

Draft Faculty Senate Policy Committee

Meeting Agenda, Scholes Hall Room 101, February 13, 2019, 10:00 am – 2:00 pm

Updates

1. D170 “Student Attendance,” approved by Operations; comment period 1/30/19 – 3/1/19.
pg. 1
2. C290 “Ombuds/Dispute Resolution for Faculty” needs approval by Operations to go out for comment.
3. Section F Status Report; F70 “Articulation, Degree Approval, Transfers of Course Credit, and Approval of Credentialing Standards” approved by Faculty Senate 1/22/19
4. Committee membership and vacancies

Agenda Topics

Consent Agenda Topics: None

Action Items

1. Review Operations comments on **D175** “Undergraduate Student Conduct and Grievance Policy” and **D176** “Graduate and Professional Student Conduct and Grievance Policy”
pg. 20
2. **C230 “Military Leave of Absence”** Discuss draft with proposed policy language for tenure clock. **pg. 63**
3. **D75 “Classroom Conduct”** discuss concerns about who and when non students can come to the classroom. **pg. 66**
4. **Copyright issues pg. 74**
5. **Political Activity** C150 “Political Activity,” and C240 “Leave of Absence Incident to Political Activity” **pg. 93**
6. **Work Status Report pg. 99**

D170: Student Attendance

Approved By: Faculty Senate

Last Updated: **Draft 1/18/19**

Responsible Faculty Committee: Faculty Senate Policy Committee

Office Responsible for Administration: Dean of Students

Legend: Proposed changes are highlighted in red.

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

POLICY RATIONALE

Class attendance is critical for the overall success of the students at the University of New Mexico (UNM). However, there are situations when a student may qualify for an excused absence and be provided with the opportunity to make up assignments or examinations missed. This Policy describes absences that normally qualify as excused absences and provides the process for reporting such absences and completing missed assignments and exams.

POLICY STATEMENT

The absences listed below are normally excused unless the instructor determines that the absences are excessive or adversely impact learning. An excused absence does not relieve the student of responsibility for missed assignments, exams, etc. The student is to take the initiative in arranging with his/her instructor(s) to make up missed work, and it is expected that the faculty member will cooperate with the student in reasonable arrangements in this regard. Students should have the opportunity to make up any assignments or examinations missed. Instructors should provide an opportunity to make up an assignment or test and not limit the accommodation to dropping the lowest test or assignment grade. However, the student must recognize that some classes or class-work (quizzes, seminars, small labs, etc.) cannot be made up. Classes or class-work that cannot be made up will be identified in the syllabus.

To ensure equitable treatment of students, when there is concern on the type of absences that should be excused and reasonable accommodations for such absences, instructors are encouraged to consult with their chair or dean, or the Dean of Students or equivalent position designated for graduate or professional schools or colleges and branch community colleges.

1. UNM Official Absences

Instructors should excuse absences due to UNM official absences which result when a student is required to represent UNM at University functions or related extracurricular activities such as

professional meetings, academic competitions, field trips, research activities, NCAA athletic competitions, or other similar activities.

2. Legally or Administratively Compelled Absence(s)

Instructors should excuse absences due to a legally or administratively compelled absence when a student is required to participate in legal proceedings or administrative procedures. This includes mandatory admissions interviews for professional or graduate school, or internships that cannot be rescheduled.

3. Military Obligations

Instructors should excuse absences due to military obligations for students serving in the military, military reserves, or National Guard of the United States who are required to miss class due to military obligations. If the military obligations require withdrawal, ~~in recognition of the service of deployed military personnel,~~ the instructor should refer to the UNM Catalog or contact the Dean of Students Office or equivalent position for graduate or professional schools or colleges and branch community colleges for procedures pertaining to withdrawal and re-enrollment of military personnel.

4. Illness, Accident, or Death in the Family

Instructors should excuse unexpected absences due to personal or family illness, accident, or death in the family. Instructors may require students who are ill for six (6) class days or longer to obtain official notification from the Dean of Students office or equivalent position designated for graduate or professional schools or colleges and branch community colleges.

5. Disability

Instructors should excuse absences due to disabilities where reasonable, although instructors may require students to provide confirmation from the Accessibility Resource Center for ADA protected disabilities. For a short-term disability due to an illness or injury not covered by the ADA, students should contact the Dean of Students Office or equivalent position designated for graduate or professional schools or colleges and branch community colleges for assistance. They can also assist instructors with verification of the short-term disability.

6. Pregnancy

In accordance with Title IX of the Educational Amendments of 1972, instructors should treat pregnancy related absences as excused as long as deemed medically necessary by the student's healthcare provider. If the length of absence is more than six (6) class days, the student may be required to obtain official notification from the Dean of Students Office or equivalent position designated for graduate or professional schools or colleges and branch community colleges.

7. Religious Observances

In recognition of UNM’s diverse student population, instructors are encouraged to schedule important class events to minimize conflict with major religious observances. Students who request that an absence be excused for religious reasons should be granted reasonable accommodations. Instructors should be sensitive to the difficulty some students may have anticipating all religious obligations. Absences due to religious accommodations should be requested in accordance with Policy C260 “Religious Accommodations.” ~~the faculty member will cooperate with the student in reasonable arrangements in this regard.~~

3. Request for Reconsideration

If a request for an excused absence and/or reasonable accommodation is denied by an instructor, the student may seek informal resolution of the matter by submitting a request for reconsideration to the college/school dean or his or her designee. Given the need for timeliness of the issue, the student’s request for reconsideration should be addressed as expeditiously as possible. This does not preclude the student from addressing the matter further in accordance with Policies D175 “Undergraduate Student Conduct and Grievance Policy” or D176 “Graduate and Professional Student Conduct and Grievance Policy.”

APPLICABILITY

All academic UNM units, including the Health Sciences Center and Branch Community Colleges.

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

DEFINITIONS

WHO SHOULD READ THIS POLICY

- 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

Faculty Handbook

Policy C220 “Holidays”

Policy C260 “Religious Accommodations”

D175 “Undergraduate Student Conduct and Grievance Policy”

D176 “Graduate and Professional Student Conduct and Grievance Policy.”

CONTACTS

Direct any questions about this policy to Dean of Students Office or equivalent position designated for graduate or professional schools or colleges and branch community colleges.

PROCEDURES

The following procedures pertain to undergraduate students at the Albuquerque campus. Branch community college, graduate, and professional students should follow the attendance procedures issued by their respective school or college, when available.

Absences due to the situations described in the Policy Statement above ~~illness or to attend~~ authorized University activities such as field trips, athletic trips, etc. are to be reported by the student to his/her instructor(s) and to the Dean of Students Office in accordance with the procedures listed herein. If the student is unable to contact his/her the instructor(s), the student should leave a message at the instructor's department.

UNM Official Absence(s) will be determined by a college dean or the Provost, or designee.

1. Course Attendance Expectations

Students are expected to fulfill all course requirements including attendance if specified. ~~attend~~ all meetings of the classes in which they are enrolled. ~~No extensions of the vacation periods are given to any students, regardless of the location of their homes.~~ Course instructors are responsible for setting attendance policies for their individual courses except where academic units, required by special circumstances such as accreditation standards, establish unit-wide policies through normal faculty governance procedures. Instructors should inform students of their expectations for attendance and participation on the first day of class and are encouraged to include this Policy in the course syllabus. Instructors may also require students to notify them of anticipated absences at the beginning of the semester and may require reasonable verification of the reason for an excused absence such as a doctor's note, hospital billing, military orders, or death notices.

Instructors may drop students with excessive absences with a grade of W ~~W/P or W/F.~~ The instructor They may also assign a failing grade of "F" at the end of the semester for excess unexcused absences, but should inform students if they will be dropped or penalized for unexcused absences. Academic units may also reserve the right to cancel a course reservation for a student who does not attend the first class meeting of the semester, although notification should be made before the student is dropped and reasonable accommodations should be made for excused absences. ~~Instructor drop request forms are available at all academic department offices.~~ Students should not assume that nonattendance results in being dropped from class. It is the student's responsibility to initiate drops or complete withdrawals within published deadlines utilizing the appropriate process.

2. Verification of Absence

Verification (such as doctor's note, hospital billing, military orders, death notices, etc.) of a student's report of absence will be provided by the student if requested on request by the instructor or the Dean of Students Office. and in accordance with the following general procedures: Student Athletes shall submit documentation to their instructors.

