

Faculty Senate Policy Committee **DRAFT**

Meeting Agenda, Scholes Hall Room 101, November 1, 2017 3:30 pm – 5:00 pm

Updates

1. **F80** “Representation on Faculty Senate and Its Committees” is under review with CoG
2. **F90** “Faculty Appointment, Reviews, and Criteria for Evaluation” and **F100** “Teaching Load” going out for faculty vote
3. **C07** “Faculty Discipline Policy” progress of AF&T review
4. **E110** “Conflicts of Interest in Research”
5. **Policies out for comments:** A66 “Policy Committee,” C20 “Employment of UNM Grads,” D90 “Posthumous Degrees,” and F10 “Role and Function of UNM Branch Community Colleges”

Agenda Topics

Consent Agenda Topics: None

Action Items

1. **Comments on UAP policies out for comment:** with a focus on *UAP 2720 (“Prohibited Discrimination”—new title)* 4. *UAP 2730 (“Sexual Harassment”) and UAP 2740 (“Sexual Misconduct”—new title)* UAP 2730 will be rescinded and certain of its elements were incorporated into UAP 2740. Other minor changes to UAP 2740 address Department of Justice concerns. **pg. 1**
2. **A61.6** “Information Technology Use Committee” **pg. 91**
3. **F70** “Articulation, Degree Approval, Transfers of Course Credit, and Approval of Credentialing Standards” **pg. 93**
4. **D176** “Graduate Student Conduct and Grievance Policy” **pg. 98**
5. **C05** “State of Emergency” **pg. 115**

DRAFT OF 10-12-2017

Administrative Policies and Procedures Manual - Policy 2720: Prohibited Discrimination

Date Originally Issued: 09-27-1991

Revised: 12-13-1991, 01-15-2007, 05-21-2014

Authorized by UNM Regents' [Policy 2.3 \("Equal Opportunity and Affirmative Action for Employees and Students"\)](#)
Process Owner: Director, Office of Equal Opportunity

1. General

The University of New Mexico is committed to providing a safe, inclusive, and respectful learning, living, and working environment. This policy furthers the University's commitment to create an environment free of discrimination and harassment and foster an atmosphere that enhances productivity and draws on the diversity of its members. The University prohibits discrimination, harassment, or related retaliation based on protected class in any academic and work environment. It is critical to this commitment that anyone who experiences, witnesses, or is aware of discriminatory or harassing behavior report this behavior pursuant to Section 9 below.

The University is committed to providing equal opportunities and accessibility to individuals with disabilities. Consistent with federal and state law, individuals with disabilities are entitled to access, support, reasonable accommodation, and academic adjustments.

The University is committed to protecting the rights of expecting mothers and provides necessary accommodation to students, faculty, and staff affected by pregnancy or childbirth in the same manner as other individuals unable to work or participate in their work or education because of their physical condition.



The University is committed to providing reasonable accommodation for religious beliefs and practices of its students, faculty, and staff.

The University is committed to fostering an environment of inclusiveness respecting an individual's preferred form of self-identification including a name other than their legal name and preferred pronouns. This policy also prohibits gender-based discrimination, including discrimination based on gender-identity and affirms every individual's right to use the gender-specific facilities consistent with their gender identity.

The University is committed to inclusive excellence and diversity and seeks to take advantage of the rich backgrounds and abilities of everyone. The University, as an equal opportunity/affirmative action employer, complies with all applicable federal and state laws regarding nondiscrimination and affirmative action. It makes good faith efforts to recruit, hire, and promote qualified women, minorities, individuals with disabilities, and veterans.

The Office of Equal Opportunity (OEO) is the independent, impartial, and neutral campus entity designated to ensure compliance with this policy and other policies that apply to civil rights. The OEO reports directly to the University President to maintain optimal independence and impartiality. The OEO investigative process can be accessed [here](#).

2. Definitions

- A. "Protected class" means those personal traits or characteristics, statuses, and/or beliefs that are defined by applicable law and policy as protected from discrimination or harassment including race, color, ethnicity, national origin, religion, sex, gender, gender expression, gender identity, age, pregnancy, physical or mental disability, serious medical condition, genetic information, ancestry, spousal affiliation, sexual orientation, or veteran status.
- B. "Discrimination" means an illegal or prohibited adverse employment or educational action, or harassment based on protected class and/or status. Differential treatment and harassment are types of discrimination.
- C. "Harassment" means unwelcome verbal or physical behavior directed at a person based on protected class/status that 1) unreasonably interferes with a person's work or education, or 2) adversely affects a term or condition of

employment or education, or 3) has the purpose of or effect of unreasonably creating an intimidating, offensive, or hostile work or educational environment.

- D. "Sexual harassment" or "sexual misconduct" – See UAP 2740 for definitions.
- E. "Differential treatment" means differential treatment occurs when people, whether an individual or a group, are treated differently because of their protected class.
- F. "Hostile environment" means a hostile work or academic environment is a form of harassment. It is demonstrated by severe and pervasive conduct that permeates the environment and unreasonably interferes with the ability to work or learn. Whether a hostile environment exists is determined from both a subjective and objective perspective.
- G. "Retaliation" means any attempt to seek retribution or take materially adverse action against any individual or group of individuals involved in filing a complaint or report under this policy, filing an external civil rights complaint, participating in the investigation of a complaint or report under this policy or reasonably opposing conduct made unlawful by this policy.
- H. "Preferred pronoun" means a pronoun that a person chooses to use or have used for self-identification (she, her, hers, he, him, his, ze, they).
- I. "Gender identity" means one's internal sense of gender identity, which may be different than the assigned sex at birth.
- J. "Gender non-conformity" means gender characteristics or gender identity that does not conform to gender stereotypes about masculinity or femininity.
- K. "Reasonable accommodation" means any reasonable adjustment to a job, academic, or educational environment that provides equal opportunities to individuals with disabilities or serious medical conditions.
- L. "Undue hardship" is determined through a consideration of the following factors:

- the impact of the accommodations on departmental and University operations and delivery of services,
- the nature of the accommodations and cost in relation to the University's total budget,
- the number of University employees, and
- the number, type, and location of facilities.

See Section 3.3 of UAP 3110 ("Reasonable Accommodation for Employees With Disabilities").

3. Prohibited Discrimination

Discrimination including differential treatment and harassment is strictly prohibited by this policy.

3.1. Differential Treatment

The University expects all members of the University community, as well as its visitors, to be treated equitably, in all aspects of its educational programs and activities and employment. Listed below are examples of conduct that can constitute discrimination based on differential treatment. This list is not all-inclusive; in addition, each situation must be evaluated in light of the specific facts and circumstances to determine if discrimination has occurred.

- Singling out or targeting persons for different or adverse treatment (e.g., more severe discipline, unfair grade, lower salary increase, negative performance evaluation, or termination) because of their protected class.
- Preventing persons from using University facilities or services because of their protected class.
- Denying persons access to educational programs based on their protected class.
- Failing to provide reasonable accommodations for qualified individuals with disabilities or serious medical conditions or for religious holidays or observances.
- Treating persons differently because they do not conform to the gender stereotypes associated with their biological sex.

3.2. Harassment

The University prohibits harassing behavior based on protected class. Listed below are examples of behavior that can constitute such harassment. The list is not all-inclusive; in

addition, each situation must be considered in light of the specific facts and circumstances to determine if harassment has occurred.

- Disparaging remarks to a person about a protected status (e.g., negative or offensive remarks or jokes about a person's religion or religious garments).
- Electronic communications, such as e-mail, text messaging, and Internet use, that violate this policy.
- Unwelcome questions or invasive requests for documentation to persons about their gender and/or gender identity.
- Sexual misconduct as defined in UAP 2740.

4. Gender Identity

4.1. Preferred First Names and Pronouns

This policy prohibits discrimination and harassment based on gender identity or gender non-conformity. Individuals shall have the right to be addressed by a first name and pronoun corresponding to their gender identity. Individuals shall not be required to obtain a court-ordered name change before they may be addressed by the name and pronoun that corresponds to their gender identity. Except when the use of an individual's legal or primary name is required by law or policy, individuals will be identified in the University's systems by the preferred first name that they have designated in accordance with the applicable procedure. The procedures for registering a different first name are contained on the University Registrar's website for students and employment areas for students, staff, and faculty. **ADD LINKS WHEN AVAILABLE**

Individuals also have the right to be addressed by a pronoun corresponding to their gender identity upon request. The intentional or persistent refusal to respect a preferred name or pronoun can constitute discrimination or harassment that is a violation of this policy. This policy does not prohibit inadvertent slips or mistakes in using an individual's preferred name or pronoun.

4.2. Gender-Specific Facilities

Individuals shall be provided access to designated gender-specific facilities consistent with their gender identity.

5. Freedom of Speech and First Amendment Protection

This policy is not intended to inhibit or restrict free speech or the expression of ideas. In cases of alleged harassment or discrimination, the protections of the First Amendment must be considered if issues of speech or expression are involved.

6. Hate/Bias Crimes and Incidents

A hate crime is a crime committed in whole or in part because of the victim's actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity. Under New Mexico state law, hate crimes are "motivated by hate," meaning the commission of a crime with the intent to commit the crime because of the actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity of the victim, whether or not the offender's belief or perception is correct. NMSA 1978, Section 31-188-1). A person who has experienced a hate crime should report the crime to the University of New Mexico Police Department by calling 277-2241 or 911 in case of emergency or by filing a hate crime report on the police website.

A hate/bias incident is an act of conduct, speech, or expression to which a bias motive is evident as a contributing factor (regardless of whether the act is criminal). All hate crimes are bias incidents but not all bias incidents are hate crimes. A hate/bias incident may also be a violation of this policy and should be reported to the OEO or reported via the hate/bias reporting form on the OEO website.

7. Reasonable Accommodation

The University makes reasonable accommodations for students, employees, and prospective students and employees in accordance with federal and state regulations. Assessing and determining appropriate and effective reasonable accommodations must be done on a case by case basis. Failure to accommodate can constitute discrimination in some instances. Anyone seeking to file a claim for failure to provide an accommodation in the academic and/or work environments should contact the OEO.

7.1. Reasonable Accommodation for Religious Observances and Practices

The University makes reasonable accommodations for religious observances and practices for faculty, staff, and students, and prospective students and employees. Reasonable accommodations are made for students unless such accommodations have the end result of altering educational requirements of a course or program, or place an undue burden on the operations of the University. Reasonable accommodations are made for faculty and staff unless such accommodations have the end result of disrupting the efficiency or effectiveness of the workplace, fundamentally altering the essential functions of a job, or placing an undue hardship on the

University. Failure to accommodate religious observances and practices can constitute discrimination on the basis of religion in some instances and each case will be evaluated in light of the totality of the circumstances. Persons seeking religious accommodation should contact the OEO if assistance is needed.

7.2. Reasonable Accommodation for Individuals with Disabilities and Serious Medical Conditions

The University is committed to providing equal opportunities to individuals with disabilities. The University makes reasonable accommodations for applicants, students, and employees. The University makes reasonable accommodations for the physical and mental disabilities of a student unless an accommodation has the end result of fundamentally altering the nature of the course or program, or places an undue hardship on the operation of the University. The University makes reasonable accommodations for the physical or mental disabilities of an employee or applicant unless such accommodations have the end result of fundamentally altering the essential functions of a job or place an undue hardship on the operation of the University.

Failure to accommodate can constitute discrimination on the basis of disability in some instances. Students should refer to [UAP 2310 \("Academic Adjustments for Student with Disabilities"\)](#) for guidance on requesting accommodations and should contact the University [Accessibility Resource Center](#) for assistance. Employees, including undergraduate and graduate student employees, should refer to [UAP 3110 \("Reasonable Accommodation for Employees with Disabilities"\)](#) for guidance on requesting workplace accommodations and initiating an interactive dialogue with their immediate supervisor or manager.

The Director of the OEO has been designated as the University ADA Coordinator. Any applicant, employee, or visitor needing guidance on seeking a reasonable accommodation for disability should contact the Director of the OEO. Once an accommodation has been put into place, the accommodation should be registered with the ADA Coordinator for tracking and implementation purposes. In addition, any students, employees, and applicants who feel that they have been denied a reasonable accommodation can file a complaint with the OEO pursuant to section 13 below.

7.3. Pregnancy Accommodation

The University is committed to protecting the rights of expecting persons and makes reasonable accommodations for pregnancy, lactation, and conditions related to

pregnancy for faculty, staff, and students and prospective students and employees. The University makes accommodations for students unless an accommodation has the end result of fundamentally altering the nature of the course or program, or places an undue hardship on the operation of the University. The University makes accommodations for employees or applicants unless such accommodations have the end result of fundamentally altering the essential functions of a job or place an undue hardship on the operation of the University. Students, employees, and applicants should contact the OEO if assistance is needed.

8. Reporting Procedures, Investigations, and Disciplinary Procedure

It is the policy of the University to prevent and eliminate forms of unlawful discrimination in employment and educational settings. Persons who believe they have been discriminated against on the basis of a protected class are encouraged to contact the OEO. The OEO is the independent, impartial, and neutral campus entity designated to ensure compliance with all University policies that apply to civil rights including any allegations of civil rights violations. The OEO reports directly to the University President's office to maintain optimal independence and impartiality. The OEO follows its Discrimination of Claims Procedure (DCP) when addressing and investigating claims of discrimination. The DCP describes the procedures that apply when a complaint is filed pursuant to this section. The DCP is linked to this policy.

In some instances, the behavior at issue may be harassing, but not sufficiently severe, persistent, or pervasive as to constitute a hostile work or learning environment. In such cases, the University may take action to stop the offending behavior in an effort to avoid the possibility that a hostile environment will develop. Individuals and/or groups of individuals may be required by the University to participate in training or other informal processes to eliminate offending behavior, prevent its reoccurrence, and remedy its effects in a manner that ensures compliance and the safety and welfare of the campus community. Information on this informal process is in the DCP.

The Student Code of Conduct and Visitor Code of Conduct describe the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a student or visitor.

The University may also implement interim measures or interventions, as appropriate to the allegations and if the allegations warrant, to protect the community and students involved, pending the culmination of any review, investigation, or appeal process. If the

review, investigation or appeal process determines that there is no cause to believe this policy has been violated, these interim measures may be revoked.

UAP 3215 (“Performance Management”) describes the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a staff member.

Faculty Handbook Policy C07 (“Faculty Discipline”) describes the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a faculty member.

9. Reporting Responsibility

When University faculty, administrators, and supervisors witness or receive a written or oral report or complaint of discrimination or harassment, they are required to promptly notify the OEO. The University relies on its employees to notify the OEO office of all disclosures of discrimination and harassment as defined in this policy. The University encourages reporting of all known or suspected discriminatory conduct. The University can take corrective action only when it becomes aware of issues. Therefore, it encourages persons who believe they have witnessed or experienced discrimination or harassment to come forward promptly with their inquiries, reports, or complaints. Individuals have the right to pursue legal remedies or to contact outside administrative civil rights agencies in addition to proceeding with this policy.

This section of the policy does not obligate licensed healthcare professionals and other persons, who are required by professional or University responsibilities to keep certain communications confidential, to disclose those confidential communications.

9.1. Supervisors

Supervisors shall report all known or suspected discriminatory conduct to the OEO. If supervisors fail to take notify the OEO when they know, or reasonably should have known, that a student or subordinate employee is being subjected to discrimination, supervisors could be held in violation of this policy. Supervisors shall report all known or suspected discriminatory conduct. Additionally, supervisors should manage their workplaces to ensure that they are fair, equitable, and respectful..

10. Confidentiality

The University recognizes that individuals have a right to privacy; however, the University also has an obligation to address concerns and inquiries, as well as to investigate and resolve civil rights claims. All complaints will be handled in a confidential manner to the extent possible and consistent with principles of due process. Information will only be shared among University employees or external parties on a need-to-know basis and as permitted under University policy and applicable federal and state law.

All participants involved with an internal discrimination or harassment investigation have a duty to keep investigation information confidential. Any attempt by any participant to influence the outcome of an investigation by divulging information to others who have no legitimate “need to know” may be grounds for disciplinary action.

11. Retaliation

It is the policy of the University to foster an environment where individuals may raise civil rights claims without fear of retaliation or reprisal. All members of the University community have a right to redress for perceived violations of this policy. It is contrary to federal and state civil rights laws, and to University policy, to retaliate against any persons for asserting their civil rights, which includes raising concerns related to civil rights, reporting to any University office charged with addressing such complaints, filing a claim of discrimination or harassment, or participating in an investigation related to an allegation of discrimination or harassment.

Allegations of civil rights retaliation should be reported to the OEO. Retaliation is grounds for a subsequent complaint and may result in disciplinary action against the persons committing the retaliatory acts. Listed below are examples of behavior that can constitute such retaliation. The list is not all-inclusive; in addition, each situation must be considered in light of the specific facts and circumstances to determine if retaliation has occurred.

- Work related threats, warnings, or reprimands.
- Transfers to less prestigious work hours or duties.
- Engaging in activity that is likely to deter reporting pursuant to this policy.

12. Providing False Information

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual's own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith allegation of discrimination, harassment, or retaliation under this policy, even if an investigation fails to substantiate the allegation.

Notwithstanding this provision, the University may discipline employees or students when it is determined that they brought an accusation of discrimination or harassment in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, will be subject to disciplinary action.

13. Equal Opportunity and Affirmative Action

The University recognizes its responsibility to extend equal employment and educational opportunities to all qualified individuals and will not discriminate against any applicant or employee based on protected class or status. The University has a responsibility to its students and to the citizens of the State to actively recruit, hire, and retain the best-qualified persons possible, and to do so in the context of our commitment to affirmative action principles.

Further, the University commits itself to a program of affirmative action to increase access by, and participation of, traditionally underrepresented groups including women, minorities, individuals with disabilities, and veterans. OEO provides guidance and assistance to the University leadership in identifying effective recruitment and retention strategies to meet its affirmative action responsibilities. This includes monitoring or auditing all employment activity for staff and faculty at the University.

13.1. Responsibility for Affirmative Action Plan

Executive Order 112446 requires the University to create a written Affirmative Action Plan (AAP) that measures whether women, minorities, individuals with disabilities, and veterans are being employed at the expected rate given their composition of the relevant labor pool, and set goals when they are not.

The Director of OEO has been designated as the Affirmative Action Coordinator. This official is responsible for gathering data for the AAP, monitoring, or auditing all of the

University's equal employment opportunity and affirmative action activities, reporting annually on the effectiveness of the University's affirmative action programs, and developing recommendations for necessary action to assure attainment of the University's stated objectives. Any questions related to the AAP should be directed to the OEO.

The University President has overall responsibility for the AAP. All senior and mid-level administrators (vice presidents, deans, directors, department heads) are accountable for their performance in the accomplishment of affirmative action goal objectives and action oriented plans, and for ensuring that all recruitment, applications, and hiring processes are consistent with state and federal law and with AAP objectives. Human Resource professionals and search and interview committees should adhere to all applicable recruitment and hiring guidelines, affirmative action and diversity principles and regulations, and AAP goals and initiatives. All University data stewards are responsible for providing accurate, verified, and timely data for the annual AAP.

14. References

14.1. Related Policies

- [Regents Policy 2.3 \("Equal Opportunity and Affirmative Action for Employees and Students"\)](#)
- [Regents Policy 2.5 \("Sexual Harassment"\)](#)
- [UAP 2200 \("Whistleblower Protection and Reporting Suspected Misconduct and Retaliation"\)](#)
- [UAP 2215 \("Consensual Relationships and Conflicts of Interest"\)](#)
- [UAP 2310 \("Academic Adjustments for Student with Disabilities"\)](#)
- [UAP 2740 \("Sexual Violence and Sexual Misconduct"\)](#)
- [UAP 2750 \("Lactation Support Program"\)](#)
- [UAP 3110 \("Reasonable Accommodation for Employees with Disabilities"\)](#)
- [UNM Student](#) and [Visitor](#) Codes of Conduct

14.2. Resources and Contacts

- [Accessibility Resource Center \(ARC\)](#)
- [Campus Police](#)
- [Center for Academic Program Support](#)
- [Counseling, Assistance, and Referral Service](#)
- [Dean of Students](#)

- [Discrimination Claim Procedures](#)
- [Diversity and Inclusion](#)
- [Global Education Office](#)
- [LGBTQ](#)
- [LoboRESPECT Advocacy](#)
- [Office of Equal Opportunity \(OEO\)](#)
- [Office of the Registrar](#)
- [Ombuds/Dispute Resolution Services for Faculty](#)
- [Ombuds/Dispute Resolution Services for Staff](#)
- [Student, Health, and Counseling](#)
- [Women's Resource Center](#)

14.3. Applicable Laws

- The Equal Pay Act of 1963
- Titles IV, VI, and VII of the Civil Rights Act of 1964
- Title IX of the Education Act of 1972 The Rehabilitation Act of 1973 (Sections 503 and 504)
- The Vietnam Era Veterans Readjustment Assistance Act (1974)
- Age Discrimination Act (1975)
- Pregnancy Discrimination Act (1978)
- The Americans with Disabilities Act (ADA) of 1990; Amendments Act of 2008
- Executive Order 11246
- Uniform Services Employment and Reemployment Act (1994)
- Violence Against Women Act of 1994
- Violence Against Women Reauthorization Act of 2013
- The New Mexico Human Rights Act

DRAFT OF 10-12-2017 – Track Changes

Administrative Policies and Procedures Manual - Policy 2720: ~~Equal Opportunity, Non-Prohibited Discrimination, and Affirmative Action~~

Date Originally Issued: 09-27-1991

Revised: 12-13-1991, 01-15-2007, 05-21-2014

Authorized by UNM Regents' [Policy 2.3](#) ~~“(“Equal Opportunity and Affirmative Action for Employees and Students”)~~

Process Owner: Director, Office of Equal Opportunity

~~Note: This policy was formerly numbered UAP 3100.~~

1. General

The University of New Mexico is committed to ~~creating~~providing a safe, inclusive, and ~~maintaining a community in which students~~respectful learning, living, and ~~employees can learn and work together in~~working environment. This policy furthers the University’s commitment to create an environment free of discrimination and harassment and foster an atmosphere that enhances productivity and draws on the diversity of its members,~~and.~~ The University prohibits discrimination, harassment, or related retaliation based on protected class in any academic and work environment. It is free from all forms of disrespectful conduct, intimidation, exploitation, and harassment. The purpose of critical to this policy is to guide University officials to take whatever action may be needed to prevent, correct, and, when necessary, to discipline commitment that anyone who experiences, witnesses, or is aware of discriminatory or harassing behavior which violates report this policy. In fulfilling its dual tasks of educating and providing public service, the behavior pursuant to Section 9 below.



The University can, and shall, demonstrate leadership in eliminating discrimination and is committed to providing equal opportunities in employment and accessibility to individuals with disabilities. Consistent with federal and state law, individuals with disabilities are entitled to access, support, reasonable accommodation, and academic adjustments.

The University is committed to protecting the rights of expecting mothers and provides necessary accommodation to students, faculty, and staff affected by pregnancy or childbirth in the same manner as other individuals unable to work or participate in their work or education because of their physical condition.

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The University is committed to inclusive excellence and diversity and seeks to take advantage of the rich backgrounds and abilities of everyone. The University, as an equal opportunity/affirmative action employer, complies with all applicable federal and state laws regarding nondiscrimination and affirmative action, including Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; New Mexico Religious Freedom Restoration Act, Sections 28-22-1 to 28-22-5; NMSA 1978; and the New Mexico Human Rights Act, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14, NMSA 1978-. It makes good faith efforts to recruit, hire, and promote qualified women, minorities, individuals with disabilities, and veterans.

~~2. Differential Treatment and Harassment Prohibited~~

~~The University strives to assure equal treatment and access to all programs, facilities, and services. In keeping~~Office of Equal Opportunity (OEO) is the independent, impartial, and neutral campus entity designated to ensure compliance with this policy of equal opportunity, the University is committed to creating and maintaining an atmosphere free and other polices that apply to civil rights. The OEO reports directly to the University President to maintain

optimal independence and impartiality. The OEO investigative process can be accessed here.

2. Definitions

A. “Protected class” means those personal traits or characteristics, statuses, and/or beliefs that are defined by applicable law and policy as protected from all forms of discrimination and/or harassment. There are two typical including race, color, ethnicity, national origin, religion, sex, gender, gender expression, gender identity, age, pregnancy, physical or mental disability, serious medical condition, genetic information, ancestry, spousal affiliation, sexual orientation, or veteran status.

B. “Discrimination” means an illegal or prohibited adverse employment or educational action, or harassment based on protected class and/or status. Differential treatment and harassment are types of discrimination: differential treatment, and harassment that creates.

C. “Harassment” means unwelcome verbal or physical behavior directed at a person based on protected class/status that 1) unreasonably interferes with a person’s work or education, or 2) adversely affects a term or condition of employment or education, or 3) has the purpose of or effect of unreasonably creating an intimidating, offensive, or hostile work or educational environment.

2.1.

D. “Sexual harassment” or “sexual misconduct” – See UAP 2740 for definitions.

“Differential Treatment

E. “Differential treatment” means differential treatment occurs when people, whether an individual or a group, are treated differently because of their protected class.

F. “Hostile environment” means a hostile work or academic environment is a form of harassment. It is demonstrated by severe and pervasive conduct that permeates the environment and unreasonably interferes with the ability to work or learn. Whether a hostile environment exists is determined from both a subjective and objective perspective.

G. "Retaliation" means any attempt to seek retribution or take materially adverse action against any individual or group of individuals involved in filing a complaint or report under this policy, filing an external civil rights complaint, participating in the investigation of a complaint or report under this policy or reasonably opposing conduct made unlawful by this policy.

H. "Preferred pronoun" means a pronoun that a person chooses to use or have used for self-identification (she, her, hers, he, him, his, ze, they).

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J. "Gender non-conformity" means gender characteristics or gender identity that does not conform to gender stereotypes about masculinity or femininity.

K. "Reasonable accommodation" means any reasonable adjustment to a job, academic, or educational environment that provides equal opportunities to individuals with disabilities or serious medical conditions.

L. "Undue hardship" is determined through a consideration of the following factors:

- the impact of the accommodations on departmental and University operations and delivery of services,
- the nature of the accommodations and cost in relation to the University's total budget,
- the number of University employees, and
- the number, type, and location of facilities.

See Section 3.3 of UAP 3110 ("Reasonable Accommodation for Employees With Disabilities").

3. Prohibited Discrimination

Discrimination including differential treatment and harassment is strictly prohibited by this policy.

3.1. Differential Treatment ~~race, color, religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex (including sexual harassment), sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or any other characteristic protected under applicable law.~~

The University expects all members of the University community, as well as its visitors, to be treated ~~equally, based on merit and other appropriate factors~~ equitably, in all aspects of its educational programs and activities, and ~~in all aspects of~~ employment. -

~~Listed below are examples of conduct that can constitute discrimination based on differential treatment as described above.~~ This list is not all-inclusive; in addition, each situation must be evaluated in light of the specific facts and circumstances to determine if discrimination has occurred.

