FH C210	
Skateboards			UAP 2260
Smoking on University Property			UAP 2250
Social Security Numbers, Protection of			UAP 2030
Solicitation			UAP 3730
Space Allocation and Assignment		FH A70.4; A89	UAP 5200
Special Recognition and Awards	RPM 1.6	FH A61.12	
Sponsored Research	RPM 5.9	FH E60	UAP 2425; 2430; 2470; 2480
Student Code of Conduct	RPM 4.2	FH D175	
Student Email			UAP 2540
Student Grievances	RPM 4.2; 4.3	FH D175; D176	
Student Identification Numbers			UAP 2030
Student Publications	RPM 4.5		
Student Records	RPM 4.4	FH D195	
Students with Disabilities, Academic Adjustments			UAP 2310
Study Abroad, Health and Safety			UAP 2710; 6110
Supplemental Retirement Savings Plans			UAP 3640
Suspected Employee Impairment at Work		FH C07	UAP 3270
Sustainability			UAP 2100; 6350
Taking University Property off Campus			UAP 7730
Tax Reporting- Payroll			UAP 2635
Technology Transfer-- Conflict of Interest Waiver	RPM 5.17	FH E80	UAP 3720
Tenure	RPM 5.16	FH Section B	
Terminating Employment Pay			UAP 2650
Tobacco-Free Campus			UAP 2250
Training--Mandatory		FH C05	UAP 3290
Travel Reimbursement and Per Diem	RPM 7.7	FH C225	UAP 4030
Tuition Remission			UAP 3700
Unallowable and Allowable Expenditures			UAP 4000
Unemployment Compensation			UAP 3635
University Archives and Records	RPM 2.9	FH C05; C07	
University External Graphic Identification Standards			UAP 1010
UNM's Name and Symbols-- Use of	RPM 2.7	FH C05	UAP 1010
Use and Possession of Alcohol on University Property	RPM 2.6	FH C05	UAP 2140
Use of University Vehicles			UAP 7780
Vehicles on Campus and Parking	RPM 8.3		UAP 2260
Violence on Campus			UAP 2210
W-2s			UAP 2635

Wage Withholdings			UAP 2670
Weapons on University Property			UAP 2210
Webpages, Official University			UAP 2570
Whistleblower Protection and Reporting Suspected Misconduct and Retaliation			UAP 2200
Workers' Compensation			UAP 3630

HISTORY

DRAFT HISTORY

July 11, 2015 – Draft proposed policy developed by COG Taskforce

A53: Development and Approval of Faculty Policies



Approved by: Faculty Senate

Effective Date: August 27, 2013 **Revised Draft 10/7/15**

Responsible Faculty Committees: Policy 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 or academic administrator 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) for consideration. This request should include a draft policy document which shows proposed changes to the existing policy with track changes, or in the case of a new policy the request will include a proposed policy draft addressing the concerns it is intended to address. This request should also include a statement of the reason(s) for the proposed policy change(s) or the new policy. Because faculty policy is a shared governance process, policy actions generally require one to two full semesters for appropriate review, approval, and implementation. The FSPC will review the request and work with the appropriate Faculty Senate committee(s) to determine the most effective course of action. The Office of University Secretary will notify the requestor of the action taken by the FSPC.

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 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 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 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) and the Faculty Senate Operations Committee in consultation with the responsible Faculty Senate Committee(s) listed in the policy heading.

HISTORY

April 28, 2015 – Amended policy approved by the Faculty Senate

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

C07: Faculty Disciplinary Policy

Approved By: Faculty Senate

Effective: **Draft Revision March 22, 2015**

Responsible Faculty Committee: Policy Committee

Office Responsible for Administration: Office of the Provost and Office of the HSC Chancellor

Legend of highlighted text: All text in black are part of the existing faculty policy. All text in red include proposed additions and/or changes.

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

POLICY RATIONALE

The University encourages a supportive problem-solving approach to workplace problems, but the University recognizes that misconduct may require disciplinary action. The University normally uses progressive discipline to address possible misconduct. Progressive discipline is intended to be corrective, not punitive in nature. It is designed to provide faculty with notice of deficiencies and an opportunity to improve. However, some violations of policies and procedures, or continued negative behavior, may be of such serious nature that suspension without pay or discharge pursuant to *Faculty Handbook* policies may be appropriate. This Policy provides the policies, processes, and procedures to be followed to ensure fairness and equity.

POLICY STATEMENT

Any member of the faculty, including any serving as an academic administrator, who violates a published University policy may be subject to warning, censure, suspension without pay, or dismissal. Teaching or research assistants in their faculty capacity are considered faculty members for purposes of this Policy.

Academic Freedom and Tenure Jurisdiction

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

considered but rejected, the faculty member is entitled to request a peer hearing as provided below in sections 10 and 11 [of this Policy Document](#).