3. Short-Term Absence (1- ~~5~~ 4-class-days). When notified in advance of an absence of 1-4 days, the Dean of Students Office will prepare an absence notice which the student may pick up and personally deliver to his/her instructor(s). On absences of 1-4 days reported to the Dean of Students Office after the fact, an absence notice may be picked up by the student after consultation with a dean, if such consultation provides a basis for issuing a notice. The Dean of Students Office will encourage the student to speak directly with the faculty member to work out absences that are less than six (6) class days. When requested by a faculty member, the Dean of Students Office may assist with verification of absences that are less than six (6) class days on a case-by-case basis.

4. Extended Absence (~~5~~ Six (6) days or longer). The Dean of Students Office, as a service to faculty and students, will send absence notifications to the respective faculty member should an absence be longer than five (5) class days. This service will only be utilized when an absence is for a family/student medical issue, death of a family member, military leave, or a UNM sponsored activity. The absence notification process is only meant as a notification and not meant to excuse the absence. Excusing an absence is entirely up to the faculty member of the course. notices to instructor(s) on absences of 5 days or longer when notification of the absence is received prior to or at the onset of the absence. If notified after the absence, the absence notice will be prepared, but the student must hand carry the notice to his/her instructor(s). Verification of extended absences is recommended (such as a doctor's note, hospital billing, etc.)

5. Exceptions. On request, members of the Dean of Students staff will review specific absence situations to determine if exceptions to the established absence procedures are warranted. It should be noted that written medical excuses for class absence will not be issued routinely by Student Health and Counseling (SHAC) ~~the Student Health Center~~ except in the case of physical education classes, where participation would be detrimental to the student's condition. Where confirmation of a student's attendance at SHAC ~~the Health Center~~ is required by a faculty member of the teaching staff, this will be furnished on direct inquiry, without revealing the medical details necessitating such attendance. If it appears that a student will be absent for more than five class days ~~a week or more,~~ the Dean of Students Office will be notified.

HISTORY

Effective:

Unknown (effective date not listed in current policy.)

DRAFT HISTORY

November 11, 2018 – Draft revised for Policy Committee changes.

September 5, 2018 – Draft revised to refine policy revisions further.

June 27, 2018 – Draft revised to address different procedures for graduate and professional students and branch community colleges.

April 28, 2017 -- Draft revised for task force recommendations. April 4, 2017 – Draft revised for task force recommendations.

September 29, 2016 – Draft revised to incorporate input from FSPC member L. Oakes.

January 2, 2016—Draft developed to address COF task force recommendations.

July 19, 2015 Draft developed for Information Items taskforce review.

COMMENTS TO: handbook@unm.edu	FACULTY HANDBOOK HOME	TABLE OF CONTENTS	TABLE OF POLICIES	UNM HOME
--	---------------------------------------	-----------------------------------	-----------------------------------	--------------------------

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 11:58 AM
To: Kenedi Hubbard
Cc: Candyce Torres
Subject: FW: Policy A53 Comment

FYI.

Thank you,
Candyce

From: Rebecca Blankley <RBlankley@salud.unm.edu>
Sent: Wednesday, February 6, 2019 10:36 AM
To: Faculty Handbook <handbook@unm.edu>
Subject: RE: Policy A53 Comment

Hello-

I agree that this policy needs addressing. Regarding our own department, Radiologic Sciences, we are annually addressing the issue of absences and if UNM had a student policy, this would better inform our policy for the department handbook.

I also encourage to review other institutional polices on the issue.

Respectfully

Rebecca Blankley

Rebecca R Blankley MFA, RT R M CT MR

Director Radiologic Sciences

Senior Lecturer III

Radiologic Sciences Program

MSCO9 5260

1 University of New Mexico

Albuquerque, NM 87131-0001

(505) 272-5254 P

(505) 272-8079 F

Rblankley@salud.unm.edu

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:20 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: D170 Student Attendance

FYI on behalf of Professor Brandzel.

Thank you,
Candyce

From: Amy Lucinda Brandzel <brandzel@unm.edu>
Sent: Tuesday, February 5, 2019 9:35 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: D170 Student Attendance

Hello,

Can we please be more specific regarding what exactly a “class day” is? For example, the policy repeatedly states that a limit could be “the length of absence is more than six (6) class days,” but 6 class days of a class that meets once per week is the equivalent of almost half the semester. So could this be described in terms of class hours instead or something equivalent that could then apply to our various schedules?

Thank you,
Amy

Amy L. Brandzel (*they, them, theirs*)
Associate Professor, American Studies and Women Studies
Acting Director, Feminist Research Institute
University of New Mexico
brandzel@unm.edu

<https://www.press.uillinois.edu/books/catalog/85ayb3xp9780252040030.html>

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:20 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: Comment on D170

FYI on behalf of Professor Campos.

Thank you,
Candyce

From: Luis Campos <luiscampos@unm.edu>
Sent: Tuesday, February 5, 2019 7:57 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: Comment on D170

I would like to register significant concerns with this revision of D170.

Missing up to six class sessions in a sixteen-week term for a course that meets twice a week is missing nearly 20% of the entire term. It seems imprudent for a general policy to specify that missing so much of class is excusable as a matter of general policy. On its face, this level of excused absences seems excessive with adverse impacts for learning.

It is also terribly wrong to declare that faculty must provide alternate tests for students who miss an exam. While this may be easy enough to do in some disciplines and in some types of exams, where new numbers can be substituted for old or one term replaced with another, in other disciplines or types of exams the questions posed are the product of very careful thought and writing and replacements cannot simply be churned out on demand in a way that would produce a comparable exam.

In the light of this, there is also no reason why dropping the lowest test or assignment grade is not an appropriate response to excused student absence. Furthermore, in most lecture courses, there is simply no way for a student to make up material that they have not been present to hear. Absence itself is the impairment to learning (and it should not be incumbent on faculty to deliver lectures a second time, re-run a class discussion, or submit to being recorded for reasons of student absence).

I also have deep concerns about forcing students to register the reason for their absence. While I appreciate the noble motives at place in the work done in this revision--that students have complicated lives and that

sometimes tragedy strikes--it is simply none of a faculty member's business what state of health the student is in or what illness they are dealing with, or that of any of their family members; whether they have court appointments, or other legally compelled appointments; whether the student is enrolled in the military, or has a job of any kind or any other outside commitment; or whether a student is pregnant. Under no circumstances should a student's absence for any of these reasons be something they must present to the attention of their instructors. As faculty, we should also not be placed in a position where we are to receive such information and determine the merit, status, or weigh the significance of a student's absence. A blanket policy of a certain number absences per term is one neutral position respectful of students' rights to privacy. There may be others that faculty have devised. But a blanket policy of this sort is intrusive and inappropriate. Moreover, a student who is willing to share their personal status or needs with a faculty member should not have be more justified in or have an easier time having their absences considered as excused than a student who prefers to keep their private life to himself or herself.

Religious observances are already accounted for under a separate policy.

The section on request for reconsideration by a dean or designee suggests clear conflicts with matters of academic freedom and the right of a faculty member to determine which aspects of their courses are essential to learning and which may or may not be made up in the event of absence. It is inappropriate for a dean to make this determination instead of the instructor.

It is simple and fair enough for a university policy to declare that course attendance policies be made clear in the syllabus and at the outset of the course to all students enrolled in the course, so students can manage their lives accordingly and without needing to sacrifice their privacy or be compared to other students. Anything else, no matter how well-intentioned, opens up a Pandora's box of issues.

From: ALLFAC-L <ALLFAC-L@LIST.UNM.EDU> on behalf of UNM Faculty <allfac@UNM.EDU>
Sent: Tuesday, February 5, 2019 11:21 AM
To: ALLFAC-L@LIST.UNM.EDU
Subject: Faculty Policies Available for Review and Comment!

Dear Faculty:

In accordance with Faculty Policy A53 "Development and Approval of Faculty Policies," the following proposed amended policy is available for a faculty review and comment period which ends March 1, 2019. Please email your comments to handbook@unm.edu.

Click on the Policy # below to view the proposed policy or visit <http://handbook.unm.edu/under-review>.