- Singling out or targeting persons for different or adverse treatment (e.g., more severe discipline ~~or, unfair~~ grade, lower salary increase, negative performance evaluation, or termination) because of their protected ~~characteristics~~ class.

~~• Failing or refusing to hire or admit persons because of their protected characteristics~~

~~• Terminating persons from employment or an educational program based on their protected characteristics~~

~~• Denying raises, benefits, promotions, or leadership opportunities on the basis of a persons' protected characteristics~~

- Preventing persons from using University facilities or services because of their protected ~~characteristics~~ class.
- Denying persons access to educational programs based on their protected ~~characteristics~~ class.
- Failing to provide reasonable accommodations for qualified individuals with disabilities or serious medical conditions or for religious holidays or observances.
- ~~2~~ Treating persons differently because they do not conform to the gender stereotypes associated with their biological sex.

3.2. Harassment

~~The University prohibits harassing behavior on its campuses and by any person while engaged in University business, whether on or off campus. Harassment is a form of discrimination. It is defined as unwelcome verbal or physical behavior, which is directed at persons because of their race, color,~~

religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex, sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or other characteristic protected by applicable law, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with their educational experience, working conditions, or student housing by creating an intimidating, hostile, or offensive environment.

In some cases, a single incident may be so severe as to create a hostile environment. Such incidents may include injury to persons, or property, or conduct threatening injury to persons or property. In other instances, the behavior at issue is harassing, but not sufficiently severe, persistent, or pervasive as to constitute a hostile work or learning environment. In such cases, the University generally takes action to stop the offending behavior in an effort to promote a respectful environment and avoid the possibility that a hostile environment will develop.

The University prohibits harassing behavior based on protected class. Listed below are examples of behavior that can constitute such harassment. The list is not all-inclusive; in addition, each situation must be considered in light of the specific facts and circumstances to determine if harassment has occurred.

- ~~• Unwelcome jokes or comments about a protected characteristic (e.g., racial or ethnic jokes)~~
 - Disparaging remarks to a person about a protected characteristic/status (e.g., negative or offensive remarks or jokes about a person's religion or religious garments).
- ~~• Displaying negative or offensive posters or pictures about a protected characteristic~~
 - Electronic communications, such as e-mail, text messaging, and Internet use, that violate this policy.
 - Unwelcome questions or invasive requests for documentation to persons about their gender and/or gender identity.
 - Sexual misconduct as defined in UAP 2740.

4. Gender Identity

4.1. Preferred First Names and Pronouns

This policy prohibits discrimination and harassment based on gender identity or gender non-conformity. Individuals shall have the right to be addressed by a first name and pronoun corresponding to their gender identity. Individuals shall not be required to obtain a court-ordered name change before they may be addressed by the name and

pronoun that corresponds to their gender identity. Except when the use of an individual's legal or primary name is required by law or policy, individuals will be identified in the University's systems by the preferred first name that they have designated in accordance with the applicable procedure. The procedures for registering a different first name are contained on the University Registrar's website for students and employment areas for students, staff, and faculty. **ADD LINKS WHEN AVAILABLE**

Individuals also have the right to be addressed by a pronoun corresponding to their gender identity upon request. The intentional or persistent refusal to respect a preferred name or pronoun can constitute discrimination or harassment that is a violation of this policy. This policy does not prohibit inadvertent slips or mistakes in using an individual's preferred name or pronoun.

4.2. Gender-Specific Facilities

Individuals shall be provided access to designated gender-specific facilities consistent with their gender identity.

5. Freedom of Speech and First Amendment Protection

This policy is not intended to inhibit or restrict free speech or the expression of ideas. In cases of alleged harassment or discrimination, the protections of the First Amendment must be considered if issues of speech or expression are involved. –Free speech rights apply in the classroom and in all other educational programs and activities. This policy is intended to protect students and employees from discrimination, not to regulate the content of speech.

36. Hate/Bias Crimes and Incidents

A hate crime is a crime committed in whole or in part because of the victim's actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity. Under New Mexico state law, hate crimes are "motivated by hate," meaning the commission of a crime with the intent to commit the crime because of the actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity of the victim, whether or not the offender's belief or perception is correct. NMSA 1978, Section 31-188-1). A person who has experienced a hate crime should report the crime to the University of New Mexico Police Department by calling 277-2241 or 911 in case of emergency or by filing a hate crime report on the police website.

A hate/bias incident is an act of conduct, speech, or expression to which a bias motive is evident as a contributing factor (regardless of whether the act is criminal). All hate crimes are bias incidents but not all bias incidents are hate crimes. A hate/bias incident may also be a violation of this policy and should be reported to the OEO or reported via the hate/bias reporting form on the OEO website.

7. Reasonable Accommodations

The University makes reasonable accommodations for students, employees, ~~or~~and prospective students and employees in accordance with federal and state regulations. Assessing and determining appropriate and effective reasonable accommodations must be done on a case by case basis. Failure to accommodate can constitute discrimination in some instances. ~~Anyone seeking information on reasonable accommodations may also contact the University's Office of Equal Opportunity (OEO).~~Anyone seeking to file a claim for failure to provide an accommodation in the academic and/or work environments should contact the OEO.

37.1. Reasonable Accommodations for Religious Observances and Practices

The University makes reasonable accommodations for ~~the~~ religious observances and practices ~~of~~for faculty, staff, and students, ~~employees,~~ and prospective students and employees. ~~These~~Reasonable accommodations are made for students unless such accommodations have the end result of altering educational requirements of a course or program, ~~excessively burdening faculty,~~ or ~~placing~~place an undue ~~hardship~~burden on the operations of the University. ~~These~~Reasonable accommodations are made for faculty and staff unless such accommodations have the end result of disrupting the efficiency or effectiveness of the workplace, fundamentally altering the essential functions of a job, or placing an undue hardship on the University. Failure to accommodate religious observances and practices can constitute discrimination on the basis of religion in some instances and each case will be evaluated in light of the totality of the circumstances. Persons seeking religious accommodation should contact the OEO if assistance is needed.

37.2. Reasonable Accommodations for Individuals with Disabilities and Serious Medical Conditions

The University is committed to providing equal opportunities to individuals with disabilities. The University makes reasonable accommodations for applicants, students, and employees. The University makes reasonable accommodations for the physical and mental disabilities of a student unless an accommodation has the end result of fundamentally altering the nature of the course or program, ~~excessively burdens faculty,~~ or places an undue hardship on the operation of the University. The University makes reasonable accommodations for the physical or mental disabilities of an employee or ~~prospective employee~~ applicant unless such accommodations have the end result of fundamentally altering the essential functions of a job or place an undue hardship on the operation of the University.

Failure to accommodate can constitute discrimination on the basis of disability in some instances. Students should refer to UAP 2310 ("Academic Adjustments for Student with Disabilities") for guidance on requesting accommodations and should contact the University Accessibility Resource Center for assistance. Employees, including undergraduate and graduate student employees, should refer to UAP 3110 ("Reasonable Accommodation for Employees with Disabilities") for guidance on requesting workplace accommodations and initiating an interactive dialogue with their immediate supervisor or manager.

4The Director of the OEO has been designated as the University ADA Coordinator. Any applicant, employee, or visitor needing guidance on seeking a reasonable accommodation for disability should contact the Director of the OEO. Once an accomodation has been put into place, the accomodation should be registered with the ADA Coordinator for tracking and implementation purposes. In addition, any students, employees, and applicants who feel that they have been denied a reasonable accommodation can file a complaint with the OEO pursuant to section 13 below.

7.3. Pregnancy Accommodation

The University is committed to protecting the rights of expecting persons and makes reasonable accommodations for pregnancy, lactation, and conditions related to pregnancy for faculty, staff, and students and prospective students and employees. The University makes accommodations for students unless an accommodation has the end result of fundamentally altering the nature of the course or program, or places an undue hardship on the operation of the University. The University makes accommodations for employees or applicants unless such accommodations have the end result of fundamentally altering the essential functions of a job or place an undue hardship on

the operation of the University. Students, employees, and applicants should contact the OEO if assistance is needed.

8. Reporting Procedures, Investigations, and Disciplinary Procedure

It is the policy of the University to prevent and eliminate forms of unlawful ~~harassment~~ discrimination in employment and educational settings. ~~The University prohibits harassment on the basis of race, color, religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex (including sexual harassment), sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or any other characteristic protected under applicable law.~~ Persons who believe they have been discriminated against on the basis of a protected ~~status~~class are encouraged to contact: the OEO. The OEO is the independent, impartial, and neutral campus entity designated to ensure compliance with all University policies that apply to civil rights including any allegations of civil rights violations. The OEO reports directly to the University President's office to maintain optimal independence and impartiality. The OEO follows its Discrimination of Claims Procedure (DCP) when addressing and investigating claims of discrimination. The DCP describes the procedures that apply when a complaint is filed pursuant to this section. The DCP is linked to this policy.

- ~~OEO~~
- ~~Dean of Students~~
- ~~Human Resources~~
- ~~Ombudsperson (The Ombudsperson serves as a resource for discussing concerns and University processes; reports to the Ombudsperson are confidential and are not shared with University officials or other departments)~~
- ~~their supervisors or managers~~
- ~~director, chair, or dean of a department, school, or college~~
- ~~Internal Audit~~
- ~~UNM Compliance Hotline (call may be anonymous, but doing so may limit a person's protection from retaliation and the University's ability to conduct a full investigation)~~

~~The University encourages persons who believe that they have experienced or witnessed discrimination or harassment as prohibited by this policy to come forward promptly with their inquiries, reports, or complaints and to seek assistance within the University. Individuals also have the right to pursue a legal~~

remedy for discrimination or harassment that is prohibited by law, in addition to or instead of proceeding under this policy.

The University will handle discrimination complaints under this policy to ensure prompt and equitable resolution of such complaints. The matter may proceed to a formal investigation or other forms of effective and fair review. The investigation or review may be performed by OEO, or jointly with another office, as determined by OEO.

Discrimination Claim Procedures are in place for addressing allegations of discriminatory treatment of employees or students. These procedures can be reviewed on OEO's [website](#). Anyone in the University community may contact [OEO](#) for more information. Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated; (2) a finding that the allegations are substantiated and constitute discrimination or inappropriate behavior; and, if so, (3) referral to the appropriate administrative authority for corrective action.

4.1In some instances, the behavior at issue may be harassing, but not sufficiently severe, persistent, or pervasive as to constitute a hostile work or learning environment. In such cases, the University may take action to stop the offending behavior in an effort to avoid the possibility that a hostile environment will develop. Individuals and/or groups of individuals may be required by the University to participate in training or other informal processes to eliminate offending behavior, prevent its reoccurrence, and remedy its effects in a manner that ensures compliance and the safety and welfare of the campus community. Information on this informal process is in the DCP.

The Student Code of Conduct and Visitor Code of Conduct describe the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a student or visitor.

The University may also implement interim measures or interventions, as appropriate to the allegations and if the allegations warrant, to protect the community and students involved, pending the culmination of any review, investigation, or appeal process. If the review, investigation or appeal process determines that there is no cause to believe this policy has been violated, these interim measures may be revoked.

UAP 3215 (“Performance Management”) describes the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a staff member.

Faculty Handbook Policy C07 (“Faculty Discipline”) describes the disciplinary processes and procedures that may apply after an investigation pursuant to this section is complete and a finding is made that this policy was violated by a faculty member.

9. Reporting Responsibility

When University faculty, administrators, and supervisors witness or receive a written or oral report or complaint of discrimination or harassment, they are required to ~~engage in appropriate measures to prevent violations of this policy and~~ promptly notify ~~OEO, including notification of any actions taken to achieve informal resolution of the complaint~~OEO. The University relies on its employees to notify the ~~University’s~~ OEO office of all disclosures of discrimination and harassment as defined in this policy. ~~The University encourages reporting of all known or suspected discriminatory conduct. The University can take corrective action only when it becomes aware of issues. Therefore, it encourages persons who believe they have witnessed or experienced discrimination or harassment to come forward promptly with their inquiries, reports, or complaints. Individuals have the right to pursue legal remedies or to contact outside administrative civil rights agencies in addition to proceeding with this policy.~~

This section of the policy does not obligate licensed healthcare professionals and other persons, who are required by professional or University responsibilities to keep certain communications confidential, to disclose those confidential communications.

9.1. Further, if Supervisors

Supervisors shall report all known or suspected discriminatory conduct to the OEO. If supervisors fail to take ~~action~~ notify the OEO when they know, or reasonably should have known, that a student or subordinate employee is being subjected to discrimination, supervisors could be held in violation of this policy. ~~The University encourages reporting of~~Supervisors shall report all known or suspected discriminatory conduct. Additionally, supervisors should manage their workplaces to ensure that they are fair, equitable, and respectful..

~~This section of the policy does not obligate persons who are required by professional or University responsibilities to keep certain communications confidential (e.g., licensed healthcare professional) to report confidential communications received while performing those University responsibilities.~~

510. Confidentiality

The University recognizes that individuals have a right to privacy; however, the University also has an obligation to address concerns and inquiries, as well as to investigate and resolve civil rights claims. ~~Therefore, the University cannot guarantee anonymity to persons raising concerns. The University may not be able to fully address allegations received from anonymous sources or those requesting anonymity, unless sufficient information is furnished to enable the University to conduct a meaningful and fair investigation.~~ All complaints will be handled in a confidential manner to the extent possible and consistent with principles of due process. Information will only be shared among University employees or external parties on a need-to-know basis and as permitted under University policy and applicable federal and state law.

All participants involved with an internal discrimination or harassment investigation have a ~~strict~~ duty to keep investigation information confidential. Any attempt by any participant to influence the outcome of an investigation by divulging information to others ~~(who have no legitimate “need to know”)~~ may be grounds for disciplinary action.

~~Persons may request anonymity when reporting discrimination, and the University will evaluate the anonymity request in the context of the University’s responsibility to provide a safe and nondiscriminatory work and learning environment. Anonymous claims may limit a person’s protection from retaliation and the University’s ability to conduct a full investigation. While not routinely done, the University reserves the right to disclose a person’s identity when absolutely necessary to fulfill its obligations under anti-discrimination laws and regulations or when legally required to do so.~~

611. Retaliation

It is the policy of the University ~~of New Mexico~~ to foster an environment where ~~faculty, staff, and students~~ individuals may raise civil rights claims without fear of retaliation or reprisal. All members of the University community have a right to redress for perceived violations of this policy. It is contrary to federal and state civil rights laws, and to University policy, to retaliate against any ~~person~~ persons for asserting their civil rights,

which includes raising concerns related to civil rights, reporting to any University office charged with addressing such complaints, filing a claim of discrimination or harassment, or participating ~~as a witness~~ in an investigation related to an allegation of discrimination or harassment.

Allegations of civil rights retaliation ~~may~~should be reported to ~~OEO, Internal Audit, chairs, deans, directors, supervisors, the Division of Human Resources, and the Dean of Students.~~ OEO.

Retaliation is grounds for a subsequent complaint and may result in disciplinary action against the persons committing the retaliatory acts. Listed below are examples of behavior that can constitute such retaliation. The list is not all-inclusive; in addition, each situation must be considered in light of the specific facts and circumstances to determine if retaliation has occurred.

- 7 Work related threats, warnings, or reprimands.
- Transfers to less prestigious work hours or duties.
- Engaging in activity that is likely to deter reporting pursuant to this policy.

12. Providing False Information

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual's own statement. ~~Lack of corroborating evidence should not discourage~~ individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith allegation of discrimination, harassment, or retaliation under this policy, even if an investigation fails to substantiate the allegation.

Notwithstanding this provision, the University may discipline employees or students when it is determined that they brought an accusation of discrimination or harassment in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, will be subject to disciplinary action.

8-13. Equal Opportunity and Affirmative Action

The University recognizes its responsibility to extend equal employment and educational opportunities to all qualified individuals: and will not discriminate against any applicant

or employee based on protected class or status. The University has a responsibility to its students and to the citizens of the ~~state~~State to actively recruit, hire, and retain the best-qualified persons possible, and to do so in the context of our commitment to affirmative action principles.

Further, the University commits itself to a program of affirmative action to increase access by, and participation of, traditionally underrepresented groups: including women, minorities, individuals with disabilities, and veterans. OEO provides guidance and assistance to the University leadership in identifying effective recruitment and retention strategies to meet its affirmative action responsibilities. This includes monitoring or auditing all employment activity for staff and faculty at the University.

813.1. Responsibility for Affirmative Action Plan

~~The Executive Order 112446 requires the~~ University ~~President has overall responsibility for the~~ to create a written Affirmative Action Plan. ~~All senior~~ (AAP) that measures whether women, minorities, individuals with disabilities, and ~~mid-level administrators (vice presidents, deans, directors, department heads)~~ veterans are ~~accountable for~~ being employed at the expected rate given their ~~performance in the accomplishment~~ composition of affirmative action ~~the relevant labor pool, and set~~ goals and objectives. ~~when they are not.~~

The Director of OEO has been designated as the Affirmative Action Coordinator. This official is responsible for gathering data for the AAP, monitoring, or auditing all of the University's equal employment opportunity and affirmative action activities, reporting annually on the effectiveness of the University's affirmative action programs, and developing recommendations for necessary action to assure attainment of the University's stated objectives. Any questions related to the ~~Affirmative Action Plan~~ AAP should be directed to ~~OEO~~ the OEO.

9. The University President has overall responsibility for the AAP. All senior and mid-level administrators (vice presidents, deans, directors, department heads) are accountable for their performance in the accomplishment of affirmative action goal objectives and action oriented plans, and for ensuring that all recruitment, applications, and hiring processes are consistent with state and federal law and with AAP objectives. Human Resource professionals and search and interview committees should adhere to all applicable recruitment and hiring guidelines, affirmative action and diversity

principles and regulations, and AAP goals and initiatives. All University data stewards are responsible for providing accurate, verified, and timely data for the annual AAP.

14. References

14.1. Related Policies and Resources

9.1. Policies

- Regents Policy 2.3 ("Equal Opportunity and Affirmative Action for Employees and Students")
- Regents Policy 2.5 ("Sexual Harassment")
- UAP 2200 ("Whistleblower Protection and Reporting Suspected Misconduct and Retaliation")
- UAP 2215 ("Consensual Relationships and Conflicts of Interest")
- UAP 2310 ("Academic Adjustments for Student with Disabilities")

UAP 2730 ("Sexual Harassment")

- UAP 2740 ("Sexual Violence and Sexual Misconduct")
- UAP 2750 ("Lactation Support Program")
- UAP 3110 ("Reasonable Accommodation for Employees with Disabilities")
- UNM Student and Visitor Codes of Conduct

9.14.2. Resources and Contacts

- Accessibility Resource Center (ARC)
- Campus Police
- Center for Academic Program Support
- Counseling, Assistance, and Referral Service

Dean of Students Office of Equal Opportunity

-
- Discrimination Claim Procedures
- Diversity and Inclusion

- Global Education Office
- LGBTQ
- LoboRESPECT Advocacy
- Office of Equal Opportunity (OEO)
- Office of the Registrar

Dean of Students

Campus Police

Center for Academic Program Support

Counseling, Assistance, and Referral Service

- Ombuds/Dispute Resolution Services for Faculty
- Ombuds/Dispute Resolution Services for Staff
- Student, Health, and Counseling
- Women's Resource Center

Rape Crisis Center of New Mexico

New Mexico Coalition Against Domestic Violence **14.3. Applicable Laws**

- The Equal Pay Act of 1963
- Titles IV, VI, and VII of the Civil Rights Act of 1964
- Title IX of the Education Act of 1972 The Rehabilitation Act of 1973 (Sections 503 and 504)
- The Vietnam Era Veterans Readjustment Assistance Act (1974)
- Age Discrimination Act (1975)
- Pregnancy Discrimination Act (1978)
- The Americans with Disabilities Act (ADA) of 1990; Amendments Act of 2008
- Executive Order 11246
- Uniform Services Employment and Reemployment Act (1994)
- Violence Against Women Act of 1994
- Violence Against Women Reauthorization Act of 2013
- The New Mexico Human Rights Act

DRAFT OF 10-12-2017

Policy 2740: Sexual Misconduct

General

The University of New Mexico prohibits discrimination on the basis of sex (including gender, sex stereotyping, gender expression, and gender identity). Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination. Sex discrimination is a violation of Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; and the New Mexico Human Rights Act, NMSA 1978, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14. Intimate partner violence includes physical, sexual, or psychological harm.

For the purposes of this policy, sexual harassment, sexual violence, and intimate partner violence are collectively referred to as “sexual misconduct.” Sexual misconduct subverts the mission of the University and threatens the careers of students and employees.

This policy applies to any allegation of sexual misconduct made by or against a student, staff, or faculty member, regardless of where the alleged activity occurred. If the circumstances giving rise to the complaint are related to UNM’s programs or activities, this policy may apply regardless of the affiliation of the parties or location of any alleged incidents. The University is committed to responding promptly and fairly to every allegation of sexual misconduct.

Sexual misconduct may be committed by anyone, including a stranger, an acquaintance, a friend, or someone with whom the victim is involved in an intimate or sexual relationship. Individuals who have experienced sexual misconduct are encouraged to report what happened to law enforcement and to seek assistance from any of the campus resource offices or community resources listed in Section 9 of this policy. A report of sexual misconduct will be taken seriously and addressed in accordance with UNM policies and procedures. The University's [Title IX Coordinator](#), who oversees institutional compliance with UNM policy related to sex discrimination (including sexual misconduct), is located in the [Office of Equal Opportunity](#) (OEO). For more information on discrimination related to sex and other protected categories, see UAP 2720 (“Prohibited Discrimination”).

This policy includes information for students, staff, and faculty on resources available following an act of sexual misconduct, UNM responses, education and prevention programs, and possible disciplinary sanctions.



1. Definitions of Sexual Misconduct

The components of sexual misconduct—sexual harassment, sexual violence, and intimate partner violence—are defined below.

Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. There are two typical types of sexual harassment: quid pro quo and hostile environment. Conduct of a sexual nature becomes a violation of this policy when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement (**quid pro quo**);
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual (**quid pro quo**); or
- unwanted conduct of a sexual nature is sufficiently severe, persistent or pervasive to limit participation in or benefit from educational program or create a hostile environment either in employment or the academic setting (**hostile environment**).

Listed below are behaviors that may constitute sexual harassment - (either quid pro quo or hostile environment sexual harassment, as defined above), depending on the particular circumstances of the situation:

- Suggestive or obscene letters, notes, invitations
- Electronic communications, such as e-mail, text messaging, and Internet use, that are sexual in nature
- Unwelcome sexual jokes or comments (including favorable comments about someone's gender, body, or appearance)
- Impeding or blocking movements, touching, or any physical interference or stalking
- Sexually oriented gestures; or displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters
- Threats or insinuations that refusal to provide sexual favors will result in reprisals; withholding support for appointments, recommendations, promotions, or transfers; or change of assignments or poor performance reviews or grades
- Sexual or gender-based violence, including, but not limited to, rape, sexual assault, sexual battery, and sexual coercion

While sexual harassment often takes place in a situation of power differential between the persons involved, this policy recognizes that sexual harassment also may occur between persons of the same University status: student-student, faculty-faculty, and staff-staff, or between peers. Additionally, the prohibition against sexual harassment applies regardless of the genders of the parties. Sometimes harassers target a person who has authority over them. Harassers can

also be persons who are not members of the University community, such as contractors or visitors. Regardless of the source, the University does not tolerate this kind of behavior and the University is committed to maintaining an environment free from sexual harassment.

Sexual harassment is especially serious when it threatens relationships between students and teachers, or relationships between supervisors and their subordinates. Through grades, wage increases, recommendations for graduate study, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's or employee's success and future career at the University and beyond.

Free Speech

In cases of alleged sexual harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other education programs and activities. This policy is intended to protect students and employees from discrimination, not to regulate the content of speech.

Sexual Violence

Sexual violence refers to physical sexual acts perpetrated with force or coercion against a person's will; or where a person has not given consent as defined in this policy or is unable to consent due to the use of alcohol or drugs, disability, or age. It may include sexual assault, forcible fondling, or any other conduct of a sexual nature that is nonconsensual. Sexual violence is a crime.

- Rape/sexual assault: non-consensual sexual intercourse (either vaginal or anal) with a penis, vagina, tongue, finger, or any object.
- Non-consensual oral sex: non-consensual contact between one person's mouth and the genitals or anus of another person.
- Sexual contact/battery: non-consensual touching, kissing, or fondling of another person in a sexual way, whether the person is clothed or unclothed; or forcing someone to touch another in a sexual way.
- Sexual coercion: the act of using pressure, alcohol or drugs, or force to have *sexual* contact with someone against the individual's will and includes persistent attempts to have *sexual* contact with someone who has already refused.

Intimate Partner Violence

Intimate partner violence refers to physical, emotional, or psychological violence that threatens, creates fear, or causes intimidation to another person within the context of an intimate (meaning sexual or romantic) or formerly intimate relationship. It may include dating violence, domestic

violence, or domestic abuse. It could also include other behaviors such as stalking or sexual violence.

Sexual Exploitation

Sexual exploitation is taking sexual advantage of another person without consent, including, without limitation, indecent exposure; voyeurism; non-consensual recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another

Stalking

Stalking is knowingly pursuing a pattern of conduct directed at a specific individual when that pattern of conduct would place the individual in reasonable apprehension of personal safety and/or well-being.

Complete Definitions

For complete definitions of the crimes of sexual assault, domestic violence, dating violence, and stalking under New Mexico law, see “New Mexico Definitions of Violence Against Women Act¹ Crimes” in [Section 15](#) of this policy.

1.1. Jurisdiction

OEO has jurisdiction over all matters related to civil rights at the University of New Mexico. OEO is not a law enforcement agency. As such, while it is charged with investigating allegations of sexual misconduct as provided in this policy, OEO does not enforce criminal statutes. Enforcement of criminal statutes is the sole jurisdiction of law enforcement agencies. Similarly, while it generally has jurisdiction to administratively investigate claims of sexual misconduct, depending on the allegations made, OEO may not have jurisdiction to investigate all allegations, allegations must include a violation of a civil rights policy over which OEO has authority. The information received from an individual will be reviewed and a determination will be made as to whether OEO has jurisdiction over the concerns. Please see OEO’s Discrimination Claims Procedure for more information regarding our jurisdiction and our process for accepting jurisdiction and notifying the parties involved.