Scope Specific University Policy Investigations Allegations Outside the Scope of this Policy

In the case of allegations against a faculty member that appear to be within the scope of another specific University policy that has its own procedures for investigation and resolution (including but not limited to allegations of research misconduct, discrimination, or sexual harassment), the chair or dean shall forward such allegations to the appropriate person or department for handling pursuant to the applicable policy that appears to apply to the substance of the allegations. If such a process requires the chair to make a disciplinary determination after an investigation and recommendation from another University body, this policy will be followed in determining the appropriate discipline. If the other procedure involved a hearing before a faculty committee, any factual determinations will not be subject to reconsideration by faculty peer review under this policy.

Commented [KB1]: Unclear whose responsibility this ultimately is

Commented [KB2]: Is there a circumstance where this could actually happen?

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

Warning means an oral reprimand or expression of disapproval.

Commented [KB3]: Does the policy intend to allow multiple levels of procedure and/or review for an oral warning or censure?

Censure means a written reprimand or expression of disapproval, which should include an explanation of the nature of the misconduct, and the specific action to be taken by the faculty member and/or chair to correct the problem, including mentoring, if appropriate, and a statement that further disciplinary action could occur should the problem persists.

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

Dismissal means termination of employment (see Faculty Handbook sections B.5.3, B.6.4.3, and B.5.4).

Peer Hearing Definitions

Complainant is the person initiating the grievance or challenging an earlier decision.

Respondent is the person responding to the grievance or seeking to uphold the earlier decision.

WHO SHOULD READ THIS POLICY

- Board of Regents
- Faculty

- Academic staff
- Academic deans and other executives, department chairs, directors, and managers

RELATED DOCUMENTS

University Administrative Policies and Procedures Manual:

[Policy 2200](#) "Whistleblower Protection and Reporting Suspected Misconduct and Retaliation"

[Policy 2210](#) "Campus Violence."

[Policy 2220](#) "Freedom of Expression and Dissent"

[Policy 2240](#) "Respectful Campus"

[Policy 2720](#) "Equal Opportunity, Non-Discrimination, and Affirmative Action"

[Policy 2730](#) "Sexual Harassment"

Pathfinder:

["Visitor Code of Conduct,"](#)

["Student Code of Conduct,"](#)

Faculty Handbook:

[Section B, Appendix V](#)

[Policy C05](#), "Rights and Responsibilities at the University of New Mexico."

[Policy C07](#) "Faculty Disciplinary Policy"

[Policy C70](#) "Confidentiality of Faculty Records"

[Policy C345](#) "Ombuds Dispute Resolution Services for Faculty"

CONTACTS

[Direct any questions about this Policy to the Office of the Provost or the Office of the Chancellor for Health Sciences.](#)

PROCEDURES

[Faculty Disciplinary Procedures](#)

1. References to the department chair in this Policy also include the program director or associate or vice dean in a non-departmentalized school or college. If allegations are made against a department chair or other administrator, the next higher academic authority shall perform the functions assigned in this Policy to the chair, and the provisions shall be modified as appropriate. Any individual(s) bringing an allegation of faculty misconduct to the chair's attention is protected by, and subject to, the University's policy on reporting misconduct (UAP [Policy 2200](#), "Whistleblower Protection and Reporting Suspected Misconduct and Retaliation").

2. In all cases other than those set forth in the [Policy Statement](#) ~~section paragraphs 3 and 4~~ above, if a member of the faculty is alleged to have violated a policy of the University, the department chair shall provide the faculty member a written notice explaining the nature and specific content of the alleged violation, together with a copy of this Policy, and shall discuss the alleged violation with the faculty member. The written notice shall be given to the faculty member within ninety (90) days of the chair learning of the apparent violation of policy. The faculty member may be accompanied by one person in meeting with the chair, [but the faculty member must speak on his](#)

or her own behalf at the meeting. The faculty member and the chair shall notify each other at least two working days prior to the scheduled meeting who, if anyone, will be accompanying them at the meeting. The chair should issue a written report within five (5) working days after the meeting summarizing the discussion with the faculty member, keep a copy in the faculty member's file, and send a signed copy to the faculty member. Before, during or after the meeting, the chair may ask the faculty member to respond in writing to the notice and present any relevant written material within a reasonable time specified by the chair. Likewise, the faculty member shall be free to submit any materials believed to be relevant to the chair ~~reasonably desired on his/her own volition~~, no later than five (5) working days after meeting with the chair unless the chair grants additional time in writing. The matter may be concluded at this point by the mutual consent of all parties.

Commented [KB4]: What file?

3. The department chair or the faculty member may initiate conciliation proceedings at any time prior to the chair's decision by contacting the [Ombuds/Dispute Resolution Services for Faculty](#) ~~Faculty Dispute Resolution program~~ as provided in Section C345 with notice to the other parties. Conciliation may be undertaken if both parties agree.