#	Policy	Proposed Action
D170	Student Attendance	Policy D170 has not been revised since its inception, and the Policy Committee was asked by the Committee on Governance and student leaders to conduct a comprehensive review of the policy, review policies from other institutions, and recommend changes to bring it up-to-date to reflect current practices, laws, and regulations. The proposed revision describes absences that normally qualify as excused absences, some of which are defined in federal laws and regulations that address military obligations, disability, pregnancy, and religious observations. The revised Policy also provides the process for reporting such absences and completing missed assignments and exams. The revised Policy places the authority to excuse an absence with the instructor, but also provides an avenue for a student to request reconsideration by the college or school dean.

Kenedi Hubbard
Office of the University Secretary
University of New Mexico
277-4664

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:22 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: comments regarding Faculty Policy A53 "Development and Approval of Faculty Policies"

Hi there,

FYI on behalf of faculty member Marisa Clark. She references A53 but she is really commenting on D170.

Thanks,
Candyce

From: Marisa Clark <clarkmp@unm.edu>
Sent: Tuesday, February 5, 2019 7:02 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: comments regarding Faculty Policy A53 "Development and Approval of Faculty Policies"

Hello,

Several places in the document refer to allowing the student "six (6) class days" of absences. It is unclear what this means. Missing 6 days of a MWF class differs from 6 absences on a TTh class or a once-a-week class. Clarification would be appreciated throughout.

Thank you,

Marisa P. Clark, Ph.D.

Principal Lecturer, Creative Writing

Department of English Language and Literature

University of New Mexico

Humanities 261

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:02 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: policy D170

Please see additional comment from Professor Ezra Depperman.

Thank you,
Candyce

From: Ezra Depperman <ezrad@unm.edu>
Sent: Wednesday, February 6, 2019 6:14 AM
To: Faculty Handbook <handbook@unm.edu>
Subject: policy D170

The phrase "and not limit the accommodation to dropping the lowest test or assignment grade" could be problematic for science instructors. Writing an effective exam takes many hours to both create and review. If we are writing a new exam for every one of our students who misses one, that's potentially many extra hours that we will have to find each semester. I have a policy of dropping the lowest exam for all students anyway, since sometimes they have a bad day.

If a student misses a second exam, then I do make reasonable accommodations. Of course, if an exam is missed due to a school trip or family emergency, I give the student the option to make it up. My concern is that this new wording could potentially mean my having to write a larger number of extra exams per semester, and I'm already pressed for time.

Thanks for your consideration.

Ezra C. Depperman, PhD

Lecturer III

The University of New Mexico
Dep't of Chemistry and Chemical Biology

MSC03 2060
300 Terrace St. NE
Albuquerque, NM 87131-0001

ezrad@unm.edu

Office: Clark 142

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:01 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: Attendance for Public Speaking

Hello,

Please see D170 comment from faculty member Leslie Helgeson.

Thank you,
Candyce

From: Leslie Helgeson <lhelgeson@unm.edu>
Sent: Wednesday, February 6, 2019 8:03 AM
To: Faculty Handbook <handbook@unm.edu>
Subject: Attendance for Public Speaking

As a long time college instructor from other institutions of higher learning, a clear understanding of what is required by any given professor for his or her attendance policies greatly enhances overall students awareness.

Consider the following:

Many situations can arise, suddenly without warning, for a student whereas the student is unable to attend a class in person. The use of email has usually proven to be, for myself, the gateway of communication as to when someone is not able to be in class. Arrangements are usually made to help individuals who have missed lectures, handouts, etc. This being said, as a teacher of public speaking dealing with individuals who may suddenly have severe apprehension when their time comes to present a speech requires that I, the instructor make is very clear in the beginning of the semester, that a designated date for a speech must be adhered to unless there exist a valid excuse, i.e., medical or personal, that prevents the student from his or her delivery of their assignment. My policy on facing apprehension, or anxiety for this reason, dictates that faculty must have some leeway in enforcing attendance.

I feel that students, within the scope of participating within my classes, really need to know that I understand that "life happens," but that we also need to be considerate of the policy of the institution and the faculty who adhere to the rules of attendance.

Leslie J. Helgeson

Adjunct UNM - Gallup

lhelgeson@unm.edu

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:03 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: Policy D170

Hello,

Please see comment below from Professor Hutchison.

Thank you,
Candyce

From: Elizabeth Hutchison <ehutch@unm.edu>
Sent: Tuesday, February 5, 2019 9:52 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: Policy D170

Excellent as revised. Affirms instructor jurisdiction over course absences, while introducing mechanisms for verifying absences and assuring compliance with federal civil rights laws. Excellent work!

Dr. Elizabeth Quay Hutchison (she, her, hers)

Professor, Latin American History (On leave, Spring 2019)
Marjorie Bell Chambers Distinguished Professor
President, Faculty Concilium on Latin America and Iberia

Director, Feminist Research Institute

The University of New Mexico

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:23 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: Student Absences Feedback

FYI from Professor Pleil.

Thanks you,
Candyce

From: Matthias Pleil <mpleil@unm.edu>
Sent: Tuesday, February 5, 2019 6:01 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: Student Absences Feedback

Perhaps I missed it, but there is nothing in the policy relating to providing documentation for an excused absence if the instructor wants it. I currently will excuse students and request some sort of documentation to be exempted from attending. If they are too ill to attend class, they should see someone at SHAC, for example. Sports, conferences, weddings, death in the family is always excused - most can provide some sort of documentation easily enough.

If no documentation can be requested, there will be some students that take advantage of the system.

Kind Regards,

Matthias Pleil, Ph.D.
Research Professor & Lecturer III of Mech. Eng - UNM
UNM MTTC Cleanroom Manager
PI - Southwest Center for Microsystems Education, Support Center for Microsystems Education
scme-nm.org, scme-support.org
(505)272-7157

Candyce Torres

From: Faculty Handbook
Sent: Wednesday, February 6, 2019 12:19 PM
To: Martha Muller; Kimberly Gauderman; Kenedi Hubbard; Carol Stephens
Cc: Candyce Torres
Subject: FW: Comments on proposed changes to D170

FYI, see D170 comment from faculty member Lisa Whalen.

Thank you,
Candyce

From: Lisa Whalen <lwhalen@unm.edu>
Sent: Tuesday, February 5, 2019 9:51 PM
To: Faculty Handbook <handbook@unm.edu>
Subject: Comments on proposed changes to D170

Hello,

Thank you for the opportunity to submit comments regarding the revision of policy D170, Student Attendance.

I teach organic chemistry classes with more than 100 students, a course where students are sometimes anxious to the point of being unable to take an exam. Many times they have not used their time well, and have not attended class, and when exam day comes, they are panicking. This manifests itself in no-shows on exam day. Sometimes the student will go to the SHAC and acquire a medical note, which in your policy would be considered an excused absence. But they are always pretty stressed out and clearly unable to take the exam. A very reasonable accommodation is to allow them to drop the lowest exam grade and it offers some advantages for both students and instructors. First, I don't have to spend hours writing another exam for a very competitive course in which students will do everything they can to have an advantage over their classmates. And it does take hours to write a good organic chemistry exam without mistakes. Second, it gives the student time and space to re-learn the material. If I schedule an exam right after this absence, I can guarantee they are not ready and will not pass. At what point is it unfair to the rest of the students in the course to give one student two extra weeks to prepare for the same exam they just took with less study time? If they don't pass, they often give up or drop the course. This contributes to a higher D/F/W rate. I think the phrase, "and not limit the accommodation to dropping the lowest test or assignment grade" should be removed from the recommended policy changes. Allowing the student to drop the lowest exam for the first absence can have a beneficial effect on their ability to complete the course. A second absence must be dealt with differently. Both must be excused according to your guidelines to qualify for accommodation.

I also coordinate over 400 students in organic chemistry lab courses between 26 sections. Our laboratory classrooms are set at a certain capacity according to the Fire Marshal. Allowing students to "make up" labs by attending another section doing the same experiment in a given week will result in a violation of fire code. I can't in good conscience give students permission to do this when it could result in legal action against UNM were there to be an accident in the lab, and I actively warn against it. We are also limited on equipment and ventilated hood space and each section is limited to a certain capacity for that reason too. I recommend that you replace the phrase "small labs" with "labs limited by capacity for safety reasons" to the policy to clarify. We are not trying to harm student progress and we do have an accommodation for them, but it does involve dropping the lowest assignment grade, because I do not have an option to allow them to make up the lab experiment.