2. Reporting Sexual Misconduct

The University urges any individual who has experienced sexual misconduct, or has knowledge about an incident of sexual misconduct, to make an official report. In order for the University to respond effectively to individuals who have experienced sexual misconduct, **all** UNM staff and faculty, except as noted in [Section 7](#), who receive information about a person who has experienced sexual misconduct must report the information to OEO within 24 hours, or as soon as reasonably practicable, by calling OEO at (505) 277-5251 or by email at oeounm@unm.edu. See [Section 7](#) for more details, including how some persons can retain anonymity when reporting.

Figure 2: Reporting Sexual Misconduct

If you are experiencing an emergency, call 911

If the incident occurred on the UNM campus, contact the [UNM Police Department](#):

- can be called 24 hours a day/365 days a year
- can report [online](#) and, if desired, anonymously

(505) 277-2241
<https://police.unm.edu/>

Any student, faculty, or staff member who has experienced sexual misconduct and wants help in notifying law enforcement can contact any Sexual Misconduct and Assault Response Team (SMART) responding office or agency for assistance

- [LoboRESPECT Advocacy Center](#): (505) 277-2911
- Sexual Misconduct and Assault Response Team ([smart.unm.edu](#))
 - Sexual Assault Nurse Examiner: (505) 884-7263
 - [Student Health and Counseling](#): (505) 277-3136
 - Rape Crisis Center: (505) 266-7711
 - [Counseling and Referral Services](#): (505) 272-6868

For more information on resources available to you, see [Section 10](#) of this policy.

3. Consent

The University of New Mexico has adopted a definition of consent, as follows:

Consent is an affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity. Consent requires a clear affirmative act or statement by each participant to each sexual act in a sexual interaction. Consent demonstrates that the conduct in question is welcome or wanted. Relying solely on non-verbal communication can lead to miscommunication about one's intent. Confusion or ambiguity may arise at any time during a sexual interaction. Therefore, it is essential that each participant makes clear his or her willingness to continue at each progression of the sexual interaction.

Figure 3: Definition of Consent

- Consent:**
- **Affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity**
 - **Demonstrated by clear affirmative act or statement by each**

participant to each sexual act in a sexual interaction

No consent:

- **No clear act or statement given**
- **Silence, passivity, or lack of response**
- **Participant is asleep, unconscious, or otherwise unaware of what is happening**
- **Participant is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the situation**
- **Participant is impaired by mental, physical, or psychological disability**
- **Participant is not of age to consent**

Sexual activity will be considered “without consent” if no clear act or statement is given. Consent may not be inferred from silence, passivity or lack of active response alone. A person who is asleep, unconscious, or otherwise unaware of what is happening is unable to give consent. Furthermore, a current or past dating or sexual relationship is not sufficient to constitute consent in every instance, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. It is the responsibility of the person initiating the sexual activity to obtain consent from his or her partner. Being intoxicated or under the influence of other drugs does not diminish one’s responsibility to obtain consent.

The use of alcohol or drugs can limit or prevent a person’s ability to freely and clearly give consent. If a person is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the fact, nature or extent of the sexual situation, there is no consent. Intoxication alone, however, does not mean a person is incapable of consenting to sexual activity. OEO examines the record for other behavior like stumbling or otherwise exhibiting loss of equilibrium; slurred speech or word confusion; bloodshot, glassy or unfocused eyes; vomiting, especially repeatedly; being disoriented, or confused as to time or place; or loss of consciousness. Should the preponderance of the evidence in the record demonstrate that one or more such behaviors were objectively apparent at the time the alleged unconsented-to or unwelcomed sexual activity occurred, then the evidence may demonstrate that the respondent knew or should have known that the complainant was incapable of giving meaningful consent to sexual activity due to intoxication. If the person initiating the sexual activity is also under the influence of alcohol or drugs, that does not diminish his or her responsibility to obtain consent, and is not a defense to charges of violation of this policy. Because it may be difficult to discern whether a sexual partner is incapacitated, it is better to err on the side of caution and assume that your partner is incapacitated and unable to give consent to the sexual activity.

In addition to alcohol or drugs, if a person’s mental, physical, or psychological disability (temporary or permanent) or age impairs his or her ability to make an informed decision to willingly engage in sexual activity, there is no consent. Examples include, but are not limited to, when an individual is incapacitated, scared, physically forced, intimidated, coerced, mentally or physically impaired, passed out, threatened, isolated, or confined.

4. Amnesty from Disciplinary Action for Students

UNM's primary concern is the safety of students, staff, and faculty. While staff and faculty must report incidents of students experiencing sexual misconduct, except as noted in [Section 7](#), the University strongly encourages **all** members of the campus community to report instances of sexual misconduct. The University grants amnesty to students who may have violated the [Student Code of Conduct](#)'s prohibition on the use or possession of alcohol or drugs at the same time they experienced sexual misconduct. Therefore, no drug or alcohol-related charges under the Student Code of Conduct are applied to students who report that they were using drugs or alcohol at the time they experienced sexual misconduct. Depending on the circumstances, the Dean of Students Office may determine, on a case-by-case basis, that those who witnessed an instance of sexual misconduct and who provide information regarding such instance may be granted the same amnesty. However, students should understand that any violation of state or federal criminal law involving the use or possession of alcohol or illegal drugs may result in prosecution, and UNM cannot grant amnesty from proceedings in the criminal justice system. Decisions about prosecution are made by the District Attorney's Office in the state criminal justice system and by the U.S. Attorney's Office in the federal criminal justice system.

5. Off-Campus Conduct

Conduct that occurs off-campus can be the subject of a complaint or report and will be evaluated to determine whether it implicates this policy or the [Student Code of Conduct](#). If off-campus sexual misconduct has continuing effects that create a hostile environment on campus for an individual who has experienced sexual misconduct, the University may take interim measures and depending on the circumstances, will investigate the conduct.

6. Retaliation

It is a violation of University policy to retaliate against any person who makes a complaint of sexual misconduct or reports, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct. Concerns that a student, staff, or faculty member has threatened to retaliate or has retaliated against another student, staff, or faculty member should be reported promptly to OEO. A staff, faculty member, or student who retaliates against person who makes a complaint of sexual misconduct, reports, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct, or seeks assistance from OEO, may be subject to disciplinary action.

Figure 4: Retaliation

It is a violation of University policy to retaliate against any person who makes a complaint or report of sexual misconduct or testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual misconduct.

7. Disclosure of Information

The University encourages individuals who have experienced sexual misconduct to get the support they need and the University can respond appropriately. UNM recognizes that such individuals may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. Individuals who experience sexual misconduct are strongly encouraged to understand the various reporting requirements of University entities in order to make the best decision for their circumstance. Whether or not anonymity is requested, information about sexual misconduct will be treated privately and *only* be shared on a need-to-know basis, and as authorized under University policy and applicable federal and state law.

As required by the federal Clery Act for statistical purposes, instances of sexual misconduct reported to entities other than those identified below as “No Disclosure Required” must be reported to the UNM Police Department, which works with the Clery Compliance Officer on the annual reporting of crime statistics to the University community. Such reports to UNM Police Department do not include identities and are only comprised of the nature, date, time, and general location. These reports do not serve as an official police report and do not launch a criminal or administrative investigation; these reports are purely for statistical purposes to meet Clery Act obligations.

For examples of all disclosures listed below, please visit loborespect.unm.edu.

Figure 5: Disclosure Obligations

IF YOU DISCLOSE TO THE ENTITIES ON THE RIGHT	ENTITIES	
No disclosure is required	ON CAMPUS Student Health and Counseling (SHAC) Counseling and Referral Services (CARS) Other licensed medical providers	OFF CAMPUS Rape Crisis Center of Central New Mexico Sexual Assault Nurse Examiner (SANE)
Confidential, but an anonymous record is made for	UNM Advocacy centers, such as the LoboRESPECT Advocacy Center , Women’s Resource Center (WRC) and the LBGQTQ Resource Center. A full listing can be found at http://loborespect.unm.edu .	

statistical reporting
only

Privacy maintained, All UNM staff and faculty not employed by or associated with the
but must be organizations listed or referred to above.
reported to OEO

For more information about disclosure obligations, see below.

1. No Disclosure Required: SHAC, CARS, and Off-Campus Resources

At UNM, a student who experiences sexual misconduct can speak in complete confidentiality with a licensed counselor or a medical provider at UNM's Student Health and Counseling (SHAC). SHAC counselors and medical providers do not report any information² about an incident to the police or any other University entities. Similarly, UNM staff and faculty may speak confidentially with a licensed counselor at UNM Counseling and Referral Services (CARS) and no information will be disclosed to any entity.³ Other licensed medical professionals with UNM affiliation who receive information about instances of sexual misconduct while serving in an established practitioner/patient relationship are not required to disclose information. Outside of UNM, the Rape Crisis Center of Central New Mexico and the Sexual Assault Nurse Examiner (SANE) provide their services to victims of sexual violence on a completely confidential basis. These agencies provide statistical information only to UNM SMART. Additional information about Rape Crisis Center of Central New Mexico, SANE and UNM SMART can be found in this policy, under Section 9 on "Resources Following an Act of Sexual Misconduct."

2. Confidential/Statistical Reporting Only: Advocacy Centers at UNM

UNM's LoboRESPECT Advocacy Center, LGBTQ Resource Center and Women's Resource Center (WRC) are designated as advocacy and support centers for those who have experienced sexual misconduct. UNM may designate other Advocacy Centers on campus from time to time; a complete list of designated Advocacy Centers can be found at <http://loborespect.unm.edu>. Individuals who have experienced sexual misconduct may talk with these individuals anonymously; however, Advocacy Centers will report the nature, date, time, and general location of the incident to the Office of Equal Opportunity as well as to the UNMPD but will not provide identifying information without written consent from that individual. These reports to OEO and UNMPD do not launch a University investigation. Rather, the purpose of the report is to meet Clery Act compliance, and to help keep the Title IX Coordinator informed of the general extent and nature of sexual misconduct on and off campus in an effort to track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

3. Private but report required: All UNM Faculty/Staff Not Previously Identified

Information about alleged sexual misconduct that is shared by an individual with any University faculty or staff not previously identified is required to be reported to OEO. However, it is still the full choice of the individual who has experienced sexual misconduct to make a report with UNM Police Department or to participate in an administrative investigation with OEO. UNM faculty/staff receiving information about cases of sexual misconduct involving students must report within 24 hours or as soon as reasonably possible what they have learned to OEO at 505-277-5251 or

emailing oeounm@unm.edu. Reports made by faculty or staff to OEO will include the nature, date, time, location, as well as the identities of all involved parties. While faculty and staff must report this information to OEO, this information is still considered private and will only be shared by OEO with those who have a legitimate need-to-know and as authorized by University policy and applicable federal and state law.

4. Requests for Anonymity Within an Investigation or That No Investigation Occur
Please refer to Section 13 on “Investigation and Disciplinary Procedures” for information about requests for anonymity or that no investigation occur.

8. Rights of the Parties

During OEO’s investigation following a report of sexual misconduct, and prior to a final determination being made, the reporting party (“complainant”) and responding party (“respondent”) have equal rights to be treated with respect, dignity, and sensitivity throughout the process; to information on how the college will protect their confidentiality; and to present evidence or other information they feel relevant to the matter. Once OEO’s investigation is complete and a final determination is made, the complainant and respondent have the equal right to notice of those findings and equal access to appeal those findings as described herein.

Figure 6: Rights of the Parties

Complainants Shall Be Entitled:	Respondents Shall Be Entitled:
<ul style="list-style-type: none"> • To be treated with respect, dignity, and sensitivity throughout the process. • To information on obtaining orders of protection and no contact orders. • To information on how the college will protect the confidentiality of the victim. • To notification of available services for mental health, victim advocacy, legal assistance, and other available community resources. • To be informed of the University’s sexual violence policies and procedures. • To written notification about their right to change academic, living, transportation, or work situations even if they do not formally report or participate in the University’s investigatory or disciplinary process. • To written notification of a student or employee’s rights and options, regardless of whether the crime took 	<ul style="list-style-type: none"> • To be treated with respect, dignity, and sensitivity throughout the process. • To information on how the college will protect the confidentiality of the respondent. • To notification of the how to access all available resources (i.e., counseling services, advocacy/support). • To be informed of the University’s sexual violence policies and procedures. • To timely written notice of all alleged violations within the complaint. • To a timely and thorough investigation of the allegations. • To participate or decline to participate in the investigation or disciplinary process. However, these processes may still occur and decisions made based on the information available. • To the same opportunity as the complainant to have others present at

- place on campus or off campus.
 - To a timely and thorough investigation of the allegations.
 - To participate or decline to participate in the investigation or disciplinary process. However, these processes may still occur and decisions made based on the information available.
 - To the same opportunity as the respondent to have others present at any meeting with University officials for support and/or consultation.
 - To the same opportunity as the respondent to present and have others present evidence about alleged violations in investigatory and/or disciplinary proceedings.
 - To be notified, in writing of the outcome of any investigative, disciplinary, or appeals proceeding (victim is free to share the outcome with anyone they wish).
 - To appeal the decision and sanctions determined by the Investigation and/or disciplinary proceedings.
 - To be protected from retaliation for their involvement in university investigatory proceedings.
- any meeting with University officials for support and/or consultation.
 - To the same opportunity as the complainant to present and have others present evidence about alleged violations in investigatory and/or disciplinary proceedings.
 - To be notified, in writing of the outcome of any investigative, disciplinary, or appeals proceeding (respondent is free to share the outcome with anyone).
 - To appeal the decision and sanctions determined by the Investigation and/or disciplinary proceedings.
 - To be protected against retaliation for their involvement in university investigatory proceedings.

For more information regarding the rights of students in a sexual misconduct proceeding, see the [Student Code of Conduct](#) and [Student Grievance Procedure](#) in the UNM Pathfinder.

Following OEO's investigation, the complainant and respondent have equal rights to seek a discretionary review of OEO's determination through the Office of the President pursuant to Section 10 of [UAP 3220 \("Ombuds/Dispute Resolution Services for Staff"\)](#), and/or the Board of Regents pursuant to [Regents' Policy 1.5](#). Should the Dean of Students Office take action based on the investigation's findings, both parties will have equal rights to appeal the action pursuant to the [Student Grievance Procedure](#) in the UNM Pathfinder. In a grievance of the Dean of Students Office's decision, both parties will have equal access to the information upon which the findings are based, have an equal opportunity to present evidence and witnesses (subject to the limitations in the statement of complainant's rights below), and will receive equal notification of the results of the procedure. Both parties also will have the equal right to appeal the results of the grievance of the Dean of Students Office's decision as provided in the [Student Grievance Procedure](#) in the UNM Pathfinder.

9. Resources Following an Act of Sexual Misconduct

While UNM encourages an individual who has experienced sexual misconduct to make an official report, whether the person chooses to do so, she or he is urged to seek appropriate help. There are numerous resources for students, staff, and faculty at UNM. Specific resources, either on or off campus for medical treatment, legal evidence collection, obtaining information, support, and counseling, and officially reporting an incident of sexual misconduct are listed below. Each resource can assist a person to access the full range of services available. Students and staff or faculty accused of committing an act of sexual misconduct may obtain confidential and anonymous support and counseling at Student Health and Counseling (SHAC) (for students) and Counseling and Referral Services (CARS) (for staff and faculty).

[LoboRESPECT Advocacy Center](#) (505) 277-2911

Provides a safe and welcoming environment for students to receive support and advocacy services for a number of areas.

Sexual Misconduct and Assault Response Team (SMART)

UNM's Albuquerque Campus has a Sexual Misconduct and Assault Response Team (SMART). SMART is a victim centered, victim controlled, coordinated response team composed of community and University organizations designed to quickly respond to cases misconduct. Additional information can be found at SMART.unm.edu.

Medical and Legal Evidence Collection

[Sexual Assault Nurse Examiner \(SANE\)](#)
(505) 884-SANE (7263) 24-hour hotline
24-hour free medical and forensic exams by trained nurses, emergency contraception, treatment for sexually transmitted infection, evidence collection, forensic photography, and follow-up services.

Medical and Counseling

Academic Assistance

[Dean of Students Office](#)

(505) 277-3361

Dean of Students Office offers students impacted by sexual misconduct assistance in navigating class issues, processing withdrawals, tuition refund appeals, scholarship and financial aid issues, and related needs aimed at supporting students.

Additional Campus Resources

[Office of Residence Life and Student Housing](#)

(505) 277-2606

Addresses misconduct by residence halls students in the residence halls. Works with students who need to make changes in on-campus housing due to an incident of sexual misconduct.

American Campus Community

[Lobo Village](#) (505) 925-5575

[Casas del Rio](#) (505) 277-2094

Owns and manages Lobo Village and Casas del Rio, in consultation with Office of Residence Life and Student Housing.

[Office of Equal Opportunity](#)

(505) 277-5251

UNM's Title IX Coordinator is housed in the Office of Equal Opportunity. OEO investigates

[Student Health and Counseling \(SHAC\)](#)
(505) 277-3136 24-hour number
Counseling, crisis intervention, and comprehensive medical services for eligible UNM students. SHAC can help expedite referrals to SANE for evidence collection.

Counseling

[Rape Crisis Center of Central New Mexico](#)

(505) 266-7711
Operates a 24-hour hotline and provides victim advocates and free counseling.

[UNM Counseling and Referral Services \(CARS\)](#)

(505) 272-6868
Free counseling services for eligible UNM staff, faculty, and their spouses/domestic partners and retirees.

Law Enforcement

[UNM Police Department](#)

(505) 277-2241

For emergency on campus, dial 911

Specially trained SMART officers will respond to and investigate sex crimes on the UNM campus, and will forward cases to the District Attorney's Office as appropriate. If the sex crime occurred off-campus, UNM Police Department can assist an individual who has experienced sexual misconduct in contacting the appropriate law enforcement agency to file a report.

allegations of violations of UNM's policy prohibiting sex discrimination, including sexual misconduct.

[Women's Resource Center](#)

(505) 277-3716
Offers programs on gender and sexuality issues. Staff also provides support to individuals who have experienced sexual misconduct and provides mental health referrals for UNM students.

[LGBTQ Resource Center](#)

(505) 277-5428
Provides service to UNM students, staff, and faculty of all gender identities and sexual orientations through support, advocacy and safety.

[Manzanita Counseling Center](#)

(505) 277-7311
Manzanita is a counselor training facility affiliated with the Counselor Education Program in the UNM College of Education. Counseling for students, staff, and faculty is provided free of charge by advanced graduate students under the supervision of UNM faculty who are licensed professional counselors. Services are available during the academic year (fall and spring semesters) only.

[Agora Crisis Center](#)

(505) 277-3013
Volunteer trained peer counselors respond to phone calls on a 24/7 hotline and can refer callers to UNM and community resources.

10. Interim Measures

The University reserves the right to take interim measures as appropriate to ensure the safety of individuals and our campus community. These measures take a variety of forms and can be taken against students, staff, or faculty at UNM. Interim measures are not considered disciplinary in nature and are implemented pending the outcome of an OEO investigation but can be modified or removed if additional information is received that would change the assessment of the need for an interim measure. The Title IX Coordinator or the Director of OEO make decisions related

to interim measures in allegations of sexual misconduct and will inform the appropriate office of the recommended interim measures.

Interim measures may include the following measures, although this is not an exhaustive list: directives by OEO that the parties have no contact with each other, that one or more parties to a complaint be moved to another office or location, be placed on paid administrative leave, removed from a class or have a registration hold placed on a student account.

For students, the Dean of Students Office has the authority to implement interim measures which stay in place until the end of any review or appeal process. The Dean of Students Office can impose a “no contact” order, which typically directs the complainant and respondent not to have contact with each other, either in-person or through electronic communication, pending the investigation and resolution of a complaint. The Dean of Students Office can arrange for changes in academic and/or on-campus living situations as needed. Other interim measures, as appropriate, can be implemented by the Dean of Students Office before the final outcome of the investigation and afterwards as needed.

Figure 7: Interim Measures - Students

- The Dean of Students Office can impose a “no contact” order, which typically directs the complainant and respondent not to have contact with each other, either in-person or through electronic communication, pending the investigation and resolution of a complaint.
- The Dean of Students Office can arrange for changes in academic and/or on-campus living situations as needed.

11. Procedures to Follow if You Experience Sexual Violence

If you are in danger, dial 911 for assistance. If you are on the UNM campus, you will be connected with UNM Police Department. If you are off campus in Albuquerque, you will be connected with the Albuquerque Police Department. You may also want to call a trusted family member or a friend. Seek medical attention. If you have serious injuries, seek emergency medical attention at a hospital. In the Albuquerque area, you can contact SANE (Sexual Assault Nurse Examiners) at (505) 884-7263 for information about receiving a sexual assault examination.

You can also contact the Rape Crisis Center of Central New Mexico at (505) 266-7711 or (888) 881-8282. The Rape Crisis hotline is available 24 hours a day, 7 days a week, 365 days a year. An advocate from Rape Crisis Center will accompany you to a sexual assault examination at the office of the Sexual Assault Nurse Examiners.

It is important for individuals who have experienced sexual misconduct, in particular sexual assault, to understand the steps to take to preserve evidence for possible use later to support a criminal case. All those who have experienced a crime have the right to report a crime to police

at any time, regardless of when it occurred. However, the sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear account of what happened, and that police will be able to identify and speak with witnesses.

Figure 8: Procedures to Follow if Sexual Misconduct Happens to You

- It is important for individuals who have experienced sexual misconduct, in particular sexual assault, to understand the steps to take to preserve evidence for possible use later to support a criminal case.
- The sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear account of what happened, and that police will be able to identify and speak with witnesses.
- You may file a report of sexual assault and/or receive a sexual assault medical examination immediately and then decide at a later date if you want to pursue filing criminal charges. Sexual Assault Nurse Examiners (SANE) can provide the forensic medical exam, free of charge, in a comfortable environment facilitated by nurses specially trained in sexual violence and intimate partner violence cases.

The UNM Police Department encourages you to report any act of sexual misconduct that takes place on the UNM campus to UNMPD. Also, as discussed above, if you need assistance in reporting to UNMPD, you can get help from any of the offices participating in UNM's Sexual Misconduct and Assault Response Team (SMART).

12. Educational Programs

UNM recognizes the harm caused by sexual misconduct and the need to educate the University community regarding these issues. The University offers the following educational programs:

1. **Women's Resource Center**

(505) 277-3716

The Women's Resource Center offers programs on gender and sexuality issues, including a gendered violence prevention program, women's peer mentoring program, self-defense and awareness training, and bystander intervention education. Staff also provides support to individuals who have experienced sexual misconduct and provides mental health referrals for UNM students.

2. **Dean of Students Office**

(505) 277-3361

The Dean of Students Office coordinates new student orientation which includes programs addressing sexuality, relationships, and sexual misconduct issues, including the definition of consent under this policy.

3. **Residence Life and Student Housing**

(505) 277-2606

RLSH coordinates programming for residence halls students, including programs addressing sexuality, relationship, and safety issues. RLSH also administers a Residence Life discipline system which addresses misconduct by residence hall students occurring in the residence halls. Resident Advisors (RAs) are trained in responding to students residing in the residence halls that have experienced sexual misconduct and can assist the student with contacting UNM Police Department and/or the Dean of Students Office to file a report.

4. **UNM Police Department**

(505) 277-2241

As requested by campus departments, offices, and student, staff, and faculty groups, the UNM Police Department conducts presentations that center on personal safety, including specific training on sexual violence and misconduct prevention.

5. **UNM Office of Equal Opportunity**

(505) 277-5251

OEO staff offer in-person training for departments on preventing and responding to sexual harassment, including sexual misconduct. OEO also provides online training to all the University community on preventing sexual harassment and University policy.

6. **Student Health and Counseling (SHAC)**

Health Education & Prevention Department

(505) 277-3716

SHAC's Health Education Department offers workshops and educational programs on sexuality, sexual decision-making and relationships. A Sexual Assault and Abuse Resource Guide is compiled and updated yearly to include current information about campus and community resources that assist individuals who have experienced sexual misconduct.

7. **Office of Student Activities**

(505) 277-4706

The Office of Student Activities coordinates various programs for UNM's chartered student organizations, including fraternities and sororities, which address sexuality, relationships, and sexual assault issues.

8. **LoboRESPECT**

(505)277-2911

LoboRESPECT provides a mandatory sexual misconduct training to all students called "The Grey Area," which is in-person and interactive. It also offers an online training module for students called "Campus Clarity: Think About It."

13. Investigation and Disciplinary Procedures

The University of New Mexico's [Student Code of Conduct](#) and [Visitor Code of Conduct](#), which apply to the Albuquerque campus and all branch campuses, prohibit any form of sexual misconduct. The Student Code of Conduct and Visitor Code of Conduct describe the sanctioning options and procedures that may apply after an investigation pursuant to this section is complete should a finding be made that a student or visitor more likely than not violated this policy. The Student Code of Conduct and Visitor Code of Conduct can be found in the [UNM Pathfinder](#), and are administered by the Dean of Students Office.

Similarly, [Regents' Policy 2.5 \("Sexual Harassment"\)](#) prohibits all forms of sexual harassment. If, after an investigation pursuant to this section, a finding is made that a staff member violated this policy, disciplinary action may be issued pursuant to [UAP 3215 \("Performance Management"\)](#). All three policies are administered by the UNM Policy Office.

All forms of sexual harassment are considered violations of the [Faculty Handbook Policy C09 \("Respectful Campus"\)](#). Under Policy C09, allegations of sexual harassment are processed pursuant to this policy. If, after an investigation pursuant to this section, a finding is made that a faculty member committed any form of sexual harassment, including sexual misconduct, disciplinary action may be issued pursuant to [Faculty Handbook Policy C07 \("Faculty Disciplinary Policy"\)](#). The Faculty Handbook is administered by the Office of University Secretary.

A person who experiences an act of sexual misconduct committed by a student, staff, or faculty member, or a visitor to the University, has the option of filing a complaint with OEO. OEO is the University office that processes allegations of sexual misconduct pursuant to its [Discrimination Claims Procedure](#). While OEO's Discrimination Claims Procedure includes mediation as an option for resolving discrimination complaints, mediation will not be employed to address a complaint of sexual violence. OEO investigators are trained in investigating allegations of sexual misconduct.

Outside of UNM, the Rape Crisis Center of Central New Mexico and the Sexual Assault Nurse Examiner (SANE) provide their services to individuals who have experienced sexual misconduct on a confidential and anonymous basis. The victim's identity will not be disclosed to police or to UNM without the victim's consent. Additional information about the Rape Crisis Center of Central New Mexico and SANE can be found in this policy under Section 9 on "Resources Following an Act of Sexual Misconduct."