4. If a mutually agreeable resolution (with or without conciliation) is not achieved, the department chair shall make a decision in the matter and communicate it to the faculty member in writing within ten (10) working days after meeting with the faculty member or the termination of conciliation efforts if they are unsuccessful, whichever is later. The faculty member shall have ten (10) working days from receipt of the written decision to submit a written request for review by the appropriate dean, who will issue a written decision concerning whether the chair's decision is upheld, modified or reversed after examination of all materials collected by, or provided to, department the chair. Prior to making a decision, the dean shall meet with the department chair and the faculty member, and their representatives if desired, together or separately, and shall receive and consider any documents the parties wish to submit. Documents shall be submitted within five (5) working days of the faculty member's request for review. If formal conciliation has not been attempted previously, the dean may refer the matter to [Ombuds/Dispute Resolution Services for Faculty](#) ~~Faculty Dispute Resolution~~. The dean will communicate his/her decision to the parties in writing within ten (10) working days after meeting with the faculty member or the termination of conciliation efforts if they are unsuccessful, whichever is later.

Commented [KB5]: "Representative" is different from a person accompanying the faculty member to the meeting. This language suggests that an attorney would be appropriate and, in any case, suggests that the faculty member need not speak on his/her own behalf.

Commented [KB6]: Why are more documents permitted at this stage? If this is an appeal of the chair's decision, no more documents should be permitted. If not, then it's fine as is, and my suggested language above ("...after examination of all materials ...") should probably be deleted.

5. If the faculty member does not agree with the dean's action, he/she may submit a written request for review by the Provost ([for main campus faculty](#)) or Chancellor ([for HSC faculty](#)) within five (5) working days of receipt of the dean's decision. The Provost/Chancellor will decide the matter on the record unless he/she determines that it would be helpful to meet with the parties, together or separately. Within ten (10) working days after receipt of the complete record or after meeting with the parties, whichever is later, the Provost/Chancellor shall uphold, modify, or reverse the dean's decision by written notice to the parties. The Provost/Chancellor may seek an advisory investigation and opinion from the Faculty Ethics Committee. The decision of the Provost/Chancellor is subject to discretionary review by the President or Board of Regents if requested by the faculty member.

Commented [KB7]: This is unclear. Normally, the next step would be the President, and then a subsequent appeal to the BOR. If that is the intent, this language should be changed (although this would also create four separate opportunities for review of the chair's decision.)

6. If the chair, after meeting with the faculty member and considering all materials submitted pursuant to section 2 [above](#), proposes to suspend the faculty member without pay, the chair shall meet with the dean to review the matter. If the proposal is supported by the dean after meeting with the chair and the faculty member, the faculty member is entitled to a faculty peer hearing. The faculty member shall send such a request to the Provost/Chancellor within five (5) working

Commented [KB8]: This is intended to stop the review process in Sec. 5, correct? Maybe something should be added to clarify here.

days of receipt of the dean's determination.

7. If a faculty peer hearing is requested as provided in this Policy, the chair of the Faculty Ethics Committee will arrange for a hearing before two members of that Committee from outside the faculty member's department, chosen by the Ethics Committee, and one uninvolved department chair from a different school or college chosen by the Provost/Chancellor. The hearing will be held as soon as reasonably possible and shall be conducted according to the Faculty Peer Hearing Procedures listed below. ~~University's Dispute Resolution Hearing Procedures~~. The Office of University Secretary office shall make arrangements for the hearing. Hearings shall be recorded and shall be private to the extent permitted by law unless both parties agree that the hearing shall be open. The hearing Panel may uphold or reverse the proposal to suspend the faculty member without pay. If the Panel's decision is to reverse the proposal, the Panel may direct the chair and dean to impose a lesser disciplinary measure. The Panel's decision may be reviewed on the record by the Provost/Chancellor, but the Panel's decision shall not be reversed or modified except in the case of clear error, which shall be detailed in writing by the Provost/Chancellor. The decision of the Provost/Chancellor is subject to discretionary review by the President or Board of Regents if requested by the faculty member.

8. The faculty member may bring a complaint before the Committee on Academic Freedom and Tenure (AF&T) if he/she believes the matter or its handling is within the jurisdiction of the Committee. The Committee will determine whether the matter is within its jurisdiction and, if so, shall handle the matter under the Policy on Academic Freedom and Tenure. Normally, review by the AF&T Committee should be sought after the determination by the Provost/Chancellor. If the faculty member pursues the matter before the AF&T Committee, AF&T shall accept the facts as determined by the faculty peer hearing, if one was held.

9. If the final determination is that no misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the reputation of the faculty member.

10. These procedures do not supersede Appendix VIII to Part B of the *Faculty Handbook*, concerning the Faculty Ethics Committee, and a faculty member who believes that he/she has been improperly accused of unethical behavior may bring the matter to the attention of the Ethics Committee under Appendix VIII after determination by the Provost/Chancellor.