Thank you,

Lisa

Lisa J. Whalen
Principal Lecturer III
Department of Chemistry and Chemical Biology
University of New Mexico
MSC03 2060
1 University of New Mexico
Albuquerque, NM 87131
Phone: 505-277-0268

D175: Undergraduate Student Conduct and Grievance Policy

Approved By: Faculty Senate and UNM President

Last Updated: **Draft 2/9/19**

Responsible Faculty Committee: Faculty Senate Policy Committee

Office Responsible for Administration: Dean of Students

Legend: Proposed text shown in **red**; proposed deletions shown in ~~strikeout~~. Large sections of deleted text shown at end of Policy draft to limit interruption of document flow.

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

POLICY RATIONALE

The University of New Mexico (UNM) is committed to academic excellence and student success. The UNM Student Grievance Procedure is intended to ~~This Policy~~ provides procedures for resolution of disputes of an academic nature between undergraduate students and UNM faculty, allegations of discrimination or sexual harassment by undergraduate students, and allegations of other kinds of undergraduate student misconduct, as well as procedures for handling undergraduate 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 an undergraduate 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 ~~threaten~~ disruption of the academic process or other campus functions, ~~interfere with the educational process or the orderly operation of UNM,~~ or endanger the health, safety or welfare of the UNM community or any individual student or employee. ~~UNM may take disciplinary action for a violation of the Visitor Code of Conduct when the offense occurs on UNM premises, as part of a UNM-sponsored event or in connection with University activities.~~

1. Matters Covered Under this Policy

The following ~~categories~~ 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 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. Academic record disputes involving undergraduate students seeking retroactive withdrawal, enrollment, or disenrollment or for other academic record changes.

1.2. Academic disputes arising within the academic process, shall follow the procedures set for in Article 2, unless they involve allegations of academic dishonesty which are handled under Article 3. whereby an undergraduate student believes that he or she has been academic progress has been evaluated in an unfair or improper manner 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.

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

1.4. Allegations of Discrimination and/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 (OEO) within 24 hours, or as soon as reasonably practicable, by calling (505) 277-5251 or by email at oeounm@unm.edu. Anonymous reports can be made. Complaints can also be made to the UNM Ethicspoint Hotline [1-888-899-6092](tel:1-888-899-6092). The UNM OEO is tasked with investigating allegations of discrimination, sexual harassment, sexual misconduct and/or sexual violence and determining whether anti-discrimination policy has been violated. If OEO determines that an undergraduate student has violated UNM's anti-discrimination policy, disciplinary proceedings shall be handled under the Procedures set forth in Article 4 herein.

UNM recognizes that an individual who has experienced sexual misconduct may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. UNM and community partners have developed a victim-centered and victim-controlled process with information available on UNM's Lobo Respect website loborespect.unm.edu.

1.5. 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 Policies

2.1. Health Sciences Center (HSC) Students

Additional policies and procedures listed in section 6.3.2 herein apply to HSC students.

2.2. Visitors to the UNM campus

Visitors to the UNM campus are subject to the Visitor Code of Conduct.

3. Matters Not Covered Under This Policy

3.1. Disputes involving access to or information in an undergraduate 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 an undergraduate 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. Disputes involving matters occurring in the residence halls shall follow the procedures set forth in the Residence Hall Handbook in addition to this Policy.

3.4. Any undergraduate student grievances concerning decisions made by UNM personnel, outside the academic process, for which specific procedures are not established, shall be resolved between the [undergraduate](#) 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 [ten \(10\) working days](#) ~~one week~~ of the decision.

3.5. Resolution of disputes of an academic nature initiated by graduate [or professional](#) students shall follow the *Faculty Handbook* [Policy D176](#) "Graduate and Professional Student Grievance Policy."

APPLICABILITY

All academic UNM units, including the Health Sciences Center and branch community colleges.

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 ASUNM President and the Dean of Students.
--

DEFINITIONS

[Academic Dishonesty](#) includes, but is not limited to, plagiarism [of others or yourself](#), 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.

[Complaint](#) refers to:

- [request for formal resolution of academic matters per Section 2.3. 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 Section 5.2. 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, having participated in an investigation into allegations of discrimination, or otherwise having engaged in opposition to unlawful discrimination. Retaliation is explicitly prohibited under University Administrative Policies #2200, 2720, and 2740.

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.

Undergraduate Student includes both full-time and part-time students pursuing undergraduate studies, degree and non-degree, including credit and noncredit courses. Student status continues for the entire period of enrollment, including UNM holidays, class breaks and summer session, if the student is enrolled for the preceding spring and following fall academic terms.

Working Days refer to UNM traditional work days defined by 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

- Undergraduate students including branch community college students
- Faculty members
- Staff in Office of the Dean of Students
- Staff in the Office of Equal Opportunity
- Staff at Student Health and Counseling (SHAC)
- Administrative staff responsible for undergraduate 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”
- [D176](#) “Graduate and Professional Student Conduct and Grievance Policy”

University Administrative Policies Manual

- [2200](#) “Reporting Suspected Misconduct and Whistleblower Protection from Retaliation”
- [2720](#) “Prohibited Discrimination and Equal Opportunity”
- [2740](#) “Sexual Misconduct”
- [3405](#) “Holidays”

The *Pathfinder*—UNM Student Handbook.

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

CONTACTS

Direct any questions about this policy to Dean of Students Office.

PROCEDURES

Reasonable deviations from these procedures by UNM will not invalidate a decision or proceeding unless significant prejudice results. [At branch community colleges, the role of Dean of Students will be performed by the applicable position designated at each branch community college.](#)

Article 1. Academic Record Disputes

1.1. Scope

This article sets forth the procedures which should be followed by an undergraduate 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).

1.2. Petitions

1.2.1. An [undergraduate](#) student seeking a change in [the student’s](#) ~~his or her~~ academic record within the scope of this article shall submit a petition to the 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.

1.2.2. Upon receipt of the petition, the Registrar's Office shall forward a copy to the instructor of the course. The instructor shall make any response within fifteen (15) working days of receipt. If the instructor has not responded within fifteen (15) working days, the Faculty Senate Admissions and Registration Committee ("Committee") shall proceed to consider the petition without the instructor's response.

1.3. Appeal

At the next regular meeting after receipt of the instructor's response (or lack of response), the Faculty Senate Admissions and Registration 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 undergraduate student, the Committee's decision shall be final. If the undergraduate 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 undergraduate student may request reconsideration from the Committee. The Committee's decision upon reconsideration is final for UNM.

Article 2. Academic Disputes

2.1. Scope

This article sets forth the procedures which should be followed by an undergraduate student who believes that ~~he or she has been~~ academic progress has been evaluated in an unfair or improper manner by a faculty member or academic program/department. 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.

2.2. Informal Resolution

2.2.1. The undergraduate student should first try to resolve the grievance informally by discussing the grievance with the faculty member as soon as reasonably possible after the undergraduate student becomes or should become aware of the matter. If the undergraduate student and faculty member cannot reach agreement, the undergraduate student should discuss the grievance with the chairperson or supervisor of the department or division. If the grievance is still not resolved, the undergraduate student should discuss the grievance with the appropriate dean. When the dispute arises from a particular course, the appropriate dean is the dean of the college offering the course.

2.2.2. In these informal discussions, the chairperson, supervisor, or dean is encouraged to mediate the dispute actively. In particular, the chairperson, supervisor, or dean should talk to

both the undergraduate student and the faculty member, separately or together, and should examine any relevant evidence, including any written statements the parties wish to submit.

2.2.3. These informal discussions shall be completed within twenty (20) working days ~~four weeks~~ after the undergraduate student initially raised the issue with the faculty member. ~~becomes or should become aware of the matter.~~

2.3. Formal Resolution Appeals of Academic Matters

If the informal discussions do not resolve the grievance, the undergraduate student may bring a formal complaint ~~appeal~~ using the procedures set forth in the following sections. During the formal resolution process, the chairperson and/or dean cannot overrule a faculty member's academic judgment. This formal complaint ~~appeal~~ process shall begin within ten (10) working days ~~two weeks~~ following completion of the informal discussions.

2.3.1. The undergraduate student shall make a written complaint to the appropriate dean within ten (10) working days following completion of the informal discussions.