If an individual reporting to a non-confidential UNM entity ([see Section 7](#)) that he or she experienced sexual misconduct ("complainant") requests that his or her name not be revealed to the alleged perpetrator ("respondent"), or asks the Title IX Coordinator not to investigate the allegations of sexual misconduct, the complainant will be informed that honoring the request may limit UNM's ability to fully process the allegations, including pursuing disciplinary action against the respondent. The University's prohibition against retaliation will also be explained to the complainant. If the complainant still insists that his or her name not be disclosed to the respondent, or continues to ask the University not to investigate the allegations, the Title IX Coordinator will determine whether the University can honor the request while still providing a safe and nondiscriminatory working and learning environment for the complainant and others. The Title IX Coordinator will strive to abide by the complainant's request. However, the Title IX Coordinator reserves the right to determine that it is essential to disclose the complainant's identity and/or to investigate the allegations despite the complainant's request not to in order for UNM to fulfill its obligations under Title IX. In such cases, the Title IX Coordinator will inform the complainant prior to starting an investigation and will share information only with University officials who are responsible for processing the allegations in the complaint and therefore need to know that information.

In all cases, regardless of a complainant's request for anonymity, the federal Clery Act requires that disclosure of crimes of sexual misconduct that occur on the UNM campus and on other property the University has control over (as defined under the Clery Act) must be reported for statistical purposes to the UNM Police Department, which works with the Clery Compliance Officer to annually report crime statistics to the University community. However, such reports to UNM Police Department are for statistical purposes only and are not required to include the victim's identity without his or her consent.

If the victim files a complaint with OEO and instructs it to investigate the allegations made, OEO will first make an assessment of whether it has jurisdiction to investigate the allegations made. If OEO does not have jurisdiction to investigate or otherwise process the allegations made, it will refer those issues to the appropriate body, if any. If it does have jurisdiction to investigate, as part of that investigation, OEO will make reasonable attempts to contact the respondent to notify him or her of the allegations made, his or her right to respond to the allegations made and present information he or she deems relevant to the matter, and OEO's investigation procedure. If OEO is unable to contact the respondent or if the respondent elects not to provide a response to the allegations made or information pertinent to the matter, OEO will make its determination based on the information it is able to gather.

Once a complaint is filed, both the complainant and respondent have equal rights to present evidence to OEO during its investigation. Once its investigation is complete, OEO uses a preponderance of the evidence standard to evaluate the evidence and determine whether an act of sexual misconduct occurred. The "preponderance of the evidence standard" means that, on evaluation of all of the evidence, it is more likely than not that the alleged act of sexual misconduct occurred.

The evidence OEO gathers during its investigation will be maintained by OEO and kept confidential to the extent authorized by law and policy. Should a complainant or respondent appeal OEO's determination or any sanctions issued by the sanctioning authority, OEO may be required to release the evidence upon which its determination is based to the appealing party or the entity to which the appeal is made or both.

If, after investigation, OEO finds that it is more likely than not that a student or visitor committed an act of sexual misconduct (a Determination of Probable Cause), OEO will refer the matter to the Dean of Students Office to decide on the sanction to be imposed on the offender. If OEO makes a Determination of Probable Cause that a staff or faculty member committed an act of sexual misconduct in violation of UNM policy, OEO will refer the matter to that individual's chain of command to take appropriate action, including taking disciplinary action. Misconduct by staff and the imposition of disciplinary action is handled pursuant to [UAP Policy 3215 \("Performance Management"\)](#), and faculty matters are addressed pursuant to the Faculty Handbook, specifically [Policy B5 \("Separation from the University"\)](#) and [Policy C07 \("Faculty Disciplinary Policy"\)](#). Appeals to the University President and the Board of Regents are addressed in Section VI of the Discrimination Claims Procedure. OEO does not make any determinations regarding whether a respondent has committed an act of sexual misconduct in violation of criminal statute. Rather, such determinations are the sole jurisdiction of state and federal police and prosecutorial agencies.

In any disciplinary proceeding held by the Dean of Students Office, both the accuser and the accused are allowed to bring an advisor, including an attorney advisor. However, such advisors are not authorized to speak on behalf of the individual they are advising. Rather, the accuser and accused must present their own case during the proceeding, and advisors' participation is limited to advising the person they are advising. In addition, both the accuser and accused will be notified in writing of the decision on sanctions to the extent permitted by the federal [Family Educational Rights and Privacy Act \(FERPA\)](#), and both parties have the right to appeal the sanctions decision. More information about the disciplinary process used by the Dean of Students Office can be found in the [Student Grievance Procedure](#). Article 4.4 discusses allegations of sexual misconduct.

Individuals who have experienced sexual violence or misconduct are encouraged to report the crime to the appropriate law enforcement authority. The Dean of Students Office is available to meet with a student to discuss and help implement interim measures, including academic adjustments, changes in on-campus living situations, issuance of "no contact" orders and other measures as needed. Interim measures may also be provided for staff or faculty who experience sexual violence or misconduct, as directed by the appropriate supervisory authority.

Under the University's [Student Code of Conduct](#), which applies to the Main Campus and all of the branch campuses, a student who commits a violation of this Code, including an act of sexual misconduct, is subject to the following possible sanctions:

- Verbal warning - means an oral reprimand.
- Written warning - means a written reprimand.
- Disciplinary probation - means the establishment of a time period during which further acts of misconduct may or will result in more severe disciplinary sanctions depending upon the conditions of the probation. Conditions of probation can include community service, attendance at workshops and/or seminars regarding subjects including but not limited to alcohol, drug or safety workshops and/or seminars, mandatory mental health evaluation and/or counseling or other educational sanctions.
- Suspension - means losing student status for a period of time specified in the terms of the suspension. A suspension may commence immediately upon a finding of a violation or it may be deferred to a later time.
- Expulsion - means losing student status for an indefinite period of time. Readmission may not be sought before the expiration of two years from the date of expulsion, and it is not guaranteed even after that time.
- Dismissal - means termination of student employment, either for a stated time period or indefinitely.
- Barred from campus - means being barred from all or designated portions of the University property or activities.

Students living in UNM residence halls are subject to the following possible sanctions for misconduct occurring in the residence halls:

- Housing reassignment - means the transfer of the student from one dorm room to another or one residence hall to another.

- Restricted from entry into specific residence halls, dining hall, commons building, and other UNM housing facilities.
- Contract termination - means the termination of the housing contract either for a stated period of time or indefinitely.

Under the University's [Visitor Code of Conduct](#), which applies to the Albuquerque and all branch campuses, a visitor who commits a violation of this Code, including sexual misconduct, is subject to the following possible sanctions:

- Verbal Warning - means an oral reprimand.
- Written Warning - means a written reprimand.
- Probation - means the establishment of a time period during which further acts of misconduct may or will result in more severe sanctions depending on the conditions of the probation.
- Removal from campus - means being physically escorted or forcibly removed to a location off property owned or controlled by the University, by University Police Officers or other University agents.
- Barred from campus - means being barred from all or designated portions of University property or activities.
- The sanctions of denial of admission, readmission, or employment by the University.
- Additionally or alternatively, any sanction applicable to a student under the Student Code of Conduct may be provisionally applied to a visitor, to be made effective should the visitor ever enroll or re-enroll at the University.

Faculty who are found to be in violation of this policy may be subject to disciplinary action as provided in the [Faculty Handbook Policy C07 \(“Faculty Disciplinary Policy”\)](#). Staff who are found to be in violation of this policy may be subject to disciplinary action as provided in [UAP 3215 \(“Performance Management”\)](#).

Figure 9: Investigation And Disciplinary Action

Investigation

- OEO reviews report to determine jurisdiction.
- OEO meets with reporting party (referred to as “complainant”) and responding party (referred to as “respondent”) to determine scope of investigation and explain procedure.
- OEO gathers evidence from parties, analyzes to determine if it demonstrates that a violation of University policy more likely than not occurred (referred to as the “preponderance of the evidence” standard).
- OEO issues a Preliminary Letter of Determination (PLOD) finding that there is either probable cause or no probable cause that a violation of University policy occurred.
- Complainant and respondent have two weeks to submit any new information that OEO has not considered or previously seen.
- OEO issues a Final Letter of Determination (FLOD) either upholding the finding in the PLOD or altering it based on new information submitted.

Either party has the ability to seek a discretionary review of the FLOD from the Office of the President.

Disciplinary Action

- OEO forwards the matter to the Student Conduct Officer and/or Student Conduct Committee at the Dean of Students Office to determine what, if any, sanction to be imposed.
- At either party's election or when referred by the Student Conduct Officer, Student Conduct Committee will hold a formal hearing regarding discipline imposed or lack thereof.
- Student Conduct Committee issues a formal decision on discipline imposed.

Either party has seven working days to appeal certain types of disciplinary action, as provided in the [UNM Pathfinder](#), to the Dean of Students or Vice President of Student Affairs.

14. UNM Branch Campus Information

UNM's branch campuses in Gallup, Los Alamos, Taos and Valencia, as well as UNM's separate campus, UNM West, follow the University's Student Code of Conduct and Visitor Code of Conduct. All branch campuses prohibit any act of sexual misconduct and encourage students who experience such acts to report them to the appropriate law enforcement agency and to seek assistance from campus and community resources. UNM branch campus students can submit complaints alleging sexual misconduct committed by another student, staff or faculty member, or third party to UNM's Title IX Coordinator. Please refer to [Section 7](#) of this policy for information on Confidential Reporting Sources and persons obligated to report allegations of sexual misconduct.

14.1. Gallup Campus

A student who experiences sexual misconduct on the Gallup campus or at a UNM-Gallup sponsored or sanctioned activity should contact the UNM-Gallup Campus Police Department at (505) 863-7620. For offenses that happen off campus, contact the Gallup Police Department at (505) 726-1745. The UNM-Gallup Police Department can assist in reporting assaults to other law enforcement agencies.

Medical services are available at:

- Gallup Indian Medical Center | 516 Nizhoni Blvd., Gallup, NM / (505) 722-1000
- Rehoboth McKinley Christian Hospital (RMCH) | 1901 Red Rock Dr., Gallup, NM / (505) 863-7000

Medical and counseling information available at:

- Rape Crisis Hotline / 1-800-649-0181

The Director of Student Affairs and the Dean of Instruction are available to assist victim of sexual misconduct by making reasonable changes in academic situations as well as providing information about the on-campus judicial process.

14.2. Los Alamos Campus

A student who experiences sexual misconduct on the Los Alamos campus or off-campus in Los Alamos should contact the Los Alamos Police Department. LAPD's non-emergency phone number is (505) 662-8226 (in an emergency, dial 911). A student seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the UNM Los Alamos Student Success Manager at (505) 662-0341.

Community Resources:

- Santa Fe Rape Crisis Center (24 hour hotline): 1-800-721-7273
- Esperanza Battered Persons Shelter: 473-5200
- Community Counseling Resources
- Los Alamos Family Council: Crisis hotline (24/7) 662-4422; office (505) 662-3264 or 1-877-602-4060
- Crisis Center of Northern New Mexico: 1-800-206-1656
- Regional Crisis Line: (505) 820-6333
- For a complete Student Guide to Area Resources for social services, go to <http://losalamos.unm.edu/students/crises-resources.html>.

14.3. Valencia Campus

A student who experiences sexual misconduct on the UNM-Valencia campus or at a University sponsored or sanctioned activity should contact the UNM-Valencia Campus Police Department at (505) 925-8570 or the Valencia County Sheriff's Department at (505) 866-2640. If it is an emergency, call 911. UNM-Valencia strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the Student Services Office at (505) 925-8560 for assistance in contacting law enforcement authorities in order to report an assault.

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the Student Services Office at (505) 925-8560.

Community and Campus Resources:

- Rape Crisis Center of Central New Mexico / (505) 266-7711 24-hour hotline

Provide advocate to accompany victim to Sexual Abuse Nurse Examiners medical and forensic examination, free counseling and 24 hour a day crisis telephone service with counselors available

to provide immediate assistance to individuals who have experienced sexual violence or misconduct.

Director, Student Affairs
UNM-Valencia Student Services Building
(505) 925-5860

14.4. Taos Campus

A student who experiences sexual misconduct on the UNM-Taos campus or off-campus in Taos should contact the Taos Police Department at (575) 758-4656. If it is an emergency, dial 911. UNM-Taos strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the Student Affairs Department at (575) 737-6212 for assistance in contacting law enforcement authorities in order to report an assault.

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the Student Affairs Department at (575) 737-6212. The Student Affairs Department is also responsible for administering the Student and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes.

Community and Campus Resources

- Community Against Violence (CAV) | 945 Salazar, Taos, NM 87571 / (575) 758-9888 (hotline)

CAV maintains a 24-hour crisis hotline and has counselors available to provide immediate assistance to individuals who have experienced sexual violence or misconduct. They also provide referrals, medical and legal advocacy and can assist with medical expenses.

- Tri-County Community Services | 413 Sipapu Street, Taos, NM 87571 / (575) 758-5857
- Suicide prevention hotline: (575) 758-1125
- Public Health Department | 1400 Weimer Rd., Taos, NM 87571 / (575) 758-0493
- Holy Cross Hospital | 1397 Weimer Rd., Taos, NM 87571 / (575) 758-8883
- Taos Police Department | Town Hall, 400 Camino de la Placita, Taos, NM 87571 / (575) 758-4656 or 911 in an emergency

14.5. UNM West

A student who experiences sexual misconduct on the UNM West Campus or off-campus in Rio Rancho should contact the Rio Rancho Police Department at 505-891-7226. If it is an emergency, dial 911. UNM West strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the UNM Main Campus Office of Equal Opportunity at (505) 277-5251 to report sexual misconduct for administrative action or for assistance in contacting law enforcement authorities in order to report a crime related to sexual misconduct.

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the UNM Main Campus Dean of Students Office at (505)277-3361. The UNM Dean of Students Office is also responsible for administering the Student and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes. For additional community and campus resources, refer to Section 9 above.

15. New Mexico Definitions of Violence Against Women Act Crimes

Stalking – NMSA 1978, § 30-3A-1 et seq., “Harassment and Stalking Act”

- Stalking: under New Mexico law, “stalking” is defined as knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, or restraint of the individual or another individual. “Aggravated stalking” consists of stalking perpetrated by a person who knowingly violates a court order, including an order of protection, or when the person possesses a deadly weapon or when the victim is under sixteen years of age.

“Harassment” means knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

“Stalking” means knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement, or restraint of the individual or another individual. A “pattern of conduct” means two or more acts, on more than one occasion.

“Aggravated stalking” consists of stalking perpetrated by a person:

- who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
- in violation of a court order setting conditions of release and bond;
- when the person is in possession of a deadly weapon; or
- when the victim is less than sixteen years of age.

Domestic Violence – NMSA 1978, § 30-3-10, et seq., “Crimes Against Household Members Act” (includes dating violence)

- Domestic violence: under state law, domestic violence is defined as felony and misdemeanor crimes under the New Mexico Crimes Against Household Members Act. Crimes included under the New Mexico Crimes Against Household Members Act are assault, aggravated assault, assault with intent to commit a violent felony, battery, and

aggravated battery. A “household member” is a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, a co-parent of a child, or person with whom someone has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. In addition, under the New Mexico Family Violence Protection Act, violation of a court-issued order of protection granted to protect an individual who has experienced sexual violence or domestic abuse is a misdemeanor crime.

- Domestic abuse: under the Family Violence Protection Act, “domestic abuse” is defined as “an incident of stalking or sexual assault whether committed by a household member or not” resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear or bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children. Under the Family Violence Protection Act, “household members” include a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member under the Act. Violation of any provision of an order of protection issued under the Family Violence Protection Act is a misdemeanor crime and constitutes contempt of court and may result in a fine or imprisonment or both.
- Dating violence: under New Mexico’s Crimes Against Household Members Act, someone with whom a person has a dating or intimate relationship is considered to be a household member. Any of the felony and misdemeanor crimes enumerated as domestic violence in the Crimes Against Household Members Act are also crimes when committed against someone with whom the offender has a dating or intimate relationship.

“Domestic violence” consists of assault or battery of:

- a spouse or former spouse, or
- parent, step-parent, in-law, grandparent, grandparent-in-law, co-parent of a child, or a person with whom a person has had a continuing personal relationship.
- “continuing personal relationship” means a dating or intimate relationship.
- Cohabitation is not necessary to be deemed a household member for purposes of the Crimes Against Household Members Act.

“Assault against a household member” means:

- An attempt to commit a battery against a household member; or
- Any unlawful act, threat or menacing conduct that causes a household member to reasonably believe they are in danger of receiving an immediate battery.

“Aggravated assault against a household member” means:

- Unlawfully assaulting or striking a household member with a deadly weapon; or

- Willfully and intentionally assaulting a household member with intent to commit any felony.

“Assault against a household member with intent to commit a violent felony” means any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second, or third degree, robbery, kidnapping, false imprisonment, or burglary.

“Battery against a household member” consists of the unlawful, intentional touching or application of force against a household member when done in a rude, insolent, or angry manner.

“Aggravated battery against a household member” consists of the unlawful touching or application of force against a household member with intent to injure that person or another.

Sexual Assault – Criminal Sexual Penetration (NMSA 1978, § 30-9-11), Criminal Sexual Contact (NMSA 1978, § 30-9-12), and Criminal Sexual Contact with a Minor (NMSA 1978, § 30-9-13)

“Criminal sexual penetration” is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio, or anal intercourse or the causing of penetration, to any extent and with any object, or the genital or anal openings of another, whether or not there is any emission.

- Criminal sexual penetration is a felony crime; the degree of the felony (first degree through fourth degree) depends on the age of the victim and the force or coercion used by the perpetrator.
- “Force or coercion” is defined in NMSA 1978, § 30-9-10(A) and means:
 - the use of physical force or physical violence;
 - the use of threats to use physical force or violence against the victim or another;
 - the use of threats, including threats of physical punishment, kidnapping, extortion, or retaliation directed against the victim or another; or
 - committing a criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep, or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act.

“Criminal sexual contact” is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one’s intimate parts. “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast.

- Criminal sexual contact is a felony crime if perpetrated by the use of force or coercion that results in personal injury to the victim, or if the perpetrator is aided or abetted by others, or when the perpetrator is armed with a deadly weapon.
- Criminal sexual contact is a misdemeanor crime when perpetrated with the use of force or coercion.

“Criminal sexual contact with a minor” is the unlawful and intentional touching of or application of force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one’s intimate parts. “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast. A “minor” is a person eighteen years of age or younger

16. Providing False Information

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual’s own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith allegation of sexual misconduct under this policy, even if an investigation fails to substantiate the allegation.

Notwithstanding this provision, the University may discipline employees or students when it has been determined that they brought an accusation of sexual misconduct in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, may be subject to disciplinary action.

Footnotes:

¹The Violence Against Women Act (VAWA) is a federal law originally passed in 1994 and reauthorized several times by Congress, most recently in 2013.

²Except as required by law and their professional licensure requirements such as reporting imminent danger.

³Except as required by law and their professional licensure requirements such as reporting imminent danger.

⁴Under certain circumstances, the allegations made may indicate that a continuing threat to the general public may be present. Under those circumstances, UNM may be obligated to forward the allegations to the appropriate agency for investigation and/or prosecution.

DRAFT OF 10-12-2017

Policy 2740: Sexual ~~Violence and Sexual~~ Misconduct

Date Originally Issued: 05-15-2015

General

~~Title IX of the Education Amendments of 1972 (Title IX) is a federal civil rights law that~~The University of New Mexico prohibits discrimination on the basis of sex (including gender, sex stereotyping, gender expression, and gender identity) ~~in federally funded education programs and activities.~~ Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination. Sex discrimination is a violation of Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; and the New Mexico Human Rights Act, NMSA 1978, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14. Intimate partner violence includes physical, sexual, or psychological harm.

For the purposes of this policy, sexual harassment, sexual violence, and intimate partner violence are collectively referred to as “sexual misconduct, ~~is a form of sex discrimination prohibited by Title IX.~~.” Sexual misconduct subverts the mission of the University and threatens the careers of students and employees.

This policy ~~on Sexual Violence and Sexual Misconduct~~ applies to any allegation of sexual ~~violence or~~ misconduct made by or against a student, ~~or a UNM staff,~~ or faculty member, regardless of where the alleged ~~sexual violence or misconduct~~activity occurred. If the circumstances giving rise to the complaint are related to UNM’s programs or activities, this policy may apply regardless of the affiliation of the parties or location of any alleged incidents. The University is committed to responding promptly and fairly to every allegation of sexual misconduct.

Sexual ~~violence and~~ misconduct may be committed by anyone, including a stranger, an acquaintance, a friend, or someone with whom the victim is involved in an intimate or sexual relationship. ~~Individuals who have experienced sexual~~ ~~violence or~~ misconduct are encouraged to



report what happened to law enforcement and to seek assistance from any of the ~~Campus Resource Offices~~campus resource offices or community resources listed in Section 9 of this policy. A report of sexual ~~violence or~~ misconduct will be taken seriously and addressed in accordance with UNM policies and procedures. The University's ~~Title IX Coordinator~~, who oversees institutional compliance with UNM policy related to sex discrimination (including sexual misconduct), is ~~Heather Cowan of~~located in the ~~Office of Equal Opportunity~~ (OEO), ~~who oversees institutional compliance with Title IX~~. For more information on discrimination related to sex and other protected categories, see UAP 2720 ("Prohibited Discrimination").

This policy includes information for students, staff, and faculty on resources available following an act of sexual ~~violence or~~ misconduct, UNM responses, education, and prevention programs, and possible disciplinary sanctions.

Figure

~~1. Reporting.~~ Definitions of Sexual ~~Violence and~~ **Misconduct**

The components of sexual misconduct—sexual harassment, sexual violence, and intimate partner violence—are defined below.

Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. There are two typical types of sexual harassment: quid pro quo and hostile environment. If you are experiencing an emergency, call 911

If the incident occurred on the UNM campus, contact the UNM Police Department:

(505) 277-2241

<https://police.unm.edu/>

~~can be called 24 hours a day/365 days a year~~

~~can report online and, if desired, anonymously~~

~~Any student, faculty, or staff member who has experienced sexual violence or misconduct and wants help in notifying law enforcement can contact any Sexual Misconduct and Assault Response Team (SMART) responding office or agency for assistance~~

~~LoboRESPECT Advocacy Center:~~

~~(505) 277-2911~~

~~Sexual Misconduct and Assault Response Team (smart.unm.edu)~~

~~Sexual Assault Nurse Examiner:~~

~~(505) 884-7263~~

- Student Health and Counseling:
(505) 277-3136
- Rape Crisis Center: (505) 266-7711
- Counseling and Referral Services:
(505) 272-6868

For more information on resources available to you, see Section 10 of this policy.

1. Reporting Sexual Violence

The University urges any individual who has experienced sexual violence or misconduct, or has knowledge about an incident of sexual violence or misconduct, to make an official report. In order for the University to respond effectively to individuals who have experienced sexual violence or misconduct, **all** UNM staff and faculty, except as noted in Section 7, who receive information about a person who has experienced sexual violence or misconduct must report the information to OEO within 24 hours, or as soon as reasonably practicable, by calling OEO at (505) 277-5251 or by email at ocounm@unm.edu. See Section 7 for more details, including how you can retain your anonymity when you report.

2. Definition of Sexual Violence and Sexual Misconduct

Conduct of a sexual nature becomes a violation of this policy when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement (**quid pro quo**);
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual (**quid pro quo**);
or
- unwanted conduct of a sexual nature is sufficiently severe, persistent or pervasive to limit participation in or benefit from educational program or create a hostile environment either in employment or the academic setting (**hostile environment**).

Listed below are behaviors that may constitute sexual harassment - (either quid pro quo or hostile environment sexual harassment, as defined above), depending on the particular circumstances of the situation:

- Suggestive or obscene letters, notes, invitations

- Electronic communications, such as e-mail, text messaging, and Internet use, that are sexual in nature
- Unwelcome sexual jokes or comments (including favorable comments about someone's gender, body, or appearance)
- Impeding or blocking movements, touching, or any physical interference or stalking
- Sexually oriented gestures; or displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters
- Threats or insinuations that refusal to provide sexual favors will result in reprisals; withholding support for appointments, recommendations, promotions, or transfers; or change of assignments or poor performance reviews or grades
- Sexual or gender-based violence, including, but not limited to, rape, sexual assault, sexual battery, and sexual coercion

While sexual harassment often takes place in a situation of power differential between the persons involved, this policy recognizes that sexual harassment also may occur between persons of the same University status: student-student, faculty-faculty, and staff-staff, or between peers. Additionally, the prohibition against sexual harassment applies regardless of the genders of the parties. Sometimes harassers target a person who has authority over them. Harassers can also be persons who are not members of the University community, such as contractors or visitors. Regardless of the source, the University does not tolerate this kind of behavior and the University is committed to maintaining an environment free from sexual harassment.

Sexual harassment is especially serious when it threatens relationships between students and teachers, or relationships between supervisors and their subordinates. Through grades, wage increases, recommendations for graduate study, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's or employee's success and future career at the University and beyond.

Free Speech

In cases of alleged sexual harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other education programs and activities. This policy is intended to protect students and employees from discrimination, not to regulate the content of speech.

Sexual Violence

Sexual violence refers to physical sexual acts perpetrated with force or coercion against a person's will; or where a person has not given consent as defined in this policy or is unable to consent due to ~~his or her~~the use of alcohol or drugs, ~~or~~ disability, or age. It may include sexual assault, forcible fondling, or any other conduct of a sexual nature that is nonconsensual. Sexual violence is a crime.

Sexual misconduct incorporates a range of behaviors, including sexual assault, sexual harassment, intimate partner violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person.

Figure 2: Prohibited Actions

Examples of Prohibited Acts of Sexual Violence and Sexual Misconduct		
Rape/sexual assault	Non-consensual oral sex	Sexual contact/battery
Sexual exploitation	Domestic violence	Domestic abuse
Dating violence	Stalking	Sexual harassment

For more information about prohibited actions, see below and Section 15 of this policy.

Prohibited actions include, but are not limited to:

- Rape/sexual assault: non-consensual sexual intercourse (either vaginal or anal) with a penis, vagina, tongue, finger, or any object.
- Non-consensual oral sex: non-consensual contact between one person’s mouth and the genitals or anus of another person.
- Sexual contact/battery: non-consensual touching, kissing, or fondling of another person in a sexual way, whether the person is clothed or unclothed; or forcing someone to touch another in a sexual way.
- Sexual coercion: the act of using pressure, alcohol or drugs, or force to have sexual contact with someone against the individual’s will and includes persistent attempts to have sexual contact with someone who has already refused.

Intimate Partner Violence

Intimate partner violence refers to physical, emotional, or psychological violence that threatens, creates fear, or causes intimidation to another person within the context of an intimate (meaning sexual or romantic) or formerly intimate relationship. It may include dating violence, domestic

violence, or domestic abuse. It could also include other behaviors such as stalking or sexual violence.