Faculty Peer Hearing Procedures

Article 1. Introduction

~~These procedures are based on the "Model Hearing Procedure" which provides a standard operating procedure for formal hearings to resolve conflicts at institutions of higher education. Normally, a peer hearing will be held only in a circumstance where suspension without pay has been determined as an appropriate disciplinary sanction by a department chair after consultation with the cognizant dean. -after items one through six of the Faculty Disciplinary Procedures above have taken place. These procedures assume that a Panel has been appointed by the Faculty Ethics Committee in accordance with section 7 of the Faculty Disciplinary Procedures above.~~

~~**1.1 Attorney for Panel.** The Panel shall consult with the Office of University Counsel prior to the hearing, and a University Counsel attorney will be appointed to assist the Panel. -The Panel~~

Commented [KB9]: Which Model Hearing Procedure?

Commented [KB10]: I recommend deleting this.

will consult with its University Counsel attorney on any procedural issues it can't resolve. -The Panel's University Counsel attorney will either be present at the hearing or will be available for consultation. Factual findings and the final decision(s) of the Panel are made solely by the Panel.

1.2. Persons with Disabilities. Persons with disabilities who ~~want~~ desire reasonable accommodations should let the Office of the University Secretary know at least ten (10) working days before the accommodation is required.

Article 2. Pre-Hearing Matters

2.1 Preparation of Evidence

2.1.1 If any material facts are believed to be in dispute, the parties shall ~~prepare~~ provide evidence for the hearing which may be in the form of documents, testimony of witnesses, or other materials. Parties are responsible for their own evidence.

2.1.2 All faculty; and staff; ~~and students~~ shall cooperate with the parties' reasonable requests to provide evidence and to appear at the hearing as witnesses. If a party is having difficulty getting cooperation from a potential witness or obtaining existing ~~source~~ of evidence, he or she shall file a request for assistance with the Office of University Secretary, who shall forward it to the Panel. If the Panel determines that the request is reasonable, it shall assist the party in gaining the necessary cooperation to the best of its ability. - ~~Parties may use reasonable and equitable University work time; and equipment; and support staff assistance in preparing for the hearing.~~

2.1.3 The Office of University Secretary will advise parties about procedures and give them a general overview of the type of evidence that is usually submitted in these kinds of matters.

2.1.4 If the ~~e~~Complainant hires an attorney-lawyer and intends to bring the attorney to the hearing, the Complainant shall notify the Office of the University Secretary in writing no less than fifteen (15) working days prior to the hearing. Failure to so notify the Office of the University Secretary will result in the prohibition of the attorney from attending the hearing. (See Section 2.2.3 below.) ~~then~~ If the Complainant appropriately notifies the Office of the University Secretary of his/her intent to bring an attorney to the hearing, the Respondent may request an attorney lawyer from University Counsel's Office.

2.2 Notice Requirements: At least ten (10) working days before the hearing, each party shall provide the Office of the University Secretary with the following information; in writing, which will be distributed to the other party and the Panel:

2.2.1 A list of intended witnesses, or a statement that no witnesses will be called. -The Panel may place reasonable limitations on the number of witnesses, either before or after the list is submitted, but in no event less than three working days prior to the hearing. - No witnesses other than those on the list may testify without consent from the Ppanel. The Parties must also provide the estimated duration of each witness's testimony and any information regarding accommodations that any witness may require.

2.2.2 Any witness affidavit ~~statement~~ submitted pursuant to Section 3.5 herein.

Commented [KB11]: Are the parties responsible for providing copies of their evidence to the Panel, or to the Office of the Univ. Secretary sometime prior to the hearing? I recommend that it be provided to the Ofc Univ. Secretary 10 days prior to the hearing, so that pages can be numbered, copies can be made (I know this presents a burden, but it saves endless procedural problems for the hearing), and so that each side receives the other side's evidence prior to the hearing and make objections to the Panel if they wish.

Commented [KB12]: I don't think that students can be required to cooperate.

2.2.3 The name of any advisor appearing with the party at the hearing and whether the advisor is an attorney. -A party may not bring an advisor without such notification, unless the other party and Panel consent. No advisor, whether an attorney or otherwise, may speak on behalf of any party or otherwise participate in the presentation of evidence. one of the following exceptions applies.

2.2.3.1 A party may bring any advisor if the other party and the Panel consent.

2.2.3.2 If a party does not designate an advisor, and the other party designates a non-attorney advisor, the first party may bring a non-attorney advisor without prior notification

2.2.3.3 If a party does not designate an attorney advisor and the other party does designate an attorney advisor, the first party may bring an attorney advisor without prior notification.

2.2.4 Whether the party requests that his advisor be allowed to present the case, in whole or in part.

2.2.5 Copies of documents the party plans to introduce into evidence. No other document may be introduced into evidence without notification unless the other party or the Panel consents. Approval of the Panel shall depend on the importance of the document, whether the party could have obtained it earlier, the time remaining until the hearing, and the degree of prejudice to the other party.

2.2.6 If a party requests a document from any employee of the University who has custody of that document, that person employee shall give either the requesting party or the Office of University Secretary the original or a copy of the document within one work day, unless the document is confidential or otherwise protected by law. If the document is confidential or protected by law, the Panel's University Counsel attorney will advise the party and the Panel on how to proceed. to all parties and the Panel.