2.3.2. The complaint shall describe the grievance, including a statement of what happened, and the undergraduate student's reasons for challenging the action or decision. The complaint shall also describe the undergraduate student's attempts to resolve the grievance informally. The undergraduate student may attach copies of any relevant documents. The undergraduate student shall send a copy of the complaint to the faculty member and the faculty member's ~~his or her~~ chairperson. The faculty member shall have five (5) working days ~~two weeks~~ from the receipt of the complaint to respond in writing to the dean. A copy of the faculty member's response shall be provided to the undergraduate student, consistent with the federal Family Educational Rights and Privacy Act (FERPA).

2.3.3. ~~In deciding the appeal~~ In making a determination on the formal complaint, the dean shall receive and review any written evidence or statements submitted by the parties, and shall provide both parties the opportunity to review and respond to all evidence. The dean shall interview each party and may interview other persons with relevant information. At the dean's ~~his or her~~ discretion, the dean may decide to hold an informal hearing involving both parties and any witnesses. Where the dispute primarily concerns factual questions, rather than matters of academic judgment, the dean should normally hold such a hearing. If a hearing is to be held, the dean will give the parties no less than five (5) working days notice. The undergraduate student and/or faculty member shall be allowed to bring an advisor to the hearing, but legal counsel shall not be permitted. Cross-examination of witnesses shall be permitted, but the dean may require that questions be directed through the dean.

2.3.4. At the dean's ~~his or her~~ discretion, the dean may convene an advisory committee to hold a hearing or otherwise help him or her evaluate the dispute. For this purpose, the dean may utilize a standing committee appointed within the dean's college.

2.3.5. The dean shall issue a written decision explaining the dean's ~~his or her~~ findings, conclusions, and reasons for the decision. The decision shall be sent to each party, and to the faculty member's chair. The decision shall be made within twenty (20) working days ~~three weeks~~

after the complaint is filed, unless an informal hearing is held, in which case the decision shall be made within thirty (30) working days ~~four weeks~~. (This period may be extended to allow for UNM holidays or other periods when UNM is not in session.) The chairperson or dean cannot overrule a faculty member's academic judgment.

2.4. Appeal of Formal Decision

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

2.4.1. Appeal to Provost **QUESTION: Does Chancellor need to be added her for undergraduate HSC students?**

Either party may appeal the dean's decision to the Provost within ten (10) working days of receipt of the decision. The Provost or designee shall resolve the grievance utilizing any procedures available to the dean set out above. At the Provost's discretion, the Provost ~~his or her~~ 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.

2.4.2. 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 ~~seven (7)~~ ten (10) working days of the date of the written decision from the last reviewer.

2.4.3. 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) ~~seven (7)~~ working days of the date of the written decision from the last reviewer.

Article 3. Academic Dishonesty

3.1. Scope

This article sets forth procedures which shall be followed in cases of suspected academic dishonesty as defined in the Definitions Section of this Policy. These procedures are not exclusive; various UNM departments and programs may have additional policies and procedures on academic dishonesty.

3.2. Academic Dishonesty within Courses: Faculty-Imposed Sanctions

3.2.1. 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 undergraduate student as soon as possible and give the undergraduate student an opportunity to explain. ~~After this discussion,~~ 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 undergraduate student of the academic sanction. ~~The faculty member should contact the Dean of Students Office to see if there are any prior incidents of academic dishonesty on file for that student.~~

3.2.2. The faculty member ~~should~~ may report the matter to the Dean of Students Office, by ~~using the faculty adjudication form provided by that office or~~ submitting written documentation describing the events and indicating if ~~he/she~~ the faculty member wishes the Dean of Students Office to pursue any additional disciplinary action against the undergraduate student. The faculty member may use the Dean of Students Office's faculty adjudication form in submitting the written documentation. The Dean of Students Office will notify the undergraduate student of the report, and the undergraduate student may request a copy of the report from Dean of Students Office. A copy of such report shall be sent by the Dean of Students Office to the student. In cases where the undergraduate student has multiple findings of academic dishonesty, the Dean of Students Office may initiate additional disciplinary action in accordance with the Policy.

3.2.3. The undergraduate student may challenge a faculty-imposed sanction using the process defined in section 2.3 herein.

3.3. 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~~ may transmit a statement describing the occurrence in writing to the appropriate faculty member or Dean of Students. The Dean of Students Office will notify the undergraduate student of the report, and the undergraduate student may request a copy of the report from Dean of Students Office. ~~A copy of such report shall be sent by the Dean of Students Office to the student.~~ The faculty member or Dean of Students will address the situation in accordance with sections 3.2.1 or 3.4 herein, respectively.

3.4. Sanctions Imposed by the Dean of Students

Upon receiving a report of academic dishonesty pursuant to section 3.3 herein, the Dean of Students may initiate disciplinary action in accordance with this Policy. In some instances, an undergraduate student may be sanctioned for academic dishonesty by a faculty member and the undergraduate student may also be sanctioned by the Dean of Students for violating the Student Conduct Policy. A decision of the Dean of Students may be appealed in accordance with Section 5.7 herein.

Article 4. Allegations of Discrimination and/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 reasonably practicable, by calling (505) 277-5251 or by email at hbcowan@unm.edu.

[Anonymous reports can be made. Complaints can also be made to the UNM Ethicspoint Hotline 1-888-899-6092.](#)

[UNM recognizes that an individual who has experienced sexual misconduct may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. UNM and community partners have developed a victim-centered and victim-controlled process with information available on UNM's Lobo Respect website \[loborespect.unm.edu\]\(http://loborespect.unm.edu\).](#)

4.1. Scope

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

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

4.2.1. 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.

NOTE #1: Propose deletion of OEO procedures which are governed by OEO Claims Procedures—see proposed deleted text at end of this document.

4.2.2. OEO has no sanctioning authority. [If the respondent is an undergraduate 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, as defined through 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.

4.3. Appeals

4.3.1. 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 undergraduate 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. 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.

[4.3.2. Appeal to the President](#)

The President has the discretionary authority to review all decisions by 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 ten (10) ~~seven (7)~~ working days of the date of the written decision from the last reviewer.

4.3.3. 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) ~~seven (7)~~ working days of the date of the written decision from the last reviewer.

4.4. 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 undergraduate 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 nonforcible 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 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).

NOTE #2: Propose deletion of Rights of Complainants Alleging Sexual Violence because they are governed by OEO Claims Procedures—see proposed deleted text at end of this document.

Article 5. Allegations of Student Misconduct NOT Involving Discrimination or Sexual Harassment.

5.1. Scope

This article sets forth the procedures which should be followed when there are allegations that an undergraduate student violated Regent Policy 4.2 "Student Code of Conduct" or other UNM policy not involving discrimination or sexual harassment, which are addressed in Article 4 herein.

5.2. 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 undergraduate students. Complaints of alleged misconduct should be submitted as soon as possible after the event takes place, preferably

within sixty (60) calendar 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 ~~and Visitor 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 undergraduate student (or chartered student organization) ~~or visitor~~ violated UNM policy or 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) calendar 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.

5.2.1. Options for Resolving the Charges

Upon referral, or upon the Student Conduct Officer's ~~his or her~~ own initiative, the Student Conduct Officer may review relevant evidence and consult with the person referring the allegation, the undergraduate student accused, and any witnesses. The Student Conduct Officer will send written notification to the accused undergraduate student indicating the nature of the activity in which the undergraduate student was allegedly involved, and what UNM rules were allegedly violated. The undergraduate student will be given the opportunity to meet with the Student Conduct Officer to review the options for resolving the charges.