Sexual Exploitation

- Sexual exploitation: is taking sexual advantage of another person without consent, including, without limitation, indecent exposure; voyeurism; non-consensual recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another ~~person, and/or allowing third parties to observe private sexual acts.~~

Stalking

Stalking is knowingly pursuing a pattern of conduct directed at a specific individual when that pattern of conduct would place the individual in reasonable apprehension of personal safety and/or well-being.

Complete Definitions

- ~~• Domestic violence: under state law, domestic violence is defined as felony and misdemeanor crimes under the New Mexico Crimes Against Household Members Act. Crimes included under the New Mexico Crimes Against Household Members Act are assault, aggravated assault, assault with intent to commit a violent felony, battery, and aggravated battery. A “household member” is a spouse, former spouse, parent, present or former stepparent, present or former parent in law, grandparent, grandparent in law, a co-parent of a child, or person with whom someone has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. In addition, under the New Mexico Family Violence Protection Act, violation of a court-issued order of protection granted to protect an individual who has experienced sexual violence or ~~misconduct or domestic abuse is a misdemeanor crime.~~~~
- ~~• Domestic abuse: under the Family Violence Protection Act, “domestic abuse” is defined as “an incident of stalking or sexual assault whether committed by a household member or not” resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear or bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children. Under the Family Violence Protection Act, “household members” include a spouse, former spouse, parent, present or former stepparent, present or former parent in law, grandparent, grandparent in law, child, stepchild, grandchild, co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member under the Act. Violation of any provision of an order of protection issued under the Family Violence Protection Act is a misdemeanor crime and constitutes contempt of court and may result in a fine or imprisonment or both.~~

- ~~Dating violence: under New Mexico's Crimes Against Household Members Act, someone with whom a person has a dating or intimate relationship is considered to be a household member. Any of the felony and misdemeanor crimes enumerated as domestic violence in the Crimes Against Household Members Act are also crimes when committed against someone with whom the offender has a dating or intimate relationship.~~
- ~~Stalking: under New Mexico law, "stalking" is defined as knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, or restraint of the individual or another individual. "Aggravated stalking" consists of stalking perpetrated by a person who knowingly violates a court order, including an order of protection, or when the person possesses a deadly weapon or when the victim is under sixteen years of age.~~
- Sexual harassment: sexual harassment, a form of sex discrimination, is defined as unwelcome conduct of a sexual nature. There are two typical types of sexual harassment: quid pro quo and hostile environment. UAP 2730 ("[Sexual Harassment](#)") describes the University's prohibition on all forms of sexual harassment, including sexual violence and sexual misconduct.

For complete definitions of the crimes of sexual assault, domestic violence, dating violence, and stalking under New Mexico law, see "New Mexico Definitions of Violence Against Women Act¹ Crimes" in ~~Section 15-~~ [Section 15](#) of this policy.

2.1.1. Jurisdiction

[OEO has jurisdiction over all matters related to civil rights at the University of New Mexico.](#) OEO is not a law enforcement agency. As such, while it is charged with investigating allegations of sexual ~~violence and~~ misconduct as provided in this policy, OEO does not enforce criminal statutes. Enforcement of criminal statutes is the sole jurisdiction of law enforcement agencies. Similarly, while it generally has jurisdiction to administratively investigate claims of sexual ~~violence~~ [misconduct](#), depending on the allegations made, OEO may not have jurisdiction to investigate ~~alleged sexual misconduct~~ [all allegations, allegations must include a violation of a civil rights policy over which OEO has authority.](#) The information received from an individual will be reviewed and a determination will be made as to whether OEO has jurisdiction over the concerns. [Please see OEO's Discrimination Claims Procedure for more information regarding our jurisdiction and our process for accepting jurisdiction and notifying the parties involved.](#)

3. Definition of Consent

2. Reporting Sexual Misconduct

The University urges any individual who has experienced sexual misconduct, or has knowledge about an incident of sexual misconduct, to make an official report. In order for the University to respond effectively to individuals who have experienced sexual misconduct, all UNM staff and faculty, except as noted in Section 7, who receive information about a person who has experienced sexual misconduct must report the information to OEO within 24 hours, or as soon as reasonably practicable, by calling OEO at (505) 277-5251 or by email at oeounm@unm.edu. See Section 7 for more details, including how some persons can retain anonymity when reporting.

Figure 2: Reporting Sexual Misconduct

If you are experiencing an emergency, call 911

If the incident occurred on the UNM campus, contact the UNM Police Department:

- can be called 24 hours a day/365 days a year
- can report online and, if desired, anonymously

(505) 277-2241
<https://police.unm.edu/>

Any student, faculty, or staff member who has experienced sexual misconduct and wants help in notifying law enforcement can contact any Sexual Misconduct and Assault Response Team (SMART) responding office or agency for assistance

- LoboRESPECT Advocacy Center: (505) 277-2911
- Sexual Misconduct and Assault Response Team (smart.unm.edu)

 - Sexual Assault Nurse Examiner: (505) 884-7263
 - Student Health and Counseling: (505) 277-3136
 - Rape Crisis Center: (505) 266-7711
 - Counseling and Referral Services: (505) 272-6868

For more information on resources available to you, see Section 10 of this policy.

3. Consent

The University of New Mexico has adopted a definition of consent, as follows:

Consent is an affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity. Consent requires a clear affirmative act or statement by each participant to each sexual act in a sexual interaction. Consent demonstrates that the conduct in question is welcome or wanted. Relying solely on non-verbal communication can lead to miscommunication about one's intent. Confusion or ambiguity may arise at any time during a

sexual interaction. Therefore, it is essential that each participant makes clear his or her willingness to continue at each progression of the sexual interaction.

Figure 3: Definition of Consent

- Consent:**
- **Affirmative, informed, and conscious decision to willingly engage in mutually acceptable sexual activity**
 - **Demonstrated by clear affirmative act or statement by each participant to each sexual act in a sexual interaction**
- No consent:**
- **No clear act or statement given**
 - **Silence, passivity, or lack of response**
 - **Participant is asleep, unconscious, or otherwise unaware of what is happening**
 - **Participant is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the situation**
 - **Participant is impaired by mental, physical, or psychological disability**
 - **Participant is not of age to consent**

Sexual activity will be considered “without consent” if no clear act or statement is given. Consent may not be inferred from silence, passivity or lack of active response alone. A person who is asleep, unconscious, or otherwise unaware of what is happening is unable to give consent. Furthermore, a current or past dating or sexual relationship is not sufficient to constitute consent in every instance, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. It is the responsibility of the person initiating the sexual activity to obtain consent from his or her partner. Being intoxicated or under the influence of other drugs does not diminish one’s responsibility to obtain consent.

The use of alcohol or drugs can limit or prevent a person’s ability to freely and clearly give consent. If a person is under the influence of alcohol or drugs such that he or she is unable to give meaningful consent or does not understand the fact, nature or extent of the sexual situation, there is no consent. Intoxication alone, however, does not mean a person is incapable of consenting to sexual activity. OEO examines the record for other behavior like stumbling or otherwise exhibiting loss of equilibrium; slurred speech or word confusion; bloodshot, glassy or unfocused eyes; vomiting, especially repeatedly; being disoriented, or confused as to time or place; or loss of consciousness. Should the preponderance of the evidence in the record demonstrate that one or more such behaviors were objectively apparent at the time the alleged unconsented-to or unwelcomed sexual activity occurred, then the evidence may demonstrate that the respondent knew or should have known that the complainant was incapable of giving meaningful consent to sexual activity due to intoxication. If the person initiating the sexual activity is also under the influence of alcohol or drugs, that does not diminish his or her responsibility to obtain consent, and is not a defense to charges of violation of this policy.

Because it may be difficult to discern whether a sexual partner is incapacitated, it is better to err on the side of caution and assume that your partner is incapacitated and unable to give consent to the sexual activity.

In addition to alcohol or drugs, if a person's mental, physical, or psychological disability (temporary or permanent) or age impairs his or her ability to make an informed decision to willingly engage in sexual activity, there is no consent. Examples include, but are not limited to, when an individual is incapacitated, scared, physically forced, intimidated, coerced, mentally or physically impaired, passed out, threatened, isolated, or confined.

4. Amnesty from Disciplinary Action for Students

UNM's primary concern is the safety of students, staff, and faculty. While staff and faculty must report incidents of students experiencing sexual ~~violence or~~ misconduct, except as noted in ~~Section 7~~ Section 7, the University strongly encourages all members of the campus community to report instances of sexual ~~violence or~~ misconduct. The University grants amnesty to students who may have violated the ~~Student Code of Conduct~~ Student Code of Conduct's prohibition on the use or possession of alcohol or drugs at the same time ~~he or she~~ they experienced sexual ~~violence or~~ misconduct. Therefore, no drug or alcohol-related charges under the Student Code of Conduct are applied to students who report that they were using drugs or alcohol at the time they experienced sexual ~~violence or~~ misconduct. Depending on the circumstances, the Dean of Students Office may determine, on a case-by-case basis, that those who witnessed an instance of sexual ~~violence or~~ misconduct and who provide information regarding such instance may be granted the same amnesty. However, students should understand that any violation of state or federal criminal law involving the use or possession of alcohol or illegal drugs may result in prosecution, and UNM cannot grant amnesty from proceedings in the criminal justice system. Decisions about prosecution are made by the District Attorney's Office in the state criminal justice system and by the U.S. Attorney's Office in the federal criminal justice system.

5. Off-Campus Conduct

Conduct that occurs off-campus can be the subject of a complaint or report and will be evaluated to determine whether it implicates this policy or the ~~Student Code of Conduct~~ Student Code of Conduct. If off-campus sexual ~~violence~~ misconduct has continuing effects that create a hostile environment on campus for an individual who has experienced sexual ~~violence or~~ misconduct, the University may take interim measures and depending on the circumstances, will investigate the conduct.

6. Retaliation

It is a violation of ~~Title IX and~~ University policy to retaliate against any person who makes a complaint of sexual ~~violence or~~ misconduct or reports, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual ~~violence or~~ misconduct. Concerns that a student, staff, or faculty member has threatened to retaliate or has retaliated against another student, staff, or faculty member should be reported promptly to ~~the Office of Equal Opportunity~~ OEO. A staff, faculty member, or student who retaliates against a person who makes a complaint of sexual ~~violence or~~ misconduct, reports, testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual ~~violence or~~ misconduct, or seeks assistance from OEO, may be subject to disciplinary action.

Figure 4: Retaliation

It is a violation of ~~Title IX and~~ University policy to retaliate against any person who makes a complaint or report of ~~sexual violence or~~ sexual misconduct or testifies, assists, or participates in an investigation or proceeding regarding an allegation of sexual ~~violence or~~ sexual misconduct.

7. Disclosure of Information

The University encourages individuals who have experienced sexual ~~violence or~~ misconduct to get the support they need and the University can respond appropriately. UNM recognizes that such individuals may want to speak with someone on campus before deciding whether to report the incident to the police or ~~the Office of Equal Opportunity~~ OEO for investigation. Individuals who experience sexual ~~violence or~~ misconduct are strongly encouraged to understand the various reporting requirements of University entities in order to make the best decision for their circumstance. Whether or not anonymity is requested, information about sexual ~~violence and~~ misconduct will be treated ~~confidentially~~ privately and ~~only~~ be shared on a need-to-know basis, and as authorized under University policy and applicable federal and state law.

As required by the federal Clery Act for statistical purposes, instances of sexual ~~violence and~~ misconduct reported to entities other than those identified below as “No Disclosure Required” must be reported to the UNM Police Department, which ~~is responsible for annually~~ works with the Clery Compliance Officer on the annual reporting of crime statistics to the University community. Such reports to UNM Police Department do not include identities and are only

comprised of the nature, date, time, and general location. These reports do not serve as an official police report and do not launch a criminal or administrative investigation; these reports are purely for statistical purposes to meet Clery Act obligations.

For examples of all disclosures listed below, please visit loborespect.unm.edu.

Figure 5: Disclosure Obligations

IF YOU DISCLOSE TO THE ENTITIES ON THE RIGHT	ENTITIES	
Anonymity is maintained and No disclosure is required	ON CAMPUS Student Health and Counseling (SHAC) Counseling and Referral Services (CARS) Student Health and Counseling (SHAC) Counseling and Referral Services (CARS)	OFF CAMPUS Rape Crisis Center of Central New Mexico Sexual Assault Nurse Examiner (SANE)
Anonymity is maintained Confidential , but an anonymous record is made for statistical reporting only	Other licensed medical providers UNM Advocacy centers, such as the LoboRESPECT Advocacy Center , Women’s Resource Center (WRC) and the LGBTQ Resource Center. A full listing can be found at http://loborespect.unm.edu .	
No anonymity is possible Privacy maintained, but must be reported to OEO	All UNM staff and faculty not employed by or associated with the organizations listed or referred to above.	

For more information about disclosure obligations, see below.

1. ~~Anonymity~~/No Disclosure Required: SHAC, CARS, and Off-Campus Resources
 At UNM, a student who experiences sexual ~~violence or~~ misconduct can speak in complete confidentiality with a licensed counselor or a medical provider at UNM’s Student Health and Counseling (SHAC). SHAC counselors and medical providers do not report any information² about an incident to the police or any other University entities. Similarly, UNM staff and faculty may speak confidentially with a licensed counselor at UNM Counseling and Referral Services (CARS) and no information will be disclosed to any entity.³—Other licensed medical professionals with UNM affiliation who receive information about instances of sexual ~~violence or~~ misconduct while serving in an

established practitioner/patient relationship are not required to disclose information. Outside of UNM, the Rape Crisis Center of Central New Mexico and the Sexual Assault Nurse Examiner (SANE) provide their services to victims of sexual violence on a completely confidential basis. These agencies provide statistical information only to UNM SMART. Additional information about Rape Crisis Center of Central New Mexico, SANE and UNM SMART can be found in this policy, under Section 9 on “Resources Following an Act of Sexual ~~Violence or Sexual~~ Misconduct.”

2. ~~Anonymity~~Confidential/Statistical Reporting Only: Advocacy Centers at UNM UNM's LoboRESPECT Advocacy Center, LGBTQ Resource Center and Women's Resource Center (WRC) are designated as advocacy and support centers for those who have experienced sexual ~~violence or~~ misconduct. UNM may designate other Advocacy Centers on campus from time to time; a complete list of designated Advocacy Centers can be found at <http://loborespect.unm.edu>. Individuals who have experienced sexual ~~violence or~~ misconduct may talk with these individuals anonymously; however, Advocacy Centers will report the nature, date, time, and general location of the incident to the Office of Equal Opportunity as well as to the UNMPD but will not provide identifying information without written consent from that individual. These reports to OEO and UNMPD do not launch a University investigation. Rather, the purpose of the report is to meet Clery Act ~~Compliance~~compliance, and to help keep the Title IX Coordinator informed of the general extent and nature of sexual ~~violence and~~ misconduct on and off campus in an effort to track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.
3. ~~No Anonymity Possible~~Private but report required: All UNM Faculty/Staff Not Previously Identified Information about alleged sexual ~~violence or~~ misconduct that is shared by an individual with any University faculty or staff not previously identified is required to be reported to ~~the Office of Equal Opportunity by law and UNM Policy~~OEO. However, it is still the full choice of the individual who has experienced sexual ~~violence or~~ misconduct to make a report with UNM Police Department or to participate in an administrative investigation with OEO.⁴ UNM faculty/staff receiving information about cases of sexual ~~violence or~~ misconduct involving students must report within 24 hours or as soon as reasonably possible what they have learned to ~~the Office of Equal Opportunity~~OEO at 505-277-5251 or emailing oeounm@unm.edu. Reports made by faculty or staff to OEO will include the nature, date, time, location, as well as the identities of all involved parties. While faculty and staff must report this information to OEO, this information is still considered ~~confidential~~private and will only be shared by OEO with those who have a legitimate need-to-know and as authorized by University policy and applicable federal and state law.
4. Requests for Anonymity Within an Investigation or That No Investigation Occur Please refer to Section 13 on “Investigation and Disciplinary Procedures” for information about requests for anonymity or that no investigation occur.

8. Rights of the Parties

During OEO’s investigation following a report of sexual ~~violence or~~ misconduct, and prior to a final determination being made, the reporting party (“complainant”) and responding party (“respondent”) have equal rights to be treated with respect, dignity, and sensitivity throughout the process; to information on how the college will protect their confidentiality; and to present evidence or other information they feel relevant to the matter. Once OEO’s investigation is complete and a final determination is made, the complainant and respondent have the equal right to notice of those findings and equal access to appeal those findings as described herein.

Figure 6: Rights of the Parties

Complainants Shall Be Entitled:	Respondents Shall Be Entitled:
<ul style="list-style-type: none"> • To be treated with respect, dignity, and sensitivity throughout the process. • To information on obtaining orders of protection and no contact orders. • To information on how the college will protect the confidentiality of the victim. • To notification of available services for mental health, victim advocacy, legal assistance, and other available community resources. • To be informed of the University’s sexual violence policies and procedures. • To written notification about their right to change academic, living, transportation, or work situations even if they do not formally report or participate in the University’s investigatory or disciplinary process. • To written notification of a student or employee’s rights and options, regardless of whether the crime took place on campus or off campus. • To a timely and thorough investigation of the allegations. • To participate or decline to participate in the investigation or disciplinary process. However, these processes may still occur and decisions made based on the information available. • To the same opportunity as the respondent to have others present at any meeting with University officials for 	<ul style="list-style-type: none"> • To be treated with respect, dignity, and sensitivity throughout the process. • To information on how the college will protect the confidentiality of the respondent. • To notification of the how to access all available resources (i.e., counseling services, advocacy/support). • To be informed of the University’s sexual violence policies and procedures. • To timely written notice of all alleged violations within the complaint. • To a timely and thorough investigation of the allegations. • To participate or decline to participate in the investigation or disciplinary process. However, these processes may still occur and decisions made based on the information available. • To the same opportunity as the complainant to have others present at any meeting with University officials for support and/or consultation. • To the same opportunity as the complainant to present and have others present evidence about alleged violations in investigatory and/or disciplinary proceedings. • To be notified, in writing of the outcome of any investigative, disciplinary, or appeals proceeding (respondent is free to share the outcome with anyone).

- support and/or consultation.
- To the same opportunity as the respondent to present and have others present evidence about alleged violations in investigatory and/or disciplinary proceedings.
- To be notified, in writing of the outcome of any investigative, disciplinary, or appeals proceeding (victim is free to share the outcome with anyone they wish).
- To appeal the decision and sanctions determined by the Investigation and/or disciplinary proceedings.
- To be protected from retaliation for their involvement in university investigatory proceedings.
- To appeal the decision and sanctions determined by the Investigation and/or disciplinary proceedings.
- To be protected against retaliation for their involvement in university investigatory proceedings.

For more information regarding the rights of ~~the parties~~ students in a ~~Title IX~~ sexual misconduct proceeding, see the ~~Student Code of Conduct~~ Student Code of Conduct and ~~Student Grievance Procedure~~ Student Grievance Procedure in the UNM Pathfinder.

Following OEO’s investigation, the complainant and respondent have equal rights to seek a discretionary review of OEO’s determination through the Office of the President pursuant to Section 10 of ~~UAP 3220 (“Ombuds/Dispute Resolution Services for Staff”)~~, UAP 3220 (“Ombuds/Dispute Resolution Services for Staff”), and/or the Board of Regents pursuant to ~~Regents’ Policy 1.5~~ Regents’ Policy 1.5. Should the Dean of Students Office take action based on the investigation’s findings, both parties will have equal rights to appeal the action pursuant to the ~~Student Grievance Procedure~~ Student Grievance Procedure in the UNM Pathfinder. In a grievance of the Dean of Students Office’s decision, both parties will have equal access to the information upon which the findings are based, have an equal opportunity to present evidence and witnesses (subject to the limitations in the statement of complainant’s rights below), and will receive equal notification of the results of the procedure. Both parties also will have the equal right to appeal the results of the grievance of the Dean of Students Office’s decision as provided in the ~~Student Grievance Procedure~~ Student Grievance Procedure in the UNM Pathfinder.

9. Resources Following an Act of Sexual ~~Violence or Sexual~~ Misconduct

While UNM encourages an individual who has experienced sexual ~~violence or~~ misconduct to make an official report, whether the person chooses to do so, she or he is urged to seek appropriate help. There are numerous resources for students, staff, and faculty at UNM. Specific resources, either on or off campus for medical treatment, legal evidence collection, obtaining information, support, and counseling, and officially reporting an incident of sexual ~~violence or~~ misconduct are listed below. Each resource can assist a person to access the full range of services available. Students and staff or faculty accused of committing an act of sexual ~~violence or~~ misconduct may obtain confidential and anonymous support and counseling at Student Health and Counseling (SHAC) (for students) and Counseling and Referral Services (CARS) (for staff and faculty).

[LoboRESPECT Advocacy Center](#) - (505) 277-2911 **Academic Assistance**

Provides a safe and welcoming environment for students to receive support and advocacy services for a number of areas.

Sexual Misconduct and Assault Response Team (SMART)

UNM's Albuquerque Campus has a Sexual Misconduct and Assault Response Team (SMART). SMART is a victim centered, victim controlled, coordinated response team composed of community and University organizations designed to quickly respond to cases ~~of sexual assault or abuse.~~ misconduct. Additional information can be found at SMART.unm.edu.

Medical and Legal Evidence Collection

~~Sexual Assault Nurse Examiner (SANE)~~ Sexual Assault Nurse Examiner (SANE) (505) 884-SANE (7263) 24-hour hotline 24-hour free medical and forensic exams by trained nurses, emergency contraception, treatment for sexually transmitted infection, evidence collection, forensic photography, and follow-up services.

Medical and Counseling

~~Student Health and Counseling (SHAC)~~ Student Health

~~Dean of Students Office~~ Dean of Students Office (505) 277-3361

Dean of Students Office offers students impacted by sexual ~~violence or~~ misconduct assistance in navigating class issues, processing withdrawals, tuition refund appeals, scholarship and financial aid issues, and related needs aimed at supporting students.

Additional Campus Resources

~~Office of Residence Life and Student Housing~~ Office of Residence Life and Student Housing (505) 277-2606

Addresses misconduct by residence halls students in the residence halls. Works with students who need to make changes in on-campus housing due to an incident of sexual ~~violence or~~ misconduct.

American Campus Community ~~Lobo Village~~ Lobo Village (505) 925-5575

~~Casas del Rio~~ Casas del Rio (505) 277-2094

Owns and manages Lobo Village and Casas del Rio, in consultation with Office of Residence Life and Student Housing.

~~Office of Equal Opportunity~~ Office of Equal Opportunity

(505) 277-5251

UNM's Title IX Coordinator is ~~the Director~~ ehoused in the Office of Equal Opportunity.

[and Counseling \(SHAC\)](#)
(505) 277-3136 24-hour number
Counseling, crisis intervention, and
comprehensive medical services for eligible
UNM students. SHAC can help expedite
referrals to SANE for evidence collection.

Counseling

~~[Rape Crisis Center of Central New Mexico](#)~~[Rape Crisis
Center of Central New Mexico](#)
(505) 266-7711
Operates a 24-hour hotline and provides victim
advocates and free counseling.

~~[UNM Counseling and Referral Services \(CARS\)](#)~~[UNM
Counseling and Referral Services \(CARS\)](#)
(505) 272-6868
Free counseling services for eligible UNM staff,
faculty, and their spouses/domestic partners and
retirees.

Law Enforcement

~~[UNM Police Department](#)~~[UNM Police Department](#)
(505) 277-2241

For emergency on campus, dial 911
Specially trained SMART officers will respond
to and investigate sex crimes on the UNM
campus, and will forward cases to the District
Attorney's Office as appropriate. If the sex
crime occurred off-campus, UNM Police
Department can assist an individual who has
experienced sexual ~~violence or~~ misconduct in
contacting the appropriate law enforcement
agency to file a report.

OEO investigates allegations of violations of
UNM's policy prohibiting [sex discrimination,](#)
[including](#) sexual ~~harassment~~[misconduct.](#)

~~[Women's Resource Center](#)~~[Women's Resource
Center](#)

(505) 277-3716
Offers programs on gender and sexuality issues.
Staff also provides support to individuals who
have experienced sexual ~~violence or~~ misconduct
and provides mental health referrals for UNM
students.

~~[LGBTQ Resource Center](#)~~[LGBTQ Resource Center](#)
(505) 277-5428

Provides service to UNM students, staff, and
faculty of all gender identities and sexual
orientations through support, advocacy and
safety.

[Manzanita Counseling Center](#)

(505) 277-7311
Manzanita is a counselor training facility
affiliated with the Counselor Education
Program in the UNM College of Education.
Counseling for students, staff, and faculty is
provided free of charge by advanced graduate
students under the supervision of UNM faculty
who are licensed professional counselors.
Services are available during the academic year
(fall and spring semesters) only.

[Agora Crisis Center](#)

(505) 277-3013
Volunteer trained peer counselors respond to
phone calls on a 24/7 hotline and can refer
callers to UNM and community resources.

10. Interim Measures

The University reserves the right to take interim measures as appropriate to ensure the safety of individuals and our campus community. These measures take a variety of forms and can be taken against students, staff, or faculty at UNM. Interim measures are not considered disciplinary in nature and are implemented pending the outcome of an OEO investigation but can be modified or removed if additional information is received that would change the assessment of the need for an interim measure. The Title IX Coordinator or the Director of OEO make decisions related to interim measures in allegations of sexual misconduct and will inform the appropriate office of the recommended interim measures.

Interim measures may include the following measures, although this is not an exhaustive list: directives by OEO that the parties have no contact with each other, that one or more parties to a complaint be moved to another office or location, be placed on paid administrative leave, removed from a class or have a registration hold placed on a student account.

For students, the Dean of Students Office has the authority to implement interim measures which stay in place until the end of any review or appeal process. The Dean of Students Office can impose a “no contact” order, which typically directs the complainant and respondent not to have contact with each other, either in-person or through electronic communication, pending the investigation and resolution of a complaint. The Dean of Students Office can arrange for changes in academic and/or on-campus living situations as needed. Other interim measures, as appropriate, can be implemented by the Dean of Students Office before the final outcome of the investigation and afterwards as needed.

Figure 7: Interim Measures - Students

- The Dean of Students Office can impose a “no contact” order, which typically directs the complainant and respondent not to have contact with each other, either in-person or through electronic communication, pending the investigation and resolution of a complaint.
- The Dean of Students Office can arrange for changes in academic and/or on-campus living situations as needed.

11. Procedures to Follow if You Experience Sexual Violence or Misconduct Happens to You

If you are in danger, dial 911 for assistance. -If you are on the UNM campus, you will be connected with UNM Police Department. If you are off campus in Albuquerque, you will be connected with the Albuquerque Police Department. You may also want to call a trusted family member or a friend. Seek medical attention. If you have serious injuries, seek emergency medical attention at a hospital. In the Albuquerque area, you can contact SANE (Sexual Assault

Nurse Examiners) at (505) 884-7263 for information about receiving a sexual assault examination.