2.3 Order of Arguments and Evidence. The Panel may, at least three (3) days before the hearing, specify the order in which the parties present their arguments and any evidence. If the Panel does not specify within this time frame the order specified in Section 3.4 shall be used.

2.4 Pre-Hearing Conference. After receipt of the information specified in Section 2.2, the Office of University Secretary and/or the chair of the Panel may meet with the parties and/or their advisors (if appropriate notification of advisors has been provided) to consider clarifying or simplifying the issues to be heard by the Panel, answering any procedural questions, limiting the number of witnesses, or considering any other matters which may aid the conduct of the hearing.

2.5 The Panel may set reasonable time limits for the hearing.

Article 3. Hearings

3.1 Evidence. If any material facts are in dispute, the parties may testify and may present testimony of other witnesses and introduce and explain documents and other evidence at the hearing. The Panel may exclude duplicative unfair and/or irrelevant evidence at its sole discretion, but is not required to and no follow-judicial rules of evidence apply to any hearing.

Commented [KB13]: I would recommend taking 2.2.3.2 and 2.2.3.3 out. The way this is structured, the Complainant will always be the faculty member and the Respondent will be the department. I'm not aware of any circumstance where a chair wanted a non-attorney advisor to be present.

Commented [KB14]: I do not recommend permitting this.

Commented [KB15]: This will need to be re-numbered, and I think it needs to be clear when copies need to be provided and to whom. See my proposed language to 2.1.4.

At either party's request, the Panel shall consult with the Panel's University Counsel on evidence issues. The Panel may require the production of further evidence beyond that presented by the parties (including the testimony of other witnesses) if it believes such evidence is available and material to the issues in dispute. -Either the parties or the Office of University Secretary may be asked to obtain such evidence. -The hearing shall be resumed when such evidence is produced.

3.2 Absent Parties. All Panel members and both parties shall be present at hearings. Failure by either party to appear at the hearing may be grounds for summary findings against the absent party.- Alternatively, the Panel may choose to proceed with the hearing without the absent party, and make its decision based upon the evidence available.- Failure to comply with the notification provisions of section 2.2 may be construed as failure to appear; for the purposes of this section at the Panel's discretion. Upon request of the absent party, a finding made under this section may be set aside and a new hearing scheduled if the absent party ~~ee shows~~ demonstrates to the Panel's satisfaction that he or she could neither attend the hearing nor request a postponement of the hearing in a timely manner.

3.3 Advisors. Each party may have one advisor at the hearing, who may be an attorney. (See Section 2.1.4.) Parties may consult freely with their advisors throughout the hearing, but advisors may not speak for the parties. If a Party believes that he/she is unable to present his/her case and evidence on his/her own, a request and explanation to have an advisor make a portion or all of the presentation on behalf of the Party shall be made to the Panel in writing no less than ten (10) working days prior to the hearing. Such a request shall be provided to the Office of the University Secretary. unless the Panel determines that one or both parties are unable fairly to present their case except through their advisor.

3.4 Order of Evidence. The Panel may, pursuant to section 2.3, determine the order in which the parties present their arguments and any evidence. If the Panel does not specify, the following order shall be used:

- (1) Complainant presents his or her case;
- (2) Respondent presents his or her case;
- (3) in the discretion of the Panel, rebuttal by Complainant and respondent may be allowed;
- 4) Complainant makes closing arguments;
- 5) Respondent makes closing arguments.

With permission of the Panel, evidence may be introduced out of order and additional evidence may be introduced.

3.5 Witnesses. The parties may present the testimony of witnesses in support of their respective position. When a witness is unable to attend a scheduled hearing, the witness may make execute an affidavit which may be introduced at the hearing at the Panel's discretion. The affidavit shall be disclosed to the other party pursuant to Section 2.2.2 in order to permit the other party to contact the witness and to prepare for appropriate rebuttal at the hearing. The Panel shall may exclude the affidavit if the other party has been unable to secure the cooperation of the witness in spite of diligent attempts to do so.

The parties and Panel members shall have the right, within reasonable limits set by the Panel, to question or cross-examine the parties and all witnesses who testify orally. Reasonable limits may include, but are not limited to, requiring that questions be directed through the Panel.

3.6 Record of Hearing. The Office of University Secretary shall make an audio recording of the proceedings. The parties and their representatives respective advisors may make arrangements to listen to the recording with the Office of the University Secretary. At a party's request, the Office of University Secretary shall provide the party with a duplicate of the recording at the party's cost.

The record of the hearing shall consist of the recording and all items or documents introduced by any party as evidence. The record shall be kept by the Office of University Secretary for five (5) years after all appeals have been concluded or after the time for appeal has expired.

3.7 Written Arguments. After hearing the evidence, the Panel may request or accept documented arguments in writing from the parties and defer consideration of the case for up to two (2) weeks until such documented arguments have been submitted. Written arguments may be requested in lieu of oral closing arguments at the discretion of the Panel.- Time limits for the Panel's decision shall be extended accordingly. The Panel may, at its discretion, request proposed Findings and Conclusions from each party, which shall be due no more than two (2) weeks from the end of the presentation of evidence by the parties.