If the undergraduate student fails to attend the meeting, the Student Conduct Officer may decide the charges based upon the information available and/or place a hold on the undergraduate student's registration. The accused undergraduate student will also be offered one or more of the following options to resolve the charges; however, the Student Conduct Officer is authorized to refer the charges for a formal hearing before the Student Conduct Committee even if the undergraduate student does not elect a formal hearing. If an undergraduate student fails to select an option, the Student Conduct Officer will decide which hearing process will be followed. The options for resolving the charges are:

5.2.1.1. Mediation: This option is reserved for situations where all relevant parties in an incident agree to have a conflict resolved through mediation and sign an agreement to mediate. If all parties agree to this process and mediation is successful, a formal finding will not be issued with regard to the Student Code of Conduct charges. However, failure to fulfill the terms of a final mediation agreement could lead to reactivation of these charges and additional disciplinary action. Mediation will not be used to resolve complaints alleging sexual violence. NOTE: highlighted text not to be deleted per Nasha's and Operations request

5.2.1.2. Informal Disposition Conference: The accused undergraduate student and Student Conduct Officer will meet informally to discuss the alleged violation(s). If the substantive facts and sanction can be agreed upon, a disciplinary action agreement will be prepared by the Student Conduct Officer and signed by the accused undergraduate student. ~~A signed disciplinary action agreement will constitute a waiver by the student of the right to an administrative hearing or formal hearing as well as any appeal, and an acceptance of the findings and sanction.~~

5.2.1.3. Administrative Hearing with the Student Conduct Officer: This option allows the accused undergraduate student to present evidence to the Student Conduct Officer for consideration and suggest witnesses that the Student Conduct Officer may consider interviewing before a decision is rendered. ~~The Student Conduct Officer may contact other individuals who have knowledge about the incident giving rise to the charges. The party waives the right to question such individuals or otherwise participate in an evidentiary hearing. Administrative Hearings are not tape recorded.~~ Within three (3) weeks of the completion of all witness interviews, the Student Conduct Officer will send the party charged a letter which indicates the finding in the case and any disciplinary sanction imposed. ~~The Student Conduct Officer may find the party charged not responsible for violating the Student Code of Conduct, or may find the party responsible and impose a disciplinary sanction in accordance with Article 4 of the Student Code of Conduct.~~

5.2.1.4. Formal Hearing with the Student Conduct Committee: ~~The Student Conduct Committee will hold a hearing when a party chooses the hearing option of a formal hearing before the Committee or when the Student Conduct Officer refers the matter to the Committee.~~ This option allows the accused undergraduate student to respond to the charges, present witnesses on the student's ~~his or her~~ own behalf and question witnesses. Formal hearings are ~~tape~~ recorded. Within three (3) weeks of the conclusion of the hearing, the Student Conduct Committee will send the party charged a letter which indicates the finding in the case and any disciplinary sanction imposed. ~~The Student Conduct Committee may find the party charged not responsible for violating the Student Code of Conduct, or may find the party responsible and impose a disciplinary sanction in accordance with Article 4 of the Student Code of Conduct.~~

A formal hearing with the Student Conduct Committee is conducted in accordance with [the Dean of Students Hearing Procedures, approved by the UNM President, that ensure all the rights listed in section 6 herein.](#)

Note #3: The above sentence results in proposed deletion of the detailed hearing procedures in the current policy. see proposed deleted text at end of this document.

Decisions of the Student Conduct Committee are subject to appeal to the Vice President for Student Affairs, as per Article 5.7.1 herein. if the sanction imposed by the Committee is suspension, expulsion or banning from the campus.

The Student Conduct Committee will consist of three (3) members, ordinarily including one (1) undergraduate student, one (1) faculty member and one (1) staff member, with the Dean of Students serving as an additional, nonvoting member and Chair of the Student Conduct Committee. The undergraduate student, faculty member, and staff member of a Student Conduct Committee are drawn from a standing pool consisting of faculty members designated by the Faculty Senate President, staff members designated by the Staff Council President, and undergraduate student members designated by the Presidents of ASUNM and GPSA.

B. ~~No one may serve on the Student Conduct Committee who has a conflict of interest or bias with respect to the case to be heard such that he or she cannot hear the case fairly and impartially, however, prior knowledge of the parties in the case or of the conduct that is the subject of the case does not itself constitute a conflict of interest or bias. Allegations that a member of the Committee has a conflict of interest or is biased shall be reviewed by the Dean of Students, whose decision is final.~~

C. ~~A party charged may be found responsible for violating the Code of Conduct by a majority vote of the Student Conduct Committee.~~

5.2.1.5. When a case involves misconduct violating the Student Code of Conduct charges against more than one party, the Student Conduct Officer will determine whether to hold one hearing to resolve charges against all parties or hold separate hearings for each accused undergraduate student.

5.2.1.6. The Student Conduct Officer will prepare an Investigation Report for the Student Conduct Committee. The Investigation Report includes, among other things, summaries of interviews with the complainant, the accused undergraduate student and any third-party witnesses; photographs of the relevant site(s); other relevant evidence; and a detailed written analysis of the events in question. The Investigation Report will be provided to the Student Conduct Committee, the complainant, and the accused undergraduate student.

5.3. An undergraduate 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 an undergraduate student at the same time the undergraduate 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 undergraduate student-defendant.

5.4. Unless otherwise specified in the decision, sanctions issued by the Dean of Students Office (not including an Emergency Suspension as outlined in in section 5.5 herein) shall not be implemented until the appeal process as set forth under section 5.7 herein is completed.

5.5. Emergency Suspension and Banning from Campus

The Dean of Students may immediately suspend an undergraduate student (or chartered student organization) and/or ban an undergraduate 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. ~~The meeting shall be held as soon as possible (no later than one week) after the request. The Dean of Students shall give the person an opportunity to explain his or her position and shall receive evidence or hear from witnesses with pertinent information, if requested by the person. In the case of a chartered student organization, the Dean will meet, if requested, with the organization's president or other designated officer.~~

~~C. After the meeting, if the Dean finds that the person's continued presence may endanger persons or property or threaten disruption of the academic process or other campus functions, the Dean shall continue the suspension and/or ban. Otherwise, the emergency suspension and/or ban shall be revoked or modified.~~

For undergraduate 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 herein. ~~Visitors will normally be given the opportunity to meet with the Dean of Students to discuss alleged violations of the Visitor Code of Conduct prior to a decision concerning the visitor's final status on campus. 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.~~

5.6. Decisions of the Dean of Students pertaining to undergraduate students are subject to appeal in accordance with section 5.7 herein.

5.7. Appeals, Records, and Rights

5.7.1. Appeal to Vice President for Student Affairs

The decision on sanctions pertaining to undergraduate students made by the Dean of Students may be appealed to the Vice President for Student Affairs. The undergraduate student must submit a written request for appeal to the Vice President for Student Affairs within ten (10) ~~seven (7)~~ working days of the date of the written decision from the Dean of Students or the Student Conduct Committee. ~~A complainant may appeal to the Vice President only in cases involving alleged sexual violence.~~ The Vice President for Student Affairs will send written notification of the decision to the appealing party within ten (10) working days ~~two weeks~~ of receiving the request for appeal. A copy of the decision shall be sent to the Dean of Students.

~~The grounds for appeal to the Vice President are the same as for an appeal to the Dean of Students (see Article 7.1(A)). On appeal the Vice President for Student Affairs shall review the decisions of the Student Conduct Officer, Student Conduct Committee and/or the Dean of Students. The Vice President for Student Affairs may meet with the party appealing to discuss the reasons for the appeal.~~

~~C. After reviewing the case, the Vice President for Student Affairs may:~~

~~i. Affirm or overturn the findings of the Dean of Students or the Student Conduct Committee;~~

~~ii. Affirm or alter the sanction imposed by the Dean of Students or the Student Conduct Committee; or~~

~~iii. Remand the case to the original tribunal (Student Conduct Committee or Student Conduct Officer) for further proceedings. A remand will generally occur where new evidence is to be reviewed or as otherwise determined by the Vice President for Student Affairs. Where a case is remanded, the decision of the Student Conduct Committee or Student Conduct Officer may be appealed after rehearing to the Vice President for Student Affairs.~~

5.7.2. Appeal to the President

The President has the discretionary authority to review all decisions by 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 ten (10) ~~seven (7)~~ working days of the date of the written decision from the last reviewer.

5.7.3. 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) ~~seven (7)~~ working days of the date of the written decision from the last reviewer.

Article 6. General Provisions

The following provisions are applicable to all portions of this Policy

6.1. Undergraduate Student ~~and Visitor~~ Conduct Records

Records regarding undergraduate 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. ~~Records regarding action taken against visitors to UNM may be permanently maintained. Tape recordings of Student Conduct Committee hearings will be maintained in the Dean of Students Office for the same time period as the written records pertaining to the case.~~ Copies of the final decision shall, in an academic dishonesty case, be sent to the faculty member.

6.2. ~~Rights of those Charged with Violations~~ the Parties Participating in Student Code of Conduct Grievances

~~Rights of Those Charged~~

~~Rights of Complainants~~

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

6.2.1. 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.

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

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

6.2.4. Both parties have the right to present evidence ~~in~~ on their ~~his or her~~ own behalf.

6.2.5. 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.