You can also contact the Rape Crisis Center of Central New Mexico at (505) 266-7711 or (888) 881-8282. The Rape Crisis hotline is available 24 hours a day, 7 days a week, 365 days a year. An advocate from Rape Crisis Center will accompany you to a sexual assault examination at the office of the Sexual Assault Nurse Examiners.

It is important for individuals who have experienced sexual ~~violence or~~ misconduct, in particular sexual assault, to understand the steps to take to preserve evidence for possible use later to support a criminal case. All those who have experienced a crime have the right to report a crime to police at any time, regardless of when it occurred. However, the sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear account of what happened, and that police will be able to identify and speak with witnesses.

Figure 8: Procedures to Follow if Sexual ~~Violence or~~ Misconduct Happens to You

- It is important for individuals who have experienced sexual ~~violence or~~ misconduct, in particular sexual assault, to understand the steps to take to preserve evidence for possible use later to support a criminal case.
- The sooner you file a report of a sexual assault, the better the chances that helpful evidence can be collected to support a criminal case, that you will be able to convey a clear account of what happened, and that police will be able to identify and speak with witnesses.
- You may file a report of sexual assault and/or receive a sexual assault medical examination immediately and then decide at a later date if you want to pursue filing criminal charges. Sexual Assault Nurse Examiners (SANE) can provide the forensic medical exam, free of charge, in a comfortable environment facilitated by nurses specially trained in sexual violence and intimate partner violence cases.

The UNM Police Department encourages you to report any act of sexual ~~violence or~~ misconduct that takes place on the UNM campus to UNMPD. Also, as discussed above, if you ~~are a student and you~~ need assistance in reporting to UNMPD, you can get help from ~~the Dean of Students Office or~~ any of the ~~other~~ offices participating in UNM's Sexual Misconduct and Assault Response Team (SMART).

12. Educational Programs

UNM recognizes the harm caused by sexual ~~violence and~~ misconduct and the need to educate the University community regarding these issues. The University offers the following educational programs:

1. **Women's Resource Center**

(505) 277-3716

The Women's Resource Center offers programs on gender and sexuality issues, including a gendered violence prevention program, women's peer mentoring program, self-defense and awareness training, and bystander intervention education. Staff also provides support to individuals who have experienced sexual ~~violence or~~ misconduct and provides mental health referrals for UNM students.

2. **Dean of Students Office**

(505) 277-3361

The Dean of Students Office coordinates new student orientation which includes programs addressing sexuality, relationships, and sexual ~~violence and~~ misconduct issues, including the definition of consent under this ~~Sexual Violence Policy~~ [policy](#).

3. **Residence Life and Student Housing**

(505) 277-2606

RLSH coordinates programming for residence halls students, including programs addressing sexuality, relationship, and safety issues. RLSH also administers a Residence Life discipline system which addresses misconduct by residence hall students occurring in the residence halls. Resident Advisors (RAs) are trained in responding to students residing in the residence halls that have experienced sexual ~~violence or~~ misconduct and can assist the student with contacting UNM Police Department and/or the Dean of Students Office to file a report.

4. **UNM Police Department**

(505) 277-2241

As requested by campus departments, offices, and student, staff, and faculty groups, the UNM Police Department conducts presentations that center on personal safety, including specific training on sexual violence and misconduct prevention.

5. **UNM Office of Equal Opportunity**

(505) 277-5251

OEO staff offer in-person training for departments on preventing and responding to sexual harassment, including sexual ~~violence and~~ misconduct. OEO also provides online training to all the University community on preventing sexual harassment and University policy.

6. **Student Health and Counseling (SHAC)**

Health Education & Prevention Department

(505) 277-3716

SHAC's Health Education Department offers workshops and educational programs on sexuality, sexual decision-making and relationships. A Sexual Assault and Abuse Resource Guide is compiled and updated yearly to include current information about campus and community resources that assist individuals who have experienced sexual ~~violence or~~ misconduct.

7. **Office of Student Activities**

(505) 277-4706

The Office of Student Activities coordinates various programs for UNM’s chartered student organizations, including fraternities and sororities, which address sexuality, relationships, and sexual assault issues.

8. LoboRESPECT

(505)277-2911

LoboRESPECT provides a mandatory sexual misconduct training to all students called “The Grey Area,” which is in-person and interactive. It also offers an online training module for students called “Campus Clarity: Think About It.”

13. Investigation and Disciplinary Procedures

~~The University of New Mexico's Student Code of Conduct and Visitor Code of Conduct~~The University of New Mexico's Student Code of Conduct and Visitor Code of Conduct, which apply to the Albuquerque campus and all branch campuses, prohibit any form of sexual ~~violence or~~ misconduct. The Student Code of Conduct and Visitor Code of Conduct describe the sanctioning options and procedures that may apply after an investigation pursuant to this section is complete should a finding be made that a student or visitor more likely than not violated this policy. The Student Code of Conduct and Visitor Code of Conduct can be found in the UNM Pathfinder, and are administered by the Dean of Students Office.

Similarly, ~~Regents' Policy 2.5 (“Sexual Harassment”)~~Regents' Policy 2.5 (“Sexual Harassment”) ~~and UAP 2730 (“Sexual Harassment”)~~ prohibit prohibits all forms of sexual harassment. If, after an investigation pursuant to this section, a finding is made that a staff member violated this policy, disciplinary action may be issued pursuant to UAP 3215 (“Performance Management”). All three policies are administered by the UNM Policy Office.

All forms of sexual harassment are considered violations of the Faculty Handbook Policy C09 (“Respectful Campus”). Under Policy C09, allegations of sexual harassment are processed pursuant to ~~UAP 2730~~this policy. If, after an investigation pursuant to this section, a finding is made that a faculty member committed any form of sexual harassment, including sexual ~~violence or sexual~~ misconduct, disciplinary action may be issued pursuant to Faculty Handbook Policy C07 (“Faculty Disciplinary Policy”). The Faculty Handbook is administered by the Office of University Secretary.

A ~~student~~person who experiences an act of sexual ~~violence or~~ misconduct committed by a ~~another~~ UNM student, staff, or faculty member, or a visitor to the University, has the option of filing a complaint with UNM's Office of Equal Opportunity-OEO. OEO is the University office that processes allegations of sexual ~~harassment, sexual violence, and sexual~~ misconduct pursuant to its Discrimination Claims Procedure. While OEO’s Discrimination Claims Procedure includes mediation as an option for resolving discrimination complaints, mediation will not be employed to address a

complaint of sexual violence. OEO investigators are trained in investigating allegations of sexual ~~violence and~~ misconduct.

Outside of UNM, the Rape Crisis Center of Central New Mexico and the Sexual Assault Nurse Examiner (SANE) provide their services to individuals who have experienced sexual ~~violence or~~ misconduct on a confidential and anonymous basis. The victim's identity will not be disclosed to police or to UNM without the victim's consent. Additional information about the Rape Crisis Center of Central New Mexico and SANE can be found in this policy under Section 9 on "Resources Following an Act of Sexual ~~Violence~~Misconduct."

If an individual reporting to a non-confidential UNM entity (~~see Section 7~~see Section 7) that he or she experienced sexual ~~violence or~~ misconduct ("complainant") requests that his or her name not be revealed to the alleged perpetrator ("respondent"), or asks the Title IX Coordinator not to investigate the allegations of sexual ~~violence~~misconduct, the complainant will be informed that honoring the request may limit UNM's ability to fully process the allegations, including pursuing disciplinary action against the respondent. The University's prohibition against retaliation will also be explained to the complainant. If the complainant still insists that his or her name not be disclosed to the respondent, or continues to ask the University not to investigate the allegations, the Title IX Coordinator will determine whether the University can honor the request while still providing a safe and nondiscriminatory working and learning environment for the complainant and others. The Title IX Coordinator will strive to abide by the complainant's request. However, the Title IX Coordinator reserves the right to determine that it is essential to disclose the complainant's identity and/or to investigate the allegations despite the complainant's request not to in order for UNM to fulfill its obligations under Title IX. In such cases, the Title IX Coordinator will inform the complainant prior to starting an investigation and will share information only with University officials who are responsible for processing the allegations in the complaint and therefore need to know that information.

In all cases, regardless of a complainant's request for anonymity, the federal Clery Act requires that disclosure of crimes of sexual ~~violence or~~ misconduct that occur on the UNM campus and on other property the University has control over (as defined under the Clery Act) must be reported for statistical purposes to the UNM Police Department, which ~~is responsible for~~works with the Clery Compliance Officer to annually ~~reporting~~report crime statistics to the University community. However, such reports to UNM Police Department are for statistical purposes only and are not required to include the victim's identity without his or her consent.

If the victim files a complaint with OEO and instructs it to investigate the allegations made, OEO will first make an assessment of whether it has jurisdiction to investigate the allegations made. If OEO does not have jurisdiction to investigate or otherwise process the allegations made, it will refer those issues to the appropriate body, if any. If it does have jurisdiction to investigate, as part of that investigation, OEO will make reasonable attempts to contact the respondent to notify him or her of the allegations made, his or her right to respond to the allegations made and present information he or she deems relevant to the matter, and OEO's investigation procedure. If OEO is unable to contact the respondent or if the respondent elects not to provide a response to the

allegations made or information pertinent to the matter, OEO will make its determination based on the information it is able to gather.

Once a complaint is filed, both the complainant and respondent have equal rights to present evidence to OEO during its investigation. Once its investigation is complete, OEO uses a preponderance of the evidence standard to evaluate the evidence and determine whether an act of sexual ~~violence or~~ misconduct occurred. The “preponderance of the evidence standard” means that, on evaluation of all of the evidence, it is more likely than not that the alleged act of sexual ~~violence or~~ misconduct occurred.

The evidence OEO gathers during its investigation will be maintained by OEO and kept confidential to the extent authorized by law and policy. Should a complainant or respondent appeal OEO’s determination or any sanctions issued by the ~~Dean of Students (as provided below)~~ sanctioning authority, OEO may be required to release the evidence upon which its determination is based to the appealing party or the entity to which the appeal is made or both.

If, after investigation, OEO finds that it is more likely than not that a student or visitor committed an act of sexual ~~violence or~~ misconduct (a Determination of Probable Cause), OEO will refer the matter to the Dean of Students Office to decide on the sanction to be imposed on the offender. If OEO makes a Determination of Probable Cause that a staff or faculty member committed an act of sexual ~~violence or~~ misconduct in violation of UNM policy, OEO will refer the matter to that individual’s chain of command to take appropriate action, including taking disciplinary action. Misconduct by staff and the imposition of disciplinary action is handled pursuant to ~~UAP Policy 3215 (“Performance Management”)~~ UAP Policy 3215 (“Performance Management”), and faculty matters are addressed pursuant to the Faculty Handbook, specifically ~~-Policy B5 (“Separation from the University”)- and -Policy C07 (“Faculty Disciplinary Policy”)~~. Appeals to the University President and the Board of Regents are addressed in Section VI of the Discrimination Claims Procedure. OEO does not make any determinations regarding whether a respondent has committed an act of sexual ~~violence or~~ misconduct in violation of criminal statute. Rather, such determinations are the sole jurisdiction of state and federal police and prosecutorial agencies.

In any disciplinary proceeding held by the Dean of Students Office, both the accuser and the accused are allowed to bring an advisor, including an attorney advisor. However, such advisors are not authorized to speak on behalf of the individual they are advising. Rather, the accuser and accused must present their own case during the proceeding, and advisors’ participation is limited to advising the person they are advising. In addition, both the accuser and accused will be notified in writing of the decision on sanctions to the extent permitted by the federal ~~-~~ Family Educational Rights and Privacy Act (FERPA), and both parties have the right to appeal the sanctions decision. More information about the disciplinary process used by the Dean of Students Office can be found in the ~~Student Grievance Procedure-~~ Student Grievance Procedure. Article 4.4 discusses allegations of sexual ~~violence, sexual misconduct, and sexual harassment~~.

Individuals who have experienced sexual violence or misconduct are encouraged to report the crime to the appropriate law enforcement authority. The Dean of Students Office is available to

meet with a student to discuss and help implement interim measures, including academic adjustments, changes in on-campus living situations, issuance of “no contact” orders and other measures as needed. Interim measures may also be provided for staff or faculty who experience sexual violence or misconduct, as directed by the appropriate supervisory authority.

Under the University's ~~Student Code of Conduct~~ Student Code of Conduct, which applies to the Main Campus and all of the branch campuses, a student who commits a violation of this Code, including an act of sexual ~~violence or misconduct~~, is subject to the following possible sanctions:

- Verbal warning - means an oral reprimand.
- Written warning - means a written reprimand.
- Disciplinary probation - means the establishment of a time period during which further acts of misconduct may or will result in more severe disciplinary sanctions depending upon the conditions of the probation. Conditions of probation can include community service, attendance at workshops and/or seminars regarding subjects including but not limited to alcohol, drug or safety workshops and/or seminars, mandatory mental health evaluation and/or counseling or other educational sanctions.
- Suspension - means losing student status for a period of time specified in the terms of the suspension. A suspension may commence immediately upon a finding of a violation or it may be deferred to a later time.
- Expulsion - means losing student status for an indefinite period of time. Readmission may not be sought before the expiration of two years from the date of expulsion, and it is not guaranteed even after that time.
- Dismissal - means termination of student employment, either for a stated time period or indefinitely.
- Barred from campus - means being barred from all or designated portions of the University property or activities.

Students living in UNM residence halls are subject to the following possible sanctions for misconduct occurring in the residence halls:

- Housing reassignment - means the transfer of the student from one dorm room to another or one residence hall to another.
- Restricted from entry into specific residence halls, dining hall, commons building, and other UNM housing facilities.
- Contract termination - means the termination of the housing contract either for a stated period of time or indefinitely.

Under the University's ~~Visitor Code of Conduct~~ Visitor Code of Conduct, which applies to the Albuquerque and all branch campuses, a visitor who commits a violation of this Code, including ~~a sex offense~~ sexual misconduct, is subject to the following possible sanctions:

- Verbal Warning - means an oral reprimand.

- Written Warning - means a written reprimand.
- Probation - means the establishment of a time period during which further acts of misconduct may or will result in more severe sanctions depending on the conditions of the probation.
- Removal from campus - means being physically escorted or forcibly removed to a location off property owned or controlled by the University, by University Police Officers or other University agents.
- Barred from campus - means being barred from all or designated portions of University property or activities.
- The sanctions of denial of admission, readmission, or employment by the University.
- Additionally or alternatively, any sanction applicable to a student under the Student Code of Conduct may be provisionally applied to a visitor, to be made effective should the visitor ever enroll or re-enroll at the University.

Faculty who are found to be in violation of this policy may be subject to disciplinary action as provided in the [Faculty Handbook Policy C07 \(“Faculty Disciplinary Policy”\)](#). Staff who are found to be in violation of this policy may be subject to disciplinary action as provided in [UAP 3215 \(“Performance Management”\)](#).

Figure 9: Investigation And Disciplinary Action

Investigation

- OEO reviews report to determine jurisdiction.
- OEO meets with reporting party (referred to as “complainant”) and responding party (referred to as “respondent”) to determine scope of investigation and explain procedure.
- OEO gathers evidence from parties, analyzes to determine if it demonstrates that a violation of University policy more likely than not occurred (referred to as the “preponderance of the evidence” standard).
- OEO issues a Preliminary Letter of Determination (PLOD) finding that there is either probable cause or no probable cause that a violation of University policy occurred.
- Complainant and respondent have two weeks to submit any new information that OEO has not considered or previously seen.
- OEO issues a Final Letter of Determination (FLOD) either upholding the finding in the PLOD or altering it based on new information submitted.

*Either party has ~~two weeks~~ **the ability** to seek a discretionary review of the FLOD from the Office of the President.*

Disciplinary Action

- OEO forwards the matter to the Student Conduct Officer and/or Student Conduct Committee at the Dean of Students Office to determine what, if any, sanction to be imposed.
- At either party's election or when referred by the Student Conduct Officer, Student

Conduct Committee will hold a formal hearing regarding discipline imposed or lack thereof.

- Student Conduct Committee issues a formal decision on discipline imposed.

*Either party has seven working days to appeal certain types of disciplinary action, as provided in the ~~UNM Pathfinder~~ **UNM Pathfinder**, to the Dean of Students or Vice President of Student Affairs.*

14. UNM Branch Campus Information

UNM's branch campuses in Gallup, Los Alamos, Taos and Valencia, as well as UNM's separate campus, UNM West, follow the University's Student Code of Conduct and Visitor Code of Conduct. All branch campuses prohibit any act of sexual ~~violence or~~ misconduct and encourage students who experience such acts to report them to the appropriate law enforcement agency and to seek assistance from campus and community resources. UNM branch campus students can submit complaints alleging sexual ~~violence or~~ misconduct committed by another student, staff or faculty member, or third party to UNM's Title IX Coordinator. Please refer to ~~Section 7~~ **Section 7** of this policy for information on Confidential Reporting Sources and persons obligated to report allegations of sexual ~~violence or~~ misconduct.

14.1. Gallup Campus

A student who experiences sexual ~~violence or~~ misconduct on the Gallup campus or at a UNM-Gallup sponsored or sanctioned activity should contact the UNM-Gallup Campus Police Department at (505) 863-7620. For offenses that happen off campus, contact the Gallup Police Department at (505) 726-1745. The UNM-Gallup Police Department can assist in reporting assaults to other law enforcement agencies.

Medical services are available at:

- Gallup Indian Medical Center | 516 Nizhoni Blvd., Gallup, NM / (505) 722-1000
- Rehoboth McKinley Christian Hospital (RMCH) | 1901 Red Rock Dr., Gallup, NM / (505) 863-7000

Medical and counseling information available at:

- Rape Crisis Hotline / 1-800-649-0181

The Director of Student Affairs and the Dean of Instruction are available to assist victim of sexual ~~violence or~~ misconduct by making reasonable changes in academic situations as well as providing information about the on-campus judicial process.

14.2. Los Alamos Campus

A student who experiences sexual ~~violence or~~ misconduct on the Los Alamos campus or off-campus in Los Alamos should contact the Los Alamos Police Department. LAPD's non-emergency phone number is (505) 662-8226 (in an emergency, dial 911). A student seeking assistance with changes to their academic situation due to experiencing sexual ~~violence or~~ misconduct should contact the UNM Los Alamos Student Success Manager at (505) 662-0341.

Community Resources:

- Santa Fe Rape Crisis Center (24 hour hotline): 1-800-721-7273
- Esperanza Battered Persons Shelter: 473-5200
- Community Counseling Resources
- Los Alamos Family Council: Crisis hotline (24/7) 662-4422; office (505) 662-3264 or 1-877-602-4060
- Crisis Center of Northern New Mexico: 1-800-206-1656
- Regional Crisis Line: (505) 820-6333
- For a complete Student Guide to Area Resources for social services, go to <http://losalamos.unm.edu/students/crises-resources.html>

14.3. Valencia Campus

A student who experiences sexual ~~violence or~~ misconduct on the UNM-Valencia campus or at a University sponsored or sanctioned activity should contact the UNM-Valencia Campus Police Department at (505) 925-8570 or the Valencia County Sheriff's Department at (505) 866-2640. If it is an emergency, call 911. UNM-Valencia strongly encourages individuals who have experienced sexual ~~violence or~~ misconduct to report the incident to law enforcement. Students may contact the Student Services Office at (505) 925-8560 for assistance in contacting law enforcement authorities in order to report an assault.

~~A student~~ **Students** seeking assistance with changes to their academic situation due to experiencing sexual ~~violence or~~ misconduct should contact the Student Services Office at (505) 925-8560.

Community and Campus Resources:

- Rape Crisis Center of Central New Mexico / (505) 266-7711 24-hour hotline

Provide advocate to accompany victim to Sexual Abuse Nurse Examiners medical and forensic examination, free counseling and 24 hour a day crisis telephone service with counselors available to provide immediate assistance to individuals who have experienced sexual violence or misconduct.

Director, Student Affairs
UNM-Valencia Student Services Building
(505) 925-~~8560~~5860

14.4. Taos Campus

A student who experiences sexual ~~violence or~~ misconduct on the UNM-Taos campus or off-campus in Taos should contact the Taos Police Department at (575) 758-4656. If it is an emergency, dial 911. UNM-Taos strongly encourages individuals who have experienced sexual ~~violence or~~ misconduct to report the incident to law enforcement. Students may contact the Student Affairs Department at (575) 737-6212 for assistance in contacting law enforcement authorities in order to report an assault.

~~A student~~Students seeking assistance with changes to their academic situation due to experiencing sexual ~~violence or~~ misconduct should contact the Student Affairs Department at (575) 737-6212. The Student Affairs Department is also responsible for administering the Student and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes.

Community and Campus Resources

- Community Against Violence (CAV) | 945 Salazar, Taos, NM 87571 / (575) 758-9888 (hotline)

CAV maintains a 24-hour crisis hotline and has counselors available to provide immediate assistance to individuals who have experienced sexual violence or misconduct. They also provide referrals, medical and legal advocacy and can assist with medical expenses.

- Tri-County Community Services | 413 Sipapu Street, Taos, NM 87571 / (575) 758-5857
- Suicide prevention hotline: (575) 758-1125
- Public Health Department | 1400 Weimer Rd., Taos, NM 87571 / (575) 758-0493
- Holy Cross Hospital | 1397 Weimer Rd., Taos, NM 87571 / (575) 758-8883
- Taos Police Department | Town Hall, 400 Camino de la Placita, Taos, NM 87571 / (575) 758-4656 or 911 in an emergency

14.5. UNM West

A student who experiences sexual misconduct on the UNM West Campus or off-campus in Rio Rancho should contact the Rio Rancho Police Department at 505-891-7226. If it is an emergency, dial 911. UNM West strongly encourages individuals who have experienced sexual misconduct to report the incident to law enforcement. Students may contact the UNM Main Campus Office of Equal Opportunity at (505) 277-5251 to report sexual misconduct for administrative action or for assistance in contacting law enforcement authorities in order to report a crime related to sexual misconduct.

Students seeking assistance with changes to their academic situation due to experiencing sexual misconduct should contact the UNM Main Campus Dean of Students Office at (505)277-3361. The UNM Dean of Students Office is also responsible for administering the Student and Visitor Codes of Conduct and can provide information on pursuing on-campus judicial processes. For additional community and campus resources, refer to Section 9 above.

15. New Mexico Definitions of Violence Against Women Act Crimes

Stalking – NMSA 1978, § 30-3A-1, *et seq.*, “Harassment and Stalking Act”

- Stalking: under New Mexico law, “stalking” is defined as knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, or restraint of the individual or another individual. “Aggravated stalking” consists of stalking perpetrated by a person who knowingly violates a court order, including an order of protection, or when the person possesses a deadly weapon or when the victim is under sixteen years of age.

“Harassment” means knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

“Stalking” means knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement, or restraint of the individual or another individual. A “pattern of conduct” means two or more acts, on more than one occasion.

“Aggravated stalking” consists of stalking perpetrated by a person:

- who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
- in violation of a court order setting conditions of release and bond;
- when the person is in possession of a deadly weapon; or
- when the victim is less than sixteen years of age.

Domestic Violence – NMSA 1978, § 30-3-10, *et seq.*, “Crimes Against Household Members Act” (includes dating violence)

- Domestic violence: under state law, domestic violence is defined as felony and misdemeanor crimes under the New Mexico Crimes Against Household Members Act. Crimes included under the New Mexico Crimes Against Household Members Act are assault, aggravated assault, assault with intent to commit a violent felony, battery, and

aggravated battery. A “household member” is a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, a co-parent of a child, or person with whom someone has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. In addition, under the New Mexico Family Violence Protection Act, violation of a court-issued order of protection granted to protect an individual who has experienced sexual violence or **domestic abuse is a misdemeanor crime.**

- Domestic abuse: under the Family Violence Protection Act, “domestic abuse” is defined as “an incident of stalking or sexual assault whether committed by a household member or not” resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear or bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children. Under the Family Violence Protection Act, “household members” include a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member under the Act. Violation of any provision of an order of protection issued under the Family Violence Protection Act is a misdemeanor crime and constitutes contempt of court and may result in a fine or imprisonment or both.
- Dating violence: under New Mexico’s Crimes Against Household Members Act, someone with whom a person has a dating or intimate relationship is considered to be a household member. Any of the felony and misdemeanor crimes enumerated as domestic violence in the Crimes Against Household Members Act are also crimes when committed against someone with whom the offender has a dating or intimate relationship.

“Domestic violence” consists of assault or battery of:

- a spouse or former spouse, or
- parent, step-parent, in-law, grandparent, grandparent-in-law, co-parent of a child, or a person with whom a person has had a continuing personal relationship.
- “continuing personal relationship” means a dating or intimate relationship.
- Cohabitation is not necessary to be deemed a household member for purposes of the Crimes Against Household Members Act.

“Assault against a household member” means:

- An attempt to commit a battery against a household member; or
- Any unlawful act, threat or menacing conduct that causes a household member to reasonably believe they are in danger of receiving an immediate battery.

“Aggravated assault against a household member” means:

- Unlawfully assaulting or striking a household member with a deadly weapon; or

- Willfully and intentionally assaulting a household member with intent to commit any felony.

“Assault against a household member with intent to commit a violent felony” means any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second, or third degree, robbery, kidnapping, false imprisonment, or burglary.

“Battery against a household member” consists of the unlawful, intentional touching or application of force against a household member when done in a rude, insolent, or angry manner.

“Aggravated battery against a household member” consists of the unlawful touching or application of force against a household member with intent to injure that person or another.

Sexual Assault – Criminal Sexual Penetration (NMSA 1978, § 30-9-11), Criminal Sexual Contact (NMSA 1978, § 30-9-12), and Criminal Sexual Contact with a Minor (NMSA 1978, § 30-9-13)

“Criminal sexual penetration” is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio, or anal intercourse or the causing of penetration, to any extent and with any object, or the genital or anal openings of another, whether or not there is any emission.

- Criminal sexual penetration is a felony crime; the degree of the felony (first degree through fourth degree) depends on the age of the victim and the force or coercion used by the perpetrator.
- “Force or coercion” is defined in NMSA 1978, § 30-9-10(A) and means:
 - the use of physical force or physical violence;
 - the use of threats to use physical force or violence against the victim or another;
 - the use of threats, including threats of physical punishment, kidnapping, extortion, or retaliation directed against the victim or another; or
 - committing a criminal sexual penetration or criminal sexual contact when the perpetrator knows or has reason to know that the victim is unconscious, asleep, or otherwise physically helpless or suffers from a mental condition that renders the victim incapable of understanding the nature or consequences of the act.

“Criminal sexual contact” is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one’s intimate parts. “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast.