Article 4. General Provisions

4.1 Time Limits. For good cause, the Panel shall extend any time limit set forth in these rules. Good cause shall include, but is not limited to the fact that a time limit includes finals week or period such as vacations, holidays, or intersessions if parties or decision makers are absent from the University. Any time extension shall be communicated in writing to all interested parties along with a new written schedule.

4.2 Absent Party. If one party is absent from the University, the decision maker, with both parties' permission, may permit the absent party to participate in a hearing or interview by conference call or otherwise.

4.3 Mailing. All documents shall be sent to the parties by the Office of the University Secretary. No deadline extension will be permitted for mailing. Each party bears the full responsibility for ensuring that all documents are timely provided to the Office of the University Secretary by the deadlines described in these procedures.

4.4 Decision of the Panel. The decision of the Panel will be signed by all Panel members and provided to the Office of the University Secretary, who will distribute the decision to the parties.

4.5 Appeal. Any appeal of the decision of the Panel must be provided via hand delivery to the Office of the President no more than ten (10) working days of the date that the decision was provided to the parties by the University Secretary. Any appeal of the decision of the Panel must describe the grounds for the appeal with reasonable particularity. Appeals will only be

Commented [KB16]: I don't understand this section.

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considered when there has been an extraordinary breach of the process in the opinion and at the discretion of the University President.

DRAFT HISTORY

March 22, 2015-- Added Peer Hearing Procedures

HISTORY

December 13, 2011 – Approved by Board of Regents

March 22, 2011 – Approved by Faculty Senate

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C07 Table for Faculty Disciplinary Procedure Up to and Including Suspension With Pay

Action	Deadline	Calendaring Implications	FHB
Chair provides written notice of allegations, or external findings, and copy of C07 policy to faculty member	Within 90 days of notice of allegations		C07.6.
Discussion of allegations/findings with faculty member	Not specified, but after written notice if investigating; could be at the same time as providing written notice if investigative findings were done previously under other policy	Schedule Initial Meeting --- Week One	C07.6.
Notice of any 3 rd party attendance at discussion	At least 2 working days prior to scheduled meeting		C07.6.
Written report summarizing discussion, sent to faculty member and file	5 days after meeting	Week Two	C07.6.
Faculty member asked to provide written response and addl. evidence w/in reasonable time	Before, during and after discussion meeting		C07.6.
Faculty deadline to provide written response and any addl. evidence	5 working days after meeting [wouldn't this be better due after receiving Chair's summary of meeting?]	Week Two	C07.6.
Non-mandatory conciliation attempts with Ombuds [inapplicable where there were external findings???]	At any time prior to a chair's decision		C07.7.
Chair reviews matter with Dean	Prior to issuing suspension w/o pay notice		C07.10
Chair's written decision as to findings and/or appropriate discipline is communicated to faculty member	10 working days after discussion meeting –or termination of conciliation efforts—whichever is later	Week Three	C07.8
Optional Dean reviews requested	10 working days after Chair decision	Week Five	C07.8
Documents submitted to Dean	5 working days after requesting Dean review	Week Six	C07.8

Dean meeting with faculty member [and representatives if desired]	Prior to issuing decision	Week Seven	C07.8
Dean recommends non-mandatory conciliation attempts with Ombuds [inapplicable where there were external findings???	At any time prior to a dean's decision		C07.8.
Matter concluded by mutual agreement [inapplicable where there external findings???	At any time prior to a dean decision		C07.6.
Dean written decision to uphold, modify or reverse Chair decision communicated to faculty member	10 working days after meeting—or termination of conciliation efforts—whichever is later	Week Nine	C07.8
Provost/Chancellor optional meetings with the parties	Prior to issuing decision	Week Ten	C07.9
Provost/Chancellor request for optional Ethics Cmt advisory opinion and investigation	Not specified	Would add about Two Months?	C07.9
Provost/Chancellor written decision to uphold, modify or reverse Dean decision communicated to faculty member	10 working days of optional meetings or receipt of complete record	Week Twelve	C07.9
Optional Ethics Cmt review of Provost/Chancellor final determination if findings include unethical behavior	After Provost/Chancellor decision		C07.14; Appendix VIII
Optional AF&T review of Provost/Chancellor final determination if within jurisdiction	After Provost/Chancellor decision		C07.12
Optional request for BOR discretionary review of Provost/Chancellor decision	Not specified		C07.9

C. Parker
10/1/15

C07 – Challenges in application

Fundamentally, we are experiencing a lack of clarity with respect to whether and which of the various procedural paragraphs apply to (1) investigating allegations; (2) determining appropriate discipline; or (3) both

What is #6 supposed to accomplish?

Does #6 provide the process by which a chair determines whether a policy violation has occurred, or is it for determining what discipline is appropriate, or both? Both, I would say.

#8 implies it might be the former; however, if it is the latter, then several parts of #6 might be considered duplicative if outside investigators have already offered opportunities to provide written responses, other materials, etc. I don't follow. Where are the duplications?