6.2.6. Subject to the limits set forth in this Policy, both parties have the right to be accompanied by an advisor at a hearing. The advisor may be an attorney retained by a party at their ~~his or her~~ own expense.

6.2.7. The party alleging that the accused undergraduate 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.

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

6.2.9. 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.

6.3. Variances

6.3.1. Introduction

This Policy, ~~These Student Grievance Procedures~~ to the extent applicable, shall apply to all UNM units. Because of differences in administrative structure, however, some modifications to these rules are necessary. The following sections identify those modifications.

6.3.2. Health Sciences Center

Undergraduate students in academic programs in the Health Sciences Center (HSC) have adopted student codes of conduct (including standards of professionalism) with which undergraduate 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 OEO Office as provided in Article 4 herein, to the extent that HSC academic programs have adopted policies and procedures that govern the adjudication of undergraduate student conduct and undergraduate student grievance matters, those policies and procedures supersede this Policy. A decision by the dean of the School of Medicine, College of Pharmacy, College of Nursing, or College of Population Health may be appealed to the HSC Chancellor, or ~~his or her~~ designee, under procedures adopted by the Chancellor's Office.

Discretionary review by the UNM President and Board of Regents, as provided for in Section 5.7 herein, is accorded to undergraduate students in academic programs in the HSC.

~~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 any act of sexual violence shall be referred to the UNM Office of Equal Opportunity.~~

6.4. Former Students

These procedures apply to disputes between undergraduate students and other members of the UNM community. If the undergraduate 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.

6.5. 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, a vice president, a vice chancellor, or other 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.

Below are sections that are proposed to be deleted:

NOTE #1 Propose deletion of the following OEO procedures from Section 4.4 of current policy because they are governed by OEO Claims Procedures

~~A. A complaint alleging that a student has engaged in an act of sexual violence, as defined in footnote 1 herein, or sexual harassment, as defined in University Administrative Policy #2730, will be referred to the University's Office of Equal Opportunity (OEO) for investigation pursuant to OEO's Discrimination Claims Procedure. OEO will issue a Final Letter of Determination finding either No Probable Cause or Probable Cause that the accused student has committed an act of sexual violence or otherwise violated the University's prohibition against sexual harassment. The accused student and complainant have the right to appeal OEO's Final Letter of Determination as provided for in OEO's Discrimination Claims Procedure.~~

~~B. If Probable Cause is found that a student committed an act of sexual violence or sexual harassment, OEO will refer the matter to the Dean of Students Office to determine the sanction to be imposed. Sanctions should be designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and obligations under Title IX. Ordinarily, after consulting with the accused student, the Student Conduct Officer will decide which of the options set forth in Section 4.2(B) herein will be utilized to determine the sanction. The options of an administrative hearing with the Student Conduct Officer and the formal hearing with the Student Conduct Committee will be modified as appropriate so as to focus solely on determining what sanction(s) to impose.~~

~~C. The decision on sanctions made by either the Student Conduct Officer or Student Conduct Committee may be appealed as provided for by Article 7 herein, except that the only permissible grounds for appeal is that there was significant procedural error of a nature sufficient to have materially affected the outcome of the sanction decision, and/or the severity of the sanction is grossly disproportionate to the violation(s) committed. Both the accused student and the complainant may appeal the sanction decision. Neither the accused student nor the complainant may appeal the findings and determination made by OEO in the Article 7 appeals process.~~

~~D. If OEO finds No Probable Cause that a student committed an act of sexual violence or sexual harassment, OEO will refer the matter to the Dean of Students Office for review to determine whether charges under any other provisions of the UNM Student Code of Conduct are warranted or other action should be taken.~~

NOTE #2: Propose deletion of the following Rights of Complainants Alleging Sexual Violence because they which are governed by OEO Claims Procedures

~~7.6. Rights of Complainants Alleging Sexual Violence~~

~~Because of the serious nature of the alleged action, in addition to the rights listed in Article 7.5, complainants alleging sexual violence also have these additional rights:~~

~~A. The right to request to be permitted to testify from another room or in such a way as to be visually screened from the accused student.~~

~~B. The right to know the nature and source of the evidence used in a hearing process and to submit evidence and suggest witnesses, consistent with the rights of the accused.~~

~~C. 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).~~

~~D. The right to be informed of options to notify law enforcement authorities on and off campus as to the incident and to be assisted in doing so by campus officials. Criminal complaints filed with law enforcement are investigated separately from the student disciplinary process.~~

~~E. The right to be informed about other resources on campus, including UNM's Office of Equal Opportunity, Student Health and Counseling, and the Women's Resource Center.~~

~~F. The right to be informed of interim measures available to assist the complainant during the disciplinary process, for example, making reasonable changes in academic and/or on-campus living situations, and providing counseling or security escort service on campus.~~

~~G. The right to have past sexual history excluded as evidence unless the Dean of Students makes a specific finding that it is relevant.~~

~~H. The right to appeal a decision of the Student Conduct Officer or the Student Conduct Committee, subject to the same requirements and limitations as the accused.~~

Note #3: Propose deletion of the following rules for hearings because hearings will follow Model Hearing Procedures approved by the President.

The following rules shall apply to formal hearings conducted by Student Conduct Committee:

~~6.1 The hearing shall be closed, unless the Dean of Students decides to let others attend if he or she deems that their presence may be helpful to the review and determination of the charges, or if there are other compelling reasons for their presence.~~

~~6.2. The accused student, the complainant and their advisors, if any, shall be allowed to attend the entire portion of the hearing at which information is received (excluding deliberations).~~

~~6.3. The accused student and the complainant may each have an advisor (including an attorney) attend the hearing. The role of the advisor is to provide his or her advisee with support and counsel regarding the process. The advisor (including an attorney advisor) cannot act as a representative of his or her advisee, cannot have a voice in the hearing and therefore is not permitted to present arguments or evidence or otherwise participate directly in the hearing.~~

~~6.4. Student Conduct Committee members may question the accused student, the complainant and any witnesses.~~

~~6.5. The accused student has the right, within reasonable limits set by the Dean of Students to question all witnesses who testify. The Dean of Students may also permit the complainant to question the witnesses, within reasonable limits. However, the accused student and the complainant will not be permitted to directly question each other in hearings to determine the sanction to be imposed on a student for whom UNM's Office of Equal Opportunity has issued a Probable Cause determination under Article 4.4 herein. Questions for the accused student and the complainant from the other party may be suggested by each of them to the Student Conduct Committee who will decide whether to pose them.~~

~~6.6. The accused student and the complainant may each request the presence of witnesses at the hearing by informing the Dean of Students of their names and expected testimony at least five business days before the hearing. Based upon the Investigation Report, the Student Conduct Committee may call witnesses not identified by either the complaint or the accused student. The Dean of Students may refuse to call a requested witness if he or she determines that the expected testimony is not sufficiently relevant to the charges, would be duplicative of other testimony, or would otherwise not be significantly helpful to the review and determination of the charges. The Dean of Students will try to arrange the attendance of witnesses who are members of the University community (students, staff and faculty). The accused student and complainant are responsible for arranging the attendance of persons from outside of the University. The Student Conduct Committee has no subpoena authority. The accused student and complainant will each receive a list of witnesses called to testify at least three business days before the hearing.~~

~~6.7. The accused student and the complainant may each submit pertinent documentary evidence for consideration by the Student Conduct Committee at least five business days before the hearing. As with witnesses, the Dean of Students may, for the reasons cited in Article 6.6, decline to accept a party's evidence. Both parties will be provided access to all documentary evidence accepted, consistent with the federal Family Educational Rights and Privacy Act (FERPA).~~

~~6.8. The Student Conduct Committee may proceed independently to secure evidence for the hearing. Both parties will have an opportunity to review any such evidence at least three business days before the hearing, consistent with the federal Family Educational Rights and Privacy Act (FERPA).~~

~~6.9. The hearing will be tape-recorded and the Dean of Students Office will keep the tape(s). The tape is the property of the University. No typed record will be made.~~

~~6.10. The rules of evidence used in civil or criminal trials are not applicable to formal hearings conducted by the Student Conduct Committee.~~

~~6.11. Within three weeks of the conclusion of the hearing, the Student Conduct Committee will send the accused student a decision letter which includes the Committee's findings and any disciplinary sanction imposed. The Student Conduct Committee may find the party charged not responsible for violating the Code of Conduct, or may find the party responsible and impose a disciplinary sanction. As set forth in Article 7.6.C, in a case of alleged sexual violence, the complainant will also be notified of the Student Conduct Committee's decision, to the extent permitted by the federal Family Educational Rights and Privacy Act (FERPA).~~

~~6.12. The Student Conduct Committee may seek advice from the Office of University Counsel throughout the adjudication process on questions of law or procedure; however, factual determinations are the exclusive domain of the Committee.~~

~~6.13. Decisions of the Student Conduct Committee are subject to appeal to the Vice President for Student Affairs, as per Article 7.2 herein, if the sanction imposed by the Committee is suspension, expulsion or banning from the campus.~~

Note #4: Propose deletion of the following procedures for appeal because they violate Regent Policies 1.5 and 4.3 pertaining to appeals.