- Criminal sexual contact is a felony crime if perpetrated by the use of force or coercion that results in personal injury to the victim, or if the perpetrator is aided or abetted by others, or when the perpetrator is armed with a deadly weapon.
- Criminal sexual contact is a misdemeanor crime when perpetrated with the use of force or coercion.

“Criminal sexual contact with a minor” is the unlawful and intentional touching of or application of force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one’s intimate parts. “Intimate parts” means the primary genital area, groin, buttocks, anus, or breast. A “minor” is a person eighteen years of age or younger.

16. Consent Providing False Information

~~In New Mexico, the absence of consent is not an element of the crime of criminal sexual penetration. What this means that a prosecutor does not have to prove beyond a reasonable doubt that sexual intercourse took place without the victim’s consent in order to convict the defendant of criminal sexual penetration. A defendant can, however, claim as a defense to a charge of criminal sexual penetration that the accuser consented to the sexual act. Consent may be used to negate the element that “force or coercion” was used by the accused. Consent is what is known as an affirmative defense to a charge of criminal sexual penetration because if the accuser consented, the sexual act would not have been unlawful.~~

~~The University of New Mexico has adopted a definition of consent in this policy (see Section 3).~~

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual’s own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith allegation of sexual misconduct under this policy, even if an investigation fails to substantiate the allegation.

Notwithstanding this provision, the University may discipline employees or students when it has been determined that they brought an accusation of sexual misconduct in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, may be subject to disciplinary action.

Footnotes:

¹The Violence Against Women Act (VAWA) is a federal law originally passed in 1994 and reauthorized several times by Congress, most recently in 2013.

²Except as required by law and their professional licensure requirements such as reporting imminent danger.

³Except as required by law and their professional licensure requirements such as reporting imminent danger.

⁴Under certain circumstances, the allegations made may indicate that a continuing threat to the general public may be present. Under those circumstances, UNM may be obligated to forward the allegations to the appropriate agency for investigation and/or prosecution.

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A61.6: Information Technology Use Committee

Approved By: Faculty Senate

Last Updated: November 22, 2011 *Draft 4/4/17*

Responsible Faculty Committee: Information Technology Use 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 Information Technology (IT) Use Committee is the voice of the faculty in the co-governance of IT matters.

POLICY STATEMENT

The Information Technology Use Committee, in cooperation with UNM IT and other core technology providers, is advisory to the office of the Provost/Vice President for Academic Affairs on all matters relating to technology access. The Committee represents and reports to the Faculty Senate through regular procedures and submits a yearly report to the Senate. In cooperation with UNM IT and other core technology providers, the Committee acts in collaboration with the IT Academic Technologies Advisory Board and the IT Research Technologies Advisory Board to provide review of and recommendations regarding administration, purchasing, use, and implementation of IT systems and applications. Through communication with the academic and administrative units, it represents the needs and concerns, particularly of the academic community, for computing resources and information technology needs. The chair of the Information Technology Use Committee is a voting member of the Academic Technologies Advisory Board and the IT Research Technologies Advisory Board. The Committee's purview includes, but is not limited to, soliciting faculty feedback, assessment and articulation of faculty needs, advocacy of innovative and effective instructional and research technologies, active participation in IT strategic planning, advice on IT budgets, recommendation for priorities and liaison with academic, research, and as well as administrative computer users.

APPLICABILITY

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

DEFINITIONS

No specific definitions are required for the Policy Statement.

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.

WHO SHOULD READ THIS POLICY

- Academic chairs, directors, and deans
- Non-academic managers and directors
- Vice presidents and other executives

RELATED DOCUMENTS

[University Administrative Policy Manual](#)

[2500: Acceptable Computer Use](#)

[2510: Computer Use Guidelines](#)

[2520: Computer Security Controls and Access to Sensitive and Protected Information](#)

[2530: Remote Electronic Input to the Financial Accounting Systems](#)

[2540: Student Email](#)

[2550: Information Security](#)

[2560: Information Technology \(IT\) Governance](#)

[2570: Official University Webpages](#)

[2580: Data Governance](#)

[2590: Access to Administrative Computer Systems](#)

CONTACTS

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

PROCEDURES

No procedures needed at this time

HISTORY

March 22, 2011 – Approved by Faculty Senate

DRAFT HISTORY

[April 3, 2017 – Revised draft to include IT Committee’s recommended changes.](#)

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

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F70: Articulation, Degree Approval, Transfer of Course Credit, and Faculty Approval of Credentialing Standards

Approved By: Faculty Senate

Effective Date: **Draft 2/28/17**

Responsible Faculty Committee: Policy Committee

Office Responsible for Administration: Office of the Provost

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

POLICY RATIONALE

Articulation: Though the branch colleges operate under an admissions policy different from that of the main campus, their The branch community college degree offerings are approved by the University of New Mexico (UNM), and many of their courses carry transfer credit toward UNM main campus baccalaureate degrees. This connection or articulation of programs means that branch college faculty members may be required to meet a more specific set of approval standards in order to teach transferable courses than to teach non-transferable courses. The policies that which govern the articulation of degree programs, the determination of course credit, and the approval of credentialing standards faculty approval between the for UNM branch community colleges the main campus are presented below.

POLICY STATEMENT

A. Degree, Certificate, and Credential Approval

1. All associate degree programs offered at the main campus in Albuquerque are authorized to be offered at the branches, upon approval by the appropriate college and department or program on the Albuquerque UNM main campus.
2. To meet local needs, The branch community colleges are authorized to develop and offer, with the approval of the Undergraduate Committee, the Curricula Committee, and the Faculty Senate, programs leading to all Associate the degrees, of Associate of Arts, and Associate of Sciences and The branches are also authorized to develop and offer, with the approval of the Office of the Provost/Executive Vice President for Academic Affairs, programs leading to the degree of Associate of Applied Sciences, as well as provide certificates and workforce credentials, provided the programs go through the required approval process for such programs at UNM main campus. The transferability to the main campus of credit for courses in these programs will be determined in accordance with the policy statements B. 1, 2, and 3 below.

B. Transfer of Course Credit, Certificates, and Credentials

The University UNM main campus will accept baccalaureate credits, and branch community colleges will accept transferable, certificate, and workforce credential credits, earned by students at any UNM branch community college, in accordance with the following policy:

1. Transferable credits earned in lower division courses that already appear in ~~the~~ any UNM campus catalog and/or UNM campus schedule of classes, which have been submitted by the branches and approved for credit by the appropriate department or program and the UNM Curricula Committee, and the branch instructor, content, and level of performance for said courses having been approved by the appropriate main campus department or program, will be accepted by the appropriate UNM campus as though they were earned on the ~~main~~ campus of origin, at the University in Albuquerque. Under the following provisions: the course sections must meet the catalog course description in the UNM campus of origin, and the course must follow the same student learning objectives or competencies as the sections at the campus of origin. As needed, syllabi, final exams, and/or other course materials may be requested by the corresponding department or program for articulation.
2. Proposed new lower division courses must follow the same approval process as any other course offered at UNM main campus and, if designed for transfer credit, must be approved by the appropriate department or program and/or college. which do not appear in the UNM Catalog and/or the UNM Schedule of Classes will be accepted by the University as though they were earned on the main campus if they have been designed by the branches in cooperation with the appropriate main campus department or program and college; approved for credit by the appropriate department or program and college and by the UNM Curricula Committee; and approved for their instructor, content, and level of performance by the appropriate main campus department or program.
3. Any lower division courses that have not gone through the required approval process prior to being offered are generally not acceptable for baccalaureate credit towards a UNM degree or certificate.
4. New and existing lower division courses designed by the branches which do not appear in the UNM Catalog and/or the UNM Schedule of Classes, and which have not been approved by a main campus department and the UNM Curricula Committee prior to being offered, are generally not acceptable for baccalaureate credit except (a) by petition and approval from the UNM degree granting unit, or (b) if determined to be equivalent to a main campus course by the UNM department or program which offers that course.
5. Special curricular offerings are authorized to meet local educational needs which are not being met by other institutions in the area. The transferability to the main campus of credit for these offerings will be determined in accordance with the policy statements B. 1, 2, and 3 above.

C. Faculty Approval of Credentialing Standards for Course Delivery

Branch community college faculty shall be qualified to deliver courses under the current UNM accrediting body's credentialing guidelines. Branch community colleges shall maintain adequate records to verify that appropriate accreditation credentialing guidelines are met.

1. Approval standards for transferable courses. Branch college courses carrying pre-designated transferability shall be offered by approved faculty. Tenured/tenure track faculty, by virtue of the standards required for their appointment, are automatically approved to teach transferable courses in their fields of credentialed expertise. Non-tenured/tenure track faculty, and tenured/tenure track faculty teaching outside their fields of credentialed expertise, must be approved to teach transferable courses before or as early as possible during the first semester in which they offer those courses. To be approved to teach transferable courses, faculty members shall meet written standards appropriate to the courses they are to offer.
2. Formulation of standards. The faculty approval standards for each transferable course shall be formulated in writing and adopted jointly by the appropriate branch college and main campus administrators. Normally these will be the administrators immediately responsible for supervising course offerings in a particular field: e.g., the chairs (or directors or coordinators or heads) of the departments or programs in the relevant discipline. Once formulated, the standards for each course shall be transmitted to, and

reviewed by, the Office of the Provost/Executive Vice President for Academic Affairs. The standards shall be kept on file by the Office of the Provost and by the branch college and main campus administrators who formulated them. They shall be transferred to, and applied in a consistent manner by, subsequent administrators, and they shall be revised only by joint written agreement of the appropriate administrators holding office at the time. All revisions shall be promptly transmitted to, and reviewed by, the Office of the Provost/Executive Vice President for Academic Affairs. Approval standards for each transferable course should be submitted to the Office of the Provost no later than June 1, 2006. After that date, and until such time as standards for the course are submitted, the main campus department shall be presumed to approve all instructors employed by the branch to teach that course. The implementation of faculty approval standards for each transferable course, as described in paragraphs 3-5 below, shall not begin until the standards for that course have been formulated, adopted, and reviewed as stipulated in this paragraph.

3. ~~*Implementation of standards.*~~ The determination that a prospective instructor meets the faculty approval standards for a transferable course shall initially be made by the appropriate administrator (department chair, program director, coordinator, or head) at the branch college. Approval of the instructor shall then be reviewed and confirmed or denied by the college's Dean of Instruction. If the Dean confirms the approval, the branch college may hire the instructor prior to receiving main campus approval. The approval shall then be forwarded to the Branch Executive Director for recommendation to the appropriate main campus department chair or program director; it shall be submitted no later than the third week of the semester. The approval shall be accompanied by copies of the faculty member's vita and syllabus for the course in question. The main campus administrator shall confirm or deny the approval before or as early as possible during the first semester in which the faculty member offers the course. This decision shall be promptly communicated in writing to the appropriate branch campus administrator, the Dean of Instruction, and, if the approval is denied, the Office of the Provost/Executive Vice President for Academic Affairs.
4. ~~*Denial of approval.*~~ If faculty approval is denied, the main campus administrator shall communicate the reasons for this decision in writing to the appropriate branch college administrator, the Dean of Instruction, and the Office of the Provost/Vice President for Academic Affairs. This communication shall refer specifically to the written faculty approval standards for the course in question but may include other considerations as well. Courses already in progress shall not be cancelled solely because faculty approval is denied or delayed. If approval is denied, the branch college administrator shall work with the main campus administrator to identify and employ an eligible substitute instructor. If no eligible substitute can be obtained, the faculty member who began the course shall finish it under the supervision of the branch college administrator; but the same faculty member shall not be employed again to teach the same course, or any other course that has comparable approval standards, unless s/he has received branch and main campus approval to do so before the course begins.
5. ~~*Exemptions from standards.*~~ Faculty members may teach transferable courses without meeting established approval standards only if the appropriate branch college administrator submits, and the Dean of Instruction supports, a request for an individual exemption from the standards. The request shall be accompanied by a detailed explanation of the reasons for the request and by the proposed faculty member's vita and syllabus for the course in question. The request shall be submitted to the appropriate main campus administrator no later than two weeks before the semester begins. If the request is not approved by the appropriate main campus administrator before the course begins, the course shall not be offered by the proposed instructor.
6. ~~*Non-transferable courses.*~~ Branch college courses not carrying pre-designated transferability shall be offered by faculty who meet the appointment standards set forth in the college's statement on appointment and retention (see section F60 below), and who are recommended for appointment by the appropriate branch college administrator (department chair, program director, coordinator, or head), the Dean of Instruction, and the Branch Executive Director. In making recommendations concerning all faculty appointments, administrators shall act in accordance with the standards and procedures set forth in the branch college statement on appointment and retention and in section F60 below. All faculty appointments are subject to review by the Provost/Executive Vice President for Academic Affairs.

APPLICABILITY

All UNM academic faculty, staff, and administrators.

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

DEFINITIONS

No specific definitions are required for the Policy Statement.

WHO SHOULD READ THIS POLICY

- Students
- Faculty
- Department Chairs, academic deans and other academic administrators and executives

RELATED DOCUMENTS

UNM Regents' Policy Manual Policy 2.14 "Branch Colleges and Off-Campus Education Centers"
Higher Learning commission Faculty Credentialing Guidelines

CONTACTS

Direct any questions about this policy to the Office of the Provost or the Chancellor for Health Sciences.

PROCEDURES

No specific procedures are required at this time.

DRAFT HISTORY

February 28, 2017 – Incorporated final changes based on feedback from task force and faculty at the branch campuses.

November 10, 2016 – Incorporate changes based on feedback from the faculty at the branch campuses and from the Section F task force.

September 26, 2016 – Prepare revised draft to reflect changes requested by the Section F taskforce and move from information item to Policy document.

HISTORY

April 2005--Approved by the Faculty Senate

COMMENTS TO:
handbook@unm.edu

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D176: Graduate and Professional Student Conduct and Grievance Policy

Approved By: Faculty Senate and UNM President

Last Updated: **Draft 10/25/17**

Responsible Faculty Committee: Faculty Senate Graduate and Professional Committee

Office Responsible for Administration: Graduate Studies and Dean of Students

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the Faculty Senate and the UNM President after consultation with the GPSA President, Graduate Studies, and the Dean of Students.

POLICY RATIONALE

The University of New Mexico (UNM) is committed to academic excellence and student success. The Graduate Student Academic Grievance (GSAG) Procedures have been established to address **This Policy provides procedures for resolution of** complaints, disputes, or grievances of an academic nature initiated by students enrolled in graduate and professional degree programs at UNM. It also addresses allegations of discrimination or sexual harassment, and allegations of student misconduct, as well as procedures for handling student disciplinary matters.

POLICY STATEMENT

Whenever possible, it is important to take a supportive problem solving approach to resolving academic disputes. However, UNM may take disciplinary action against a student for a violation of the Student Code of Conduct or other UNM policy when the offense occurs on UNM premises or at a UNM-sponsored event, or when the violation occurs off campus and failure to take disciplinary action is likely to disrupt the academic process or other campus functions, or endanger the health, safety or welfare of the UNM community or any individual student or employee.

1. Matters Covered under this Policy

The following types of disputes or disciplinary matters are covered by this Policy and handled in accordance with the procedures described in the Procedures Section of this document. Any questions about these procedures should be directed to Graduate Studies or the Office of the Dean of Students. The Dean of Students may create additional processes and procedures that are in accordance with this Policy to aid the Dean of Students in administration of this Policy.

1.1. Petitions to Modify Academic Requirements due to unusual or extraordinary events.

1.2. Academic record disputes involving students seeking retroactive withdrawal, enrollment, or disenrollment, or for other academic record changes.

1.3. Academic disputes arising within the academic process, whereby a student believes that there has been unfair or improper treatment by a faculty member or academic program/department in connection with the academic process. For example, it applies to disputes over assignment of grades, decisions about program or degree requirements or eligibility, or claims that course requirements are unfair.

1.4. Allegations of Academic Dishonesty arising from violation of academic dishonesty rules as defined in the Definitions Section.

1.5. Allegations of Discrimination or Sexual Harassment

UNM urges any individual who has experienced discrimination, sexual harassment, sexual misconduct and/or sexual violence , or has knowledge about such an incident, to report the incident to the Title IX Coordinator at Office of Equal Opportunity within 24 hours, or as soon as reasonable practicable, by calling (505) 277-5251 or by email at hbcowan@unm.edu. Anonymous reports can be made. The UNM Office of Equal Opportunity is tasked with investigating allegations of discrimination and sexual harassment and determining whether anti-discrimination policy has been violated. If OEO determines that a graduate student has violated UNM anti-discrimination policy, disciplinary proceedings shall be handled under the Procedures set forth in Article 5 herein.

1.6. Allegations of Student Misconduct NOT Involving Discrimination or Sexual Harassment arising from violation of the Student Code of Conduct or other UNM policy.

2. Matters that may also be Covered under other UNM Policy

2.1. School of Law

Students attending the UNM School of Law must comply with the UNM Law School Bulletin and Handbook of Policies (Bulletin) ~~Student Code of Conduct~~, in addition to this Policy. ~~the UNM Student Code of Conduct~~. Allegations of academic misconduct, as enumerated in the Law School Student Code of Conduct (found in the Bulletin), are addressed by the processes defined in that Code. Others kinds of alleged misconduct, except for allegations of an act of discrimination or sexual harassment, may be addressed as described in the School of Law Administrative Due Process Policy and Procedure (found in the Bulletin). Allegations that a student in the School of Law has engaged in any discriminatory or sexual harassment as provided in Article 5. herein, shall be referred to the UNM OEO Office. Before determining sanctions for sexual harassment, the dean should consult with the Dean of Students.

The Bulletin ~~School of Law Bulletin and Handbook of Policies (Bulletin)~~ governs students enrolled in the Law School and to the extent Article 6. herein. ~~this Student Grievance Procedure~~ differs from the policies and procedures in the Bulletin, the Bulletin supersedes Article 6. ~~this Grievance Procedure~~. The School of Law may ~~at its discretion~~, refer cases of alleged student misconduct to the Dean of Students for review and possible action under the UNM Student Code of Conduct.

Discretionary review by the UNM President and Board of Regents, as provided for in [sections 5.7 and 6.7](#) ~~Article 10.4~~ herein, is accorded to students in the School of Law.

2.2. Health Sciences Center

Graduate and professional students in academic programs in the Health Sciences Center ~~School of Medicine, College of Pharmacy and College of Nursing~~ have adopted student codes of conduct (including standards of professionalism) with which students in those academic programs must comply, in addition to the UNM “Student Code of Conduct” and other UNM policies. Except for allegations of discrimination or sexual harassment, which shall be referred to the UNM Office of Equal Opportunity, to the extent that Health Sciences Center academic programs have adopted policies and procedures that govern the adjudication of student conduct and student grievance matters, those policies and procedures supersede this Policy. ~~Student Grievance Procedure~~. A decision by the ~~respective~~ dean of the School of Medicine, College of Pharmacy, College of Nursing, or College of Population Health may be appealed to the Health Sciences Center Chancellor, or his or her designee, under procedures adopted by the Chancellor's Office. ~~Decisions by the Dean of the School of Medicine are final for the Health Sciences Center when the positions of Dean and Chancellor are held by the same official.~~

Discretionary review by the UNM President and Board of Regents, as provided for in [sections 5.7 and 6.7](#) ~~Article 10.4~~ herein, is accorded to graduate and professional students in academic programs in the HSC. ~~School of Medicine, College of Pharmacy and College of Nursing.~~

Before determining sanctions for sexual harassment, the dean should consult with the Dean of Students.

~~Academic programs in the School of Medicine, College of Pharmacy and College of Nursing may, at their discretion, refer cases of alleged student misconduct to the UNM Dean of Students for review and possible action under the UNM Student Code of Conduct, except that allegations that a student in a Health Sciences Center academic program has engaged in discrimination or sexual harassment act as provided in Article 5. herein, shall be referred to the UNM OEO Office.~~

3. Matters Not Covered Under This Policy

3.1. Disputes involving access to or information in a student's educational records shall follow procedures set forth in the UNM Student Records Policy, published in the student handbook, *The Pathfinder*.

3.2. Grievances arising out of a student's status as a UNM employee hired through the Student Employment Office shall follow procedures set forth in the UNM Student Employee Grievance Procedure, published in the student handbook, *The Pathfinder*.

3.3. Any student grievances concerning decisions made by UNM personnel, outside the academic process, for which specific procedures are not established, shall be resolved between the student and the office or department involved. If no resolution is reached, the parties may appeal to the appropriate dean or director and then to the appropriate vice president, Provost, or Chancellor. Appeals should be filed in writing within one (1) week of the decision.

3.4. Disputes arising from a student's status as a teaching assistant are addressed in Section B of the *Faculty*

Handbook. Disputes arising from a graduate or professional student holding an assistantship status as a graduate assistant shall follow procedures in the *Faculty Handbook*.

APPLICABILITY

All academic UNM units, including the Health Sciences Center.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Policy and Operations Committees after consultation with the GPSA President, Graduate Studies, and the Dean of Students.

DEFINITIONS

Academic Dishonesty includes, but is not limited to, plagiarism, dishonesty in quizzes, tests, or assignments; claiming credit for work not done or done by others; hindering the academic work of other students; misrepresenting academic or professional qualifications within or without UNM; and nondisclosure or misrepresentation in filling out applications or other University records.

Accused student refers to the individual accused by the complainant of having violated University policy.

Complainant refers to the individual alleging that they have experienced discrimination as defined herein.

Complaint refers to:

- request for informal resolution of academic matters in Procedures Section 3.2. herein;
- allegations of prohibited discrimination as defined herein filed with UNM's Office of Equal Opportunity; or
- allegations of misconduct referred to the Dean of Students per Procedures Section 6.2. herein.

Discrimination includes all forms of unlawful discrimination based on an individual's or group's protected class(es), including unlawful discrimination based on age (40 and over), ancestry, color, ethnicity, gender identity, gender/sex, genetic information, medical condition, national origin, physical or mental disability, pregnancy, race, religion, sexual orientation, spousal affiliation, veteran status and any other protected class as described in University Administrative Policy #2720. Sexual harassment is a form of gender discrimination that includes sexual violence, which is considered a severe form of sexual harassment. For purposes of this Policy, "discrimination" also includes retaliation for having made allegations of discrimination or sexual harassment, having participated in an investigation into allegations of discrimination or sexual harassment, or otherwise having engaged in opposition to unlawful discrimination or sexual harassment. Retaliation is explicitly prohibited under University Administrative Policies #2200, 2720, 2730, and 2740.

Graduate and Professional Student includes both full-time and part-time students pursuing graduate or professional studies. Student status continues for the entire period of enrollment, including University holidays, class breaks and summer session, if the student is enrolled for the preceding spring and following fall academic terms.

Misconduct is any activity performed by a UNM student or any other member of the UNM community that violates state and/or federal laws or regulations, local ordinances, or UNM policy.

Office of Equal Opportunity or OEO is the UNM office that processes allegations of discrimination or sexual harassment as defined herein, including but not limited to investigating such allegations and making determinations as to whether or not UNM's policies prohibiting discrimination or sexual harassment have been violated. OEO does not issue sanctions for violations of policy.

Sexual harassment is a form of gender discrimination and is defined in UAP Policy **2730** "Sexual Harassment." Sexual harassment includes sexual misconduct and sexual violence, which is considered a severe form of sexual harassment. Sexual violence and sexual misconduct are defined in UAP Policy **2740** "Sexual Violence and Sexual Misconduct."

Working Days refer to UNM traditional work days defined by UNM Human Resources as five (5) work days Monday through Friday ending at 5:00 PM. Working days do not include official UNM holidays listed in UAP Policy **3405** "Holidays."

WHO SHOULD READ THIS POLICY

- Graduate and Professional Students
- Faculty members
- Staff in Office of the Dean of Students
- Staff at Student Health and Counseling (SHAC)
- Administrative staff responsible for student events

RELATED DOCUMENTS

Regents Policy Manual

RPM 1.5 "Appeals to the Board of Regents"

RPM 4.2 "Student Code of Conduct"

RPM 4.3 "Student Grievances"

RPM 4.4 "Student Records"

RPM 4.8 "Academic Dishonesty"

Faculty Handbook

D75 "Classroom Conduct"

D100 "Dishonesty in Academic Matters"

University Administrative Policies Manual

2200 "Whistleblower Protection and Reporting Suspected Misconduct and Retaliation"

2720 "Equal Opportunity, Non-Discrimination, and Affirmative Action"

[2730 "Sexual Harassment"](#)

[2740 "Sexual Violence and Sexual Misconduct"](#)

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

[Office of Equal Opportunity Discrimination Claims Procedure](#)

[The School of Law Bulletin and Handbook of Policies \(Bulletin\)](#)

<http://lawschool.unm.edu/academics/common/docs/bulletin-handbook-policies.pdf>

[HSC School of Medicine, School of Pharmacy, and School of Nursing Handbooks](#)

CONTACTS

[Direct any questions about this Policy to Graduate Studies or the Dean of Students.](#)

PROCEDURES

[Students attending the UNM School of Law must comply with the UNM Law School Bulletin and Handbook of Policies \(Bulletin\), in addition to this Policy \(see section 2.1 in Policy Statement above for more information\). Graduate and professional students in academic programs in the Health Sciences Center must comply with applicable HSC student codes of conduct in addition to this Policy \(see section 2.2 in Policy Statement above for more information\).](#)

[Reasonable deviations from these procedures by UNM will not invalidate a decision or proceeding unless significant prejudice results.](#)

Article 1. Petition to Modify Academic Requirements

[The procedures in this Article apply to graduate students. Professional students wishing to petition to modify academic requirements should contact their dean.](#)

1.1. Scope

Graduate students may petition the Dean of Graduate Studies for an exception to any of the University-wide policies or regulations specified in the University Catalog. Petitions are intended to allow students the opportunity to deal with unusual or extraordinary events, particularly circumstances beyond their control that would penalize them unfairly. It should be kept in mind, however, that a hallmark of fairness is the uniform application of the same standards and deadlines to all students.

1.2. Petition

A petition should be initiated and signed by the student in the form of a memo or letter addressed to the Dean of Graduate Studies. It should clearly state the specific nature of the exception or special consideration being requested, and provide a complete but concise justification. If the request involves the extension of a deadline, a proposed new deadline date should be indicated. ~~Before considering a petition, the Dean will require that the student have an approved "Application for Candidacy" on file at the Office of Graduate Studies (OGS). If this has not already been submitted, both documents may be turned in simultaneously, with the petition attached to the front.~~

Petitions must be submitted in the sequence listed below:

1.2.1. The student must first submit the petition to ~~his/her~~ the student's graduate advisor. The advisor should indicate whether ~~he/she~~ the advisor endorses the student's request, and why.

1.2.2. The petition must next be submitted to the student's graduate unit -- the faculty graduate director, the chair, or the departmental graduate committee, depending upon the practice in the particular unit. The student may choose to submit the petition to the graduate unit even if it was not endorsed by the advisor. The unit should also indicate whether it supports or does not support the student's request, and why.