#3 says investigation steps should not be duplicated if they have been taken by others.

On the other hand, references to conciliation and dispute resolution in #7 and #8 seem to speak more to the process of identifying an appropriate disciplinary response. One doesn't normally 'conciliate' whether a policy has been violated (???). Yet I think that was intended to be part of the process because there could be a lot of factors that go into the determination of how serious or egregious the violation was, how intentional, how consistent with the past history of the faculty member, etc. This approach seems to be consistent with the principles stated in the first paragraph.

Yet it's clear from #4 that if a policy violation has been determined by other processes, then C07 has to provide the process by which the level of appropriate discipline is determined – by default is that #6? Seems like it would have to be, but it is far from clear. And the first sentence of 6 states "In all cases other than those set forth in paragraphs 3 and 4..." So how could 6. Be the start of a process that is based on findings and recommendations included in 4?

#4 also states that states that if an outside "process requires the chair to make a disciplinary determination after an investigation and recommendation from another University body, this policy will be followed in determining the appropriate discipline." I am unaware of any other UNM investigating office that would "require" a supervisor to take disciplinary action. "require" is the wrong word – perhaps "recommend" is more appropriate. C09 says If the final determination is that the respondent has violated this Policy, UNM shall take appropriate action, which may include disciplinary sanctions up to and including dismissal from the University in accordance with Policy C07 "Faculty Disciplinary Policy." This leaves a lot to be desired in terms of clear guidance.

Potential for Long Delays:

Also, 90 days in which to provide notice of an apparent violation of a policy seems to be an overlong long time to wait, especially if #6 is to be the process by which a chair determines whether a policy violation has occurred.

Peer Hearing

#11 says conducted per "University's Dispute Resolution Hearing Procedures." Not clear whether this is FHB C345 or UAP 3220? Only UAP3220 has the peer hearing procedure.

Suspension w/o Pay:

#10 states that the chair shall confer with the dean with respect to a suspension w/o pay before its issuance. It goes on to say "If the proposal is supported by the dean after meeting with the chair and the faculty member, the faculty member is entitled to a faculty peer hearing." Is the "dean[s] support" necessary for the chair to issue her/his decision, or rather for the faculty member's appeal to move forward to a peer hearing? Wording is such that both interpretations have been argued. Wording could be improved. My reading is that a chair needs the dean's approval to suspend w/o pay. If the dean doesn't approve the chair's "proposal" to suspend w/o pay, there is no right to a peer hearing. If the dean approves to suspend w/o pay, the faculty member is entitled to a peer hearing.

Unusual C07 Appeal/Review Processes:

Unlike C09, where dean and provost/chancellor appeals are limited to reviewing the record made by the supervisor/investigator, C07 requires the dean's review to include meetings with all of the parties. Then the dean's decision may be reviewed by a peer hearing panel whose decision is final. The provost/chancellor can also review the dean's decision on the basis of the record, but the provost/chancellor can also get advisory investigative opinions and/or hold more meetings with all of the parties. Is there some rationale for C07's very elaborate review/appeal processes, when such processes are not found in any of our other policies' appeal/review processes? If I remember Richard Holder's logic on this, it was that suspension w/o pay would be an exceptionally large sanction for a faculty member and required an exceptionally elaborate process to protect the rights of the faculty member.

AF&T Review:

#12 says that AF&T may review the Provost/Chancellor's decision on a disciplinary matter (not involving an unpaid suspension) but # 9 says the BOR has discretionary review of the Provost/Chancellor's decision. So both the BOR and AF&T may accept review of the same matter?

Commented [jat1]: I think unpaid suspension is included in what AFT can take on. This is consistent with the inclusion of peer-hearing language in #12.

#12 also states that review by AF&T should only normally be sought after a determination by the Provost/Chancellor. However, AF&T recently accepted a matter where an investigation was still underway and no disciplinary action had been issued, but the faculty member had complained about procedural violations by the chair. Shame on AFT. But I guess the word "normally" in #12 gives AFT some discretion.

Ethics Committee Review:

#14 provides for an optional **Ethics Cmt review** of Provost/Chancellor final determination if findings include unethical behavior, per Appendix VIII. However, Appendix VIII states the Ethics Committee may be involved "When the matter is still unresolved, the Committee may be called into action in either of

two ways.” This seems in conflict with reviewing a matter that is deemed ‘final’ by the Provost or Chancellor. If FEC has conducted a peer hearing, they would not (hopefully) take up the case again. P/C could probably make it unlikely that there would be a FEC review at the end by requesting an advisory opinion before making a decision (#9).

#9 also provides for Provost/Chancellor to request an optional Ethics Cmt *advisory investigation and opinion* if they are reviewing a dean’s decision. If the Provost/Chancellor took the Ethics Committee’s advice, should the Ethics Committee later be able to review the decision again under #14? It would seem unseemly.