1.2.3. The petition should then be forwarded to ~~the Office of~~ Graduate Studies. The student may choose to submit the petition to Graduate Studies ~~the OGS~~ even if it was not supported by ~~his/her~~ the student's academic unit. In certain cases, the dean or ~~his/her~~ designee may ask the Faculty Senate Graduate and Professional Committee, serving in an advisory capacity, to review the petition and offer its recommendation for approval or disapproval. The decision of the Dean is final.

A written response to a petition will usually be ~~mailed~~ sent to the student within two (2) weeks from its receipt by Graduate Studies ~~the OGS~~, and a copy sent to the academic unit. (This period may be extended to allow for UNM holidays or other periods when UNM is not in session.) The original petition will be retained in the student's file at Graduate Studies ~~the OGS~~. Petitions that are lacking required documentation will be returned to the student, and will not be considered until all documentation has been received. ~~Inquiries regarding the status of a petition should be directed to the Academic Records Assistant at (505) 277-2714.~~

Article 2. Academic Record Disputes

2.1. Scope

This article sets forth the procedures which should be followed by a student seeking retroactive withdrawal, enrollment, or disenrollment, or for other academic record changes involving exceptions to the rules governing registration and academic records which are set forth in the UNM Catalog. It does not cover disputes involving academic judgment (e.g. grades).

2.2. Petitions

2.2.1. A student seeking a change in the student's academic record within the scope of this article shall submit a petition to Registrar's Office for consideration by the Faculty Senate Admissions and Registration Committee. The petition shall:

1. Include a statement of the nature of the request including why the student feels it should be granted.
2. Specify the semester involved and the subject/department code, course and section numbers.
3. Specify the student's name, UNM I.D. number, mailing address, email address and telephone number.

4. Include documentation of extenuating circumstances, such as medical, family, or employment needs.
5. Be typed and signed.
6. Optionally, include supporting statements from involved faculty and academic units.

2.2.2. Upon receipt of the petition, Registrar's Office shall forward a copy to the instructor of the course. The instructor shall make any response within three (3) weeks of receipt. If the instructor has not responded within three (3) weeks, the Faculty Senate Admissions and Registration Committee ("Committee") shall proceed to consider the petition without the instructor's response.

2.3. Appeal

At the next regular meeting after receipt of the instructor's response (or lack of response), the Committee shall take action on the petition. If the Committee denies the petition, it shall issue a brief statement giving the reasons for the denial. Absent any new information from the student, the Committee's decision shall be final. If the student has new information that was unavailable at the time the Committee made the decision and that may affect the Committee's decision of denying the petition, the student may request reconsideration from the Committee. The Committee's decision upon reconsideration is final for UNM.

Article 3. Academic Disputes

3.1. Scope

This article sets forth the procedures ~~The GSAG procedures are available~~ for resolution of a variety of possible issues related to the academic process. These may include, but are not limited to, issues related to progress toward a degree and allegedly improper or unreasonable treatment, except that disputes or grievances based upon alleged discrimination or sexual harassment should be directed to the Office of Equal Opportunity (OEO) in accordance with Article 5 herein. The procedures may not be used to challenge the denial of admission to a degree program, nor to appeal the refusal of a petition by the Dean of Graduate Studies for an exception to UNM-wide degree requirements, policies or procedures.

3.2. Informal Resolution

Although conflicts that on occasion occur between students and faculty or administrators may be resolved through formal adjudication, a more informal and productive kind of resolution -- one that is mutually agreed upon by the parties involved -- is strongly encouraged.

3.2.1. A student with a complaint related to academic matters is encouraged to consult with ~~the~~ ~~Office of Graduate Studies~~ to discuss ~~his/her~~ the concerns, seek to clarify pertinent rules and regulations governing graduate study, and explore constructive ways to resolve the problem directly with the faculty member or administrator involved. This should occur as soon as reasonably possible after the student has become aware of the problem.

3.2.2. The student should then arrange a meeting with the faculty or administrator involved in the complaint to address the problem and to explore the possibility of a jointly achieved resolution.

3.2.3. If agreement cannot be reached, the student may seek the assistance of the departmental faculty graduate advisor and/or the chair in resolving the dispute. If the dispute is with a faculty member in a department different from the student's, the appropriate chair or advisor would be in the department in which the faculty member resides or in which the course in which the dispute arose was offered. It is expected that these administrators will play an active part in helping to resolve the disagreement. In the event that the graduate unit involved is non-departmentalized, the student may go directly to the dean or director of that unit for assistance.

3.3. Formal Resolution of Academic Matters

If the matter cannot be resolved at the departmental level, the student may bring the problem to the attention of the school or college dean. The school or college dean will determine whether to adjudicate the dispute or to refer the student to the Dean of Graduate Studies for a resolution. If the dispute is with a faculty member in a school or college different from the student's, the appropriate dean would be the one in the unit in which the faculty member resides, or in which the course in which the dispute arose was offered. In the resolution of grievances at the level of a school or college dean or the Dean of Graduate Studies, the following procedures will apply. , as described also in the Pathfinder, under "Student Grievance Procedure," Sections 2.3.1.—2.3.7.

3.3.1. a The Student must submit a formal, written statement of his/her the grievance. This document should summarize the facts that support the grievance, indicate the desired resolution, and describe the efforts already made at reaching that resolution, as well as their outcome. The faculty or staff member against whom a grievance has been filed will be sent a copy of the written statement, and will have two (2) weeks in which to respond in writing to the dean.

3.3.2. b The Dean will review all written materials submitted, and provide both parties the opportunity to review and respond to all evidence. The Dean will interview each party, as well as any other persons who may have relevant information. The Dean may elect to hold an informal hearing involving both the parties to the grievance and witnesses. If such a hearing is held, the parties will be given five (5) working days' notice. Each party will be allowed to bring an advisor to the hearing, who may or may not be an attorney, but the advisor may not participate in the hearing. ~~but will not be permitted legal representation.~~ Cross examination of witnesses will be permitted, although the dean may require that questions be directed though the dean. ~~him/her.~~

3.3.3. c The Dean may choose to convene an advisory committee to help evaluate the grievance. A school or college dean may utilize a standing committee from that unit; the Dean of Graduate Studies will utilize the Senate Graduate and Professional Committee.

3.3.4. d ~~Generally,~~ a written report on the grievance will be issued by the Dean within a period of ~~four weeks~~ twenty (20) working days after it has been formally filed. (This period may be

extended to allow for ~~University holidays or other~~ periods when UNM is not in session.) The report will explain the dean's findings, conclusions, ~~his/her~~ decision, and the basis for that decision. A copy will be sent to each party, and to the chairperson or supervisor of the faculty or staff member involved.

3.4. Appeal of Formal Decision

During the appeal process, the Provost, President, and/or Board of Regents cannot overrule a faculty member's academic judgement.

3.4.1. Appeal to Provost

4(e).The decision of the Dean may be appealed by either party to the Office of the Provost within a period of two weeks. The Provost will reconsider that decision only if there are substantive, procedural grounds for doing so (for example, significant evidence that was not accepted or has arisen since the Dean's decision was announced). The decision of the Provost is final.

Either party may appeal the dean's decision within ten (10) working days of receipt of the decision to the Provost. The Provost or designee shall resolve the grievance utilizing any procedures available to the dean set out above. The Provost may refer the matter to the Faculty Ethics and Advisory Committee for consideration of disciplinary action against the faculty member involved, if such action appears warranted.

3.4.2. Appeal to the President

The President has the discretionary authority to review all decisions by the senior administrators. A request for a review by the President shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within seven (7) working days of the date of the written decision from the last reviewer.

3.4.3. Appeal to the Board of Regents

In accordance with Regent Policy 1.5 "Appeals to the Board of Regents," students affected by a decision of the administration, faculty, student government, or hearing board may appeal the decision to the Board of Regents. The Board has discretion to determine whether the appeal will be considered. A request for a review by the Board of Regents shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within ten (10) working days of the date of the written decision from the last reviewer.

Article 4. Academic Dishonesty

4.1. Scope

This article sets forth procedures which shall be followed in cases of suspected academic dishonesty. These procedures are not exclusive; various UNM departments and programs may have additional policies and procedures on academic dishonesty. Academic dishonesty is

defined in Definitions Section of this Policy. Students who commit academic dishonest may be subject to code of conduct sanctions and academic sanctions.

4.2. Academic Dishonesty within Courses: Faculty-Imposed Sanctions

4.2.1. When a violation of the academic dishonesty rules appears to have occurred within the academic process, the faculty member shall discuss the apparent violation with the student as soon as possible and give the student an opportunity to explain. After this discussion, the faculty member should consult with Graduate Studies to discuss possible courses of action. The faculty member may impose an appropriate sanction within the scope of the academic activity, such as grade reduction and/or involuntary withdrawal from the course. The faculty member shall notify the student of the academic sanction.

4.2.2. The faculty member ~~should~~ may report the matter to the Dean of Students, by submitting an adjudication form and any supplemental documentation and indicate if the faculty member wishes the Dean of Students Office to pursue any additional disciplinary action against the student. The Dean of Students Office shall send a copy of the form and attachments to the student. In cases where the student has multiple finding of academic dishonest, the Dean of Students Office may initiate sanction(s) in accordance with this Policy.

4.2.3. The student may challenge a sanction imposed by a faculty member using the process defined in Procedures section 3.4. herein. The student may challenge a sanction imposed by the Dean of Students for a code of conduct issue using the process defined in Procedures section 6.7 herein.

4.3. Academic Dishonesty in Other Settings

When academic dishonesty occurs other than in connection with a course, the person who observes or discovers the apparent violation shall transmit in writing to the appropriate faculty member or Dean of Students a statement describing the occurrence. The faculty member or Dean of Students will send a copy to the student, and will address the situation in accordance with Procedures sections 4.2.1. and 4.2.2. herein. shall determine the sanction following the procedures set forth in section Article 3.4. herein.

4.4. Sanctions Imposed by the Dean of Students

Upon receiving a report of academic dishonesty from a faculty member pursuant to section 4.2.3 herein, or from other University staff pursuant to section 4.3 herein, the Dean of Students may, after considering the recommendation of the faculty member, if any, initiate additional disciplinary action in accordance with this Policy.

4.4 Appeals

The student may challenge a sanction imposed by a faculty member using the process defined in Procedures section 3.4 herein. The student may challenge a sanction imposed by the Dean of Students for a code of conduct issue using the process defined in Procedures section 6.7 herein.

Article 5. Allegations of Discrimination or Sexual Harassment

UNM urges any individual who has experienced discrimination, sexual harassment, sexual misconduct and/or sexual violence, or has knowledge about such an incident, to report the incident to the Title IX Coordinator at Office of Equal Opportunity within 24 hours, or as soon as reasonable practicable, by calling (505) 277-5251 or by email at hbcowan@unm.edu. Anonymous reports can be made.

5.1. Scope

This article sets forth the procedures which should be followed when there are allegations that a student has engaged in an act of discrimination or sexual harassment, which by definition includes sexual misconduct and sexual violence.

5.2. Reporting to/and Investigation by the Office of Equal Opportunity (OEO)

5.2.1. Allegation(s) that a student has engaged in an act of discrimination or sexual harassment will be referred to UNM’s Office of Equal Opportunity (OEO) for investigation pursuant to OEO’s Discrimination Claims Procedure.

5.2.2. OEO has no sanctioning authority. If the respondent is a student and is found to have violated policy, OEO will refer the matter to the Dean of Students Office to determine the sanction to be imposed in accordance with Regent Policy 4.2 “Student Code of Conduct.” Sanctions should be designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting UNM’s educational mission and obligations under UNM policy and state and federal law, including but not limited to Title IX of the Education Amendments of 1972, the Civil Rights Act of 1964, and the New Mexico Human rights Act.

5.3. Appeals

5.3.1. Appeal to the Vice President for Student Affairs

The decision on sanctions made by the Dean of Students Office may be appealed to the Vice President for Student Affairs. The student must submit a written request for appeal to the Vice President for Student Affairs within seven (7) working days of the date of the written decision from the Dean of Students Office. The Vice President for Student Affairs will send written notification of the decision to the appealing party within ten (10) working days of receiving the request for appeal. A copy of the decision shall be sent to the Dean of Students Office.

5.3.2. Appeal to the President

The President has the discretionary authority to review all decisions by the senior administrators. A request for a review by the President shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within seven (7) working days of the date of the written decision from the last reviewer.

5.3.3. Appeal to the Board of Regents

In accordance with Regent Policy 1.5 “Appeals to the Board of Regents,” students affected by a decision of the administration, faculty, student government, or hearing board may appeal the decision to the Board of Regents. The Board has discretion to determine whether the appeal will be considered. A request for a review by the Board of Regents shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within ten (10) working days of the date of the written decision from the last reviewer.

5.4. Disciplinary Information Provided to Victim of Violence or a Non-forcible Sex Offense

Upon written request, UNM, to the extent permitted by the federal Family Educational Rights and Privacy Act (FERPA), will disclose to the individual who alleges that they were subjected to a crime of violence or a nonforcible sex offense the final results of the disciplinary proceedings conducted by UNM issued to the student who is the alleged perpetrator of the offense(s) alleged. If the individual who is alleged to have been subjected to the crime of violence or non-forcible sex offense at issue is deceased as a result of such offense(s), the next of kin of such individual shall be treated the same as that individual for the purpose of disclosing the final result of the disciplinary proceedings.

Additionally, in cases of sexual harassment as described in Procedures Article 5 herein, the respondent and inquiring parties have the right to be notified in writing of the final determination and any sanctions imposed to the extent permitted by the federal Family Educational Rights and Privacy Act (FERPA).

Article 6. Allegations of Student Misconduct NOT Involving Discrimination or Sexual Harassment

6.1. Scope

This article sets forth the procedures which should be followed when there are allegations that a student violated the Student Code of Conduct or other UNM policy not involving discrimination or sexual harassment, which are addressed in Procedures Article 5 herein.

6.2. Referral of Misconduct to Dean of Students Office

Allegations of misconduct in violation of the Student Code of Conduct or other UNM policy must be in writing and submitted to the Dean of Students Office which has primary authority to deal with disciplinary matters pertaining to students. Complaints of alleged misconduct should be submitted as soon as possible after the event takes place, preferably within forty-five (45) working days. Absent just cause, complaints must be submitted within one (1) year following discovery of the suspected misconduct.

The standard of proof utilized to resolve misconduct violating the Student Code of Conduct charges shall be that of preponderance of the evidence, meaning that the evidence, considered in its entirety, indicates that, more likely than not, the accused student (or chartered student organization or visitor) violated UNM policy the Code of Conduct.

The Dean of Students may refer the complaint to the Student Conduct Officer for review, investigation, and/or resolution. A decision, in most cases, will be rendered within sixty (60) days of the filing of a complaint. This date can be modified at the discretion of the Dean of Students or the Student Conduct Officer if deemed necessary such as to conduct a hearing that protects the rights of all parties.

6.3. A student allegedly committing a criminal offense under state or federal law that is also a violation of the Student Code of Conduct or other UNM policy may be subject to UNM disciplinary proceedings. UNM may pursue disciplinary action against a student at the same time the student is facing criminal charges for the same offense, even if the criminal prosecution is pending. UNM may also pursue disciplinary action even if criminal charges were dismissed, reduced or resolved in favor of the student-defendant.

6.4. Unless otherwise specified in the decision, sanctions issued by the Dean of Students Office (not including an Emergency Suspension as outlined in Procedures section 6.5 herein) shall not be implemented until the appeal process as set forth under Procedures section 6.7 herein is completed.

6.5. Emergency Suspension and Banning from Campus

The Dean of Students may immediately suspend a student (or chartered student organization) and/or ban a student or visitor if the Dean concludes that the person's continued presence on the campus may endanger persons or property or may threaten disruption of the academic process or other campus functions. When a person has been immediately suspended or banned by the Dean of Students, the person may request to meet with the Dean to consider whether the emergency suspension should be continued.

For students and chartered student organizations, an emergency suspension or banning does not end the disciplinary process. Resolution of the charges will proceed as set forth in herein. For visitors, the Dean of Students will decide whether to maintain an emergency ban and make it permanent, or modify or end the emergency ban, ordinarily after giving the visitor an opportunity to meet. The decision of the Dean of Students concerning a visitor is final.

6.6. Decisions of the Dean of Students Office pertaining to students are subject to appeal in accordance with Procedures section 6.7 herein.

6.7. Appeals, Records, and Rights

6.7.1. Appeal to Vice President for Student Affairs

The decision on sanctions pertaining to students made by the Dean of Students Office may be appealed to the Vice President for Student Affairs. The student must submit a written request for appeal to the Vice President for Student Affairs within ten (10) working days of the date of the written decision from the Dean of Students Office. The Vice President for Student Affairs will send written notification of the decision to the appealing party within ten (10) working days of receiving the request for appeal. A copy of the decision shall be sent to the Dean of Students Office.

6.7.2. Appeal to the President

The President has the discretionary authority to review all decisions by the senior administrators. A request for a review by the President shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within seven (7) working days of the date of the written decision from the last reviewer.

6.7.3. Appeal to the Board of Regents

In accordance with Regent Policy 1.5 "Appeals to the Board of Regents," students affected by a decision of the administration, faculty, student government, or hearing board may appeal the decision to the Board of Regents. The Board has discretion to determine whether the appeal will be considered. A request for a review by the Board of Regents shall be made in writing, and must include the alleged facts, what happened in the proceedings to date, and the reasons justifying extraordinary review. Such requests must be filed in the President's Office within ten (10) working days of the date of the written decision from the last reviewer.

Article 7. General Provisions

7.1. Student Conduct Records

Records regarding student conduct shall be kept in the Dean of Students Office for a period of ten (10) years after final disposition, except for records of expulsions which shall be permanently maintained. Copies of the final decision shall, in an academic dishonesty case, be sent to the faculty member.

7.2. Rights of the Parties Participating in Student Code of Conduct Grievances

The rights of the parties participating in grievances as provided herein include:

7.2.1. The party charged with an alleged violation has the right to written notice of the charges at issue in the proceeding that contains sufficient detail and time to prepare for a hearing.

7.2.2. The party charged with an alleged violation has the right to a timely hearing before an appropriate official or committee.

7.2.3. The party charged with an alleged violation has the right to know the nature and source of the evidence used in a hearing process.

7.2.4. Both parties have the right to present evidence in their own behalf.

7.2.5. Both parties have the right to choose not to testify and/or not to answer questions; in such cases, the decision maker will decide the charges based upon all of the evidence presented.

7.2.6. Subject to the limits set forth in Procedures section 3.3.2 both parties have the right to

be accompanied by an advisor at a hearing, who may or may not be an attorney, but the advisor may not participate in the hearing.

7.2.7. The party alleging that the accused student engaged in misconduct has the right to submit a victim impact statement to the hearing officer or committee during the sanctioning portion of the discipline process.

7.2.8. The party alleging that the accused student engaged in misconduct has the right to have past irrelevant behavior excluded from the discipline process.

7.2.9. Both parties have the right to be free from retaliation for having made an allegation of misconduct or having participated in a grievance under this procedure. Allegations of retaliation should be submitted to the Dean of Students Office.

7.3. Former Students

These procedures apply to disputes between students and other members of the UNM community. If the student has left the UNM community (by graduation or otherwise), these procedures shall continue to apply so long as the event giving rise to the dispute occurred while the student was a member of the UNM community and so long as UNM has the power to resolve the matter. UNM retains the right to change grades or rescind degrees, when, after the grade or degree has been awarded, it discovers new information indicating that the grade or degree was not earned in accordance with all UNM academic, student conduct, and other applicable requirements and policies.

7.4. Designees of Deans, Vice Presidents, Vice Chancellors, or Senior Level Administrators

Whenever this Policy specifies an action or decision by a college/school dean, the Dean of Students, the Dean of Graduate Studies, a vice president, a vice chancellor, or a more senior level administrator, that individual may delegate consideration and decision of the matter to a designee. Such designee will normally be but is not required to be, a member of the decision maker's staff.

HISTORY

*Approved by Faculty Senate Graduate Committee 10/20/1994
Revisions approved March 6, 1997 by Faculty Senate Graduate Committee*

DRAFT HISTORY

October 5, 2017 – Draft revised per 10/4/17 FSPC meeting.

September 23, 2017—Draft revised to reflect changes made in response to comments from Dean of Students and Office of Equal Opportunity.

April 28, 2017 Draft revised to reflect changes from 4/18/17 task force meeting.

April 17, 2017 – Draft revised to reflect changes from 3/21/17 task force meeting.

March 21, 2017 – Draft revised to reflect changes from last meeting pertaining to the Law School and to incorporate changes submitted by Graduate Studies.

March 5, 2016 – Draft revised to reflect changes to D175 and changes requested by Graduate Studies.

February 18, 2017 Draft revised to reflect recent changes to D175.

January 7, 2017 – Draft revision prepared for Taskforce discussing at its next meeting scheduled for 2/9/17. The taskforce is revising the policy because law and HSC students are being removed by D175. In addition, appeal rights need to be corrected in D176. It also appears that many of the items addressed in D175 for undergraduate students might also be needed in D176 for graduate students.

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C05: State of Emergency

Rights and Responsibilities at the University of New Mexico

Approved By: Faculty Senate and Board of Regents?

Effective Date: **Draft 10/25/17**

Responsible Faculty Committee: Operations Committee

Office Responsible for Administration: Office of the University Secretary

NOTE: AF&T recommended moving language pertaining to discipline from this policy to C07 “Faculty Discipline” which is under review by AF&T. After removal of discipline related language, they recommended this policy be renamed “State of Emergency” to more adequately reflect the remaining content of the Policy. After reviewing a revised version of C05 as “State of Emergency,” they indicated further review should be done by the Policy Committee. AF&T also suggested some changes to this new version of C05. They felt the language should more closely align with Regent policy 3.2, be gender neutral, and reference C07 for disciplinary action against a faculty member. These suggested changes are highlighted in this draft.

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

POLICY RATIONALE

The University of New Mexico (UNM) Regents and the vast majority of students, faculty, staff, alumni, and citizens share the same goal for UNMthe University—that it be a stable and peaceful center of teaching, research, discussion, learning, and service, free from coercion and unlawful use of force. In situations where the stability and peace of the institution are seriously threatened, extraordinary measures are required and the UNM President is authorized to declare a state of emergency. The Regents are determined to use all lawful means to assure the continuity and the integrity of the educational process at UNM. This document provides appropriate measures to address a state of emergency.

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POLICY STATEMENT

As part of this effort, we adopt the following as an interim measure pending further study and adoption of permanent policy: STATE OF EMERGENCY.

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The UNM President is authorized to declare a State of Emergency at UNM upon finding by him that the orderly processes of UNM have broken down or are seriously threatened. In making such a finding the UNM President shall consider whether the situation is so disruptive activities are such as to require immediate, extraordinary measures to safeguard persons or property or to maintain UNM’s educational function. As soon as reasonably possible after the Declaration of

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Emergency, the UNM President shall inform available Regents of the declaration of emergency. his action. When the UNM President determines that the serious threat has passed, the UNM President shall inform the Regents and he shall, after consultation with available Regents, declare the State of Emergency to be at an end.

1. During a State of Emergency, the UNM President, in the exercise of reasonable judgment under in the circumstances, is authorized to take whatever actions he finds are necessary in order to safeguard persons or property or to maintain UNM's educational function, including suspending UNM activities for all or part of one or more days. Such actions shall remain in effect during the State of Emergency unless sooner canceled by the UNM President. During a State of Emergency, the President may, if in his judgment the circumstances warrant it, suspend UNM activities for a day or a portion thereof.

2. Presidential orders made during a state of emergency need not be consistent with established UNM policy or procedures, NOTE: This come directly from Regents Policy 3.2

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3. During a State of Emergency, the violation by any person of a presidential order or ruling under 3(a) of this Policy, or the commission during such State of Emergency of any act or acts of misconduct of the kind set forth in Section 6(a)(i) through 6(a)(xi) of the Regents' Statement on Rights and Responsibilities will be considered an offense of the gravest nature, and sanctions (as listed in Section 6 of the Statement on Rights and Responsibilities) appropriate to the gravity of such offense or offenses shall be imposed.

3. A visitor who, after appropriate hearing, is found to have violated a presidential order authorized by Section 3 of this Policy may be denied admission to and employment by UNM.

4. During a State of Emergency, any person who, after being requested to do so by a properly identified official and after being advised by such official of the sanction for failure to identify oneself, fails to comply by providing identify himself by name and status as a student, member of the faculty or staff, or visitor to such official shall have sanctions authorized by UNM policies imposed, upon him, after an appropriate hearing, the sanctions authorized by UNM policies. set forth in Section 6 of the Statement on Rights and Responsibilities.

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5. Sanctions or a determination of disciplinary action against a faculty member must comply with Faculty Handbook Policy C07 "Faculty Misconduct and Disciplinary Policy"

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State law establishes the second Monday in March for the Regents' annual organization meeting, at which time officers are elected for the ensuing year. Quarterly meetings are required by law, but in actual practice the Regents convene on an average of ten times annually.

The University, largest of the seven state institutions of higher learning, is supported chiefly by appropriations made by the State Legislature, by income from the rental of lands granted to it by the Federal Government, by the income from royalties on the oil taken from these lands, and by student fees.

APPLICABILITY

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All UNM faculty, staff, students, volunteers, and visitors to UNM.

DEFINITIONS

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President means the President (or acting President) of UNM or any person or persons designated to act in his behalf for purposes of these rules.

Official means any person authorized by the UNM President to act on behalf of the University.

Student means a person who is a student at the University in an undergraduate, graduate, or professional program on campus, whether for credit or no credit, full- or part-time.

Visitor means any person on campus who is not a student or member of the faculty or staff.

Person means any student, member of the faculty or staff, or visitor.

Note: Do we need a definition for State of Emergency or is it covered by the language in the Rationale section?

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.

WHO SHOULD READ THIS POLICY

- Administrators
- Faculty
- Staff
- Students
- Department Chairs
- Academic deans

RELATED DOCUMENTS

UNM Regents' Policy Manual Policy 5.3 "Authority in an Emergency"
Faculty Handbook Policy C07 "Faculty Misconduct and Progressive Discipline"
University Administrative Policies and Procedures Manual Policy 6130 "Emergency Control"

CONTACTS

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

PROCEDURES

There are no procedures at this time.

DRAFT HISTORY

October 25, 2017—revised to incorporate AF&T suggestions.

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September 26, 2017—Revised draft to move definition of misconduct to C07 and place policy in new format with references added.

HISTORY

▲ first part of policy removed

July 1982—Revised

November 1981--Revised

September 1975--Revised

August 1970--Revised

October 1965 – Adopted by the Board of Regents

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