Concurrent or Consecutive Ethics Committee and AF&T Reviews:

Appendix VIII (c) states that Ethics and AF&T can simultaneously review. But could they do consecutive reviews? How much forum shopping should be permitted? More potential for long delays in not reaching final resolution.

Steps and timeline difficult to follow:

Notwithstanding difficulty in knowing if they apply to investigations and/or determining appropriate discipline, the organizational structure makes this very hard to follow. Strongly recommend a procedural table as is used in B6 – draft below.

C07 Table for Faculty Disciplinary Procedure

Action	Timeline	FHB Reference
Chair provides written notice of allegations, or external findings, and copy of C07 policy to faculty member	Within 90 days of notice of allegations	C07.6.
Discussion of allegations/findings with faculty member	Not specified, but after written notice if investigating; could be at the same time as providing written notice if investigative findings were done previously under other policy	C07.6.
Notice of any 3 rd party attendance at discussion	At least 2 working days prior to scheduled meeting	C07.6.
Written report summarizing discussion, sent to faculty member and file	5 days after meeting	C07.6.
Faculty member asked to provide written response and addl. evidence w/in reasonable time	Before, during and after discussion meeting	C07.6.
Faculty deadline to provide		

written response and any addl. evidence	5 working days after meeting	€07.6.
Non-mandatory conciliation attempts with Ombuds [not applicable where external findings???	At any time prior to a chair's decision	€07.7.
Chair confers with Dean (required only if unpaid suspension is contemplated)	Prior to issuing	€07.10
Chair's written decision as to findings and/or appropriate discipline is communicated to faculty member	10 working days after discussion meeting — or termination of conciliation efforts — whichever is later	€07.8
Optional Dean reviews requested	10 working days after Chair decision	€07.8
Documents submitted to Dean	5 working days after requesting Dean review	€07.8
Dean meeting with faculty member [and representatives if desired]	Prior to issuing decision	€07.8
Dean recommends non-mandatory conciliation attempts with Ombuds [not applicable where external findings???	At any time prior to a dean's decision	€07.8.
Matter concluded by mutual agreement [not applicable where external findings???	At any time prior to a dean decision	€07.6.
Dean written decision to uphold, modify or reverse Chair decision communicated to faculty member	10 working days after meeting — or termination of conciliation efforts — whichever is later	€07.8
Optional Peer Hearing request submitted to Provost/Chancellor [available only if suspended without pay]	5 working days after Dean decision	€07.10
Peer Hearing panel chosen by Ethics Cmt and Provost/Chancellor	Not specified	€07.11
Peer Hearing conducted [decision shall not be reversed or modified by Provost/Chancellor except for clear error]	As soon as practicable	€07.11; C345; UAP 3220???
Provost/Chancellor Review request [limited to review of the written record]	5 working days after Dean decision	€07.9
Provost/Chancellor optional		

meetings with the parties	Prior to issuing decision	C07.9
Provost/Chancellor request for optional Ethics Cmt advisory opinion and investigation	Not specified	C07.9
Provost/Chancellor written decision to uphold, modify or reverse Dean decision communicated to faculty member	10 working days of optional meetings or receipt of complete record	C07.9
Optional Ethics Cmt review of Provost/Chancellor final determination if findings include unethical behavior	After Provost/Chancellor decision	C07.14; Appendix VIII
Optional AF&T review of Provost/Chancellor final determination if academic freedom implicated	After Provost/Chancellor decision	C07.12
Optional request for BOR discretionary review of Provost/Chancellor decision	Not specified	C07.9

C. Parker
3/29/15

Parker - More Recent Observations on C07:

Process for Determining if a Policy was Violated is not Clearly Distinguished from the Process for Determining What Discipline is Appropriate after a Finding Has been Made

1. The policy provides a process for a chair to investigate whether a policy was violated, and then to mete out discipline if a policy was violated.
2. The procedural steps become confusing and possibly duplicative when an outside agency, e.g., OEO or Internal Audit, has already determined that a policy was violated [and #3 says steps should not be duplicated]. For example, #6 seems to be the process by which the Chair determines if a violation occurred, i.e., investigation. #8 seems to be the step at which disciplinary decisions kick in. If an outside agency made the finding, can the Chair skip #6 and go immediately to #8? If this could be clarified and these two types of determinations distinguished it would be helpful.

Effective Dates of Disciplinary Action are Not Clear

#8 states the Chair makes the disciplinary decision (not the Dean, not the Provost/Chancellor, etc.). However, there are numerous subsequent reviews that can uphold/reverse/modify.

Does each level of DR, or hearings, or appeals stay the implementation of the decision? This is not stated, and is a problem when findings are very egregious, e.g., significant cases of sexual harassment or some serious policy violation that implies UNM must take immediate action to protect its students or co-workers.

Emergency Suspension Does not Appear to be an Option

In such cases is a Dean's only option invoking emergency suspension in B5.5 pending the outcome? That doesn't seem a good basis for an emergency suspension in these cases because B5.5 is currently linked to termination proceedings. Some basis in C07 for emergency suspension in cases of grave circumstances would be very helpful.

10/1/15