~~10.4. Review by the President and the Board of Regents~~

~~A. The parties' right to appeal decisions under these procedures terminates where indicated herein. The President and the Board of Regents normally review appeals of student grievance or disciplinary decisions only in extraordinary cases, such as where proper procedures have apparently not been followed, where the decision appears to be unsupported by the facts, or where the decision appears to violate University policy.~~

~~B. Requests for review made to the President or the Board of Regents normally will be considered only after the avenues of appeal established herein have been exhausted. C. If review is granted, appropriate procedures shall be set by the President or the Board of Regents. The procedures shall be communicated to the parties in advance, and shall provide each party the opportunity to explain his or her position orally and/or in writing. New evidence (such as additional documents or testimony of witness) will not normally be taken by the President or Regents.~~

~~10.5. Conflict with Other Procedures~~

~~Except as otherwise stated herein, in the event this Student Grievance Procedure conflicts with previously adopted policies and procedures, these procedures shall take precedence.~~

HISTORY

May 13, 2014 – Revisions approved by the President

July 2, 2013 – Revisions approved by the President

June 19, 2001 – Revisions approved by the President

March 5, 1999 – Revisions approved by the President
May 1995 – Revisions approved by the President
May 1994 – Revisions approved by the Faculty Senate
August 11, 1987 – Approved by Board of Regents
May 2, 1987 – Approved by GSA Senate
April 1, 1987 – Approved by ASUNM Senate
March 10, 1987 – Approved by Faculty Senate

DRAFT HISTORY

[February 9, 2019 – Draft revision updated with recommendation from Operations Committee for consideration by Policy Committee.](#)

October 4, 2018 -- Draft revision updated to include latest review by Policy Committee

September 26, 2018 – Draft revision updated to include latest review by Policy Committee

June 23, 2017 – Draft revision updated to address campus comments and Policy Committee recommendations.

March 13, 2017 – Draft revisions to remove DOS procedures and other D175 Taskforce recommendations.

January 2, 2017—Draft revisions based on D175 Taskforce recommendations.

September 20, 2016—Draft revision developed to address inconsistencies between the Pathfinder and Faculty Handbook.

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

Date: February 7, 2019

To: Faculty Senate Policy Committee

From: Amy Levi, HSC Vice Chancellor
Carol Stephens, Office of the University Secretary, Consultant

Re: Operations Comments on Proposed Revisions to D175 "Undergraduate Student Conduct and Grievance Policy"

Amy Levi, Provost Wood, and I met with the Operations Committee to discuss their comments/concerns regarding proposed draft D175. These comments primarily relate to concerns expressed to them by Nasha Torres, Dean of Students in a meeting in November 2017.

- 1) What's the "standard for appeal"? This should be in the definitions section (p. 3) or in the 5.7.1(...) section where the standard used to be (see the online version of the policy, section 7.1).
- 2) Should the "Appeal to the Dean of Students" section be included or not? (Previously section 7.1).

ANSWER: I explained to the Operations Committee that we have obtained legal opinions from two attorneys with the Office of University Counsel, and they agree that including any limitations on appeals violates Regent policy. After much discussion, Operations understands the issue and accepts that unless Regent policy is changed, it is inappropriate to include standards for appeal in D175.

- 2) On page 12, why has the prohibition against allowing mediation for accusations of sexual misconduct been removed?

ANSWER: I explained that this was removed as part of the compromise with Dean of Students to limit the extent of this procedural language in D175 with any deleted language to be included in the Dean of Students Procedural Document which DOS will prepare as necessary after the revision to Dd175 is approved. I explained that since the Policy Committee originally wanted all of the language for these sections in D175, and only deleted it at the request of Dean of Students, it would probably be okay with the Committee to not delete the language from D175.

- 3) Also on page 12, why is the "Formal Hearing" an option the accused can choose? (Nasha gave an example of how this option can be used to stall a proceeding and lead to a more lenient outcome.). Also on page 12 (and superseding the above concerns), why not eliminate all these procedures and allow the Dean's Office some room to decide which form of inquiry best fits each case?

ANSWER: I explained that Marsha Baum, a Policy Committee member and Law Professor indicated that this part of due process. The DOJ agreement asks that due process rights be included in the policy.

5) On page 2, include the three confidential reporting sites in the policy (or links). Include confidential reporting locations (or links) after section 4. on page 9.

ANSWER: Amy indicated this would probably be acceptable to the Policy Committee. Below is the information listed in UAP Policy 2740 “Sexual Misconduct.” I will see if there is a way to summarize it and then link to 2740. It’s usually preferable NOT to copy information from one policy into another because when the original policy is revised they get out of sync. I’ll bring draft language to the February meeting for Committee consideration.

7. Disclosure of Information

The University encourages individuals who have experienced sexual misconduct to report the incident so that they 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.

Table in Policy

- **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.”

- **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.

6) On page 9 (section 3.4), change the language from "student may be sanctioned for academic dishonesty by a faculty member" to "student may face academic consequences for academic dishonesty by a faculty member". Also remove the word sanctions from the title of section 3.2.

ANSWER: This needs discussion by the Policy Committee—there is probably better wording the Committee can propose.

9) Remove red sections about death in section 4.4 (pp. 10-11).

ANSWER: I informed them this did not come from the Committee and that I believe it came from the current Student Grievance Procedures, but that I would need to research it to confirm. I told them that if it did come from the SGP and if our legal advisor indicated it was not required by law, the Committee would probably not have a problem with it being removed

My research confirmed it came from current Student Grievance Procedures. Further research indicated the wording comes from federal law re: FERPA:

“I. Upon written request, the University of New Mexico 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 the University of New Mexico 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 nonforcible sex offense at issue is deceased as a result of such offense(s), the next of kin of such individual shall be treated that individual for the purpose of disclosing the final result of the disciplinary proceedings.”

Date: February 9, 2019

To: Faculty Senate Policy Committee

From: Amy Levi, HSC Vice Chancellor
Carol Stephens, Office of the University Secretary, Consultant

Re: Questions in Addition to those expressed by Operations on Proposed Revisions to D175
“Undergraduate Student Conduct and Grievance Policy”

1) QUESTION: D175: Does Chancellor need to be added to these sections for undergraduate HSC students?

2.4. Appeal of Formal Decision

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

2.4.1. Appeal to Provost

Either party may appeal the dean's decision to the Provost within ten (10) working days of receipt of the decision. The Provost or designee shall resolve the grievance utilizing any procedures available to the dean set out above. At the Provost's discretion, the Provost ~~his or her~~ 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.

2) D176: Do we want to copy the text from D175 Section 5.1.1 “Options for Resolving the Charges” and its subsections to the graduate/professional student policy. Although the Dean of Students role under this policy is not as extensive as with the undergraduate policy, Dean of Students can render sanctions in some instances. Section 5.1.1 specifies detailed processes (about 2 pages of text) used by Dean of Students to resolve charges. The Policy Committee earlier in the process had removed these detailed processes from D175, but later added them back at the urging of Marsha Baum because she was concerned that items related to due process remain in the policy. This section and subsections weren't added back to D176, but I'm not sure if that was a conscious Committee decision or if it just wasn't updated to reflect the latest decision per the undergraduate policy.

Timeline of Issues Pertaining to *Faculty Handbook* and *Pathfinder* Student Grievance Procedures 1/14/19

Date	Action
1987	Faculty Policy D175 first approved by Faculty Senate, ASUNM Senate, GSA Senate and Regents
2/27/2012	OEO Discrimination Claims Procedures Revised 2/27/2012
5/21/2014	UAP Policy 2730 "Sexual Harassment" Revised 5/21/14, Rescinded 2/26/18
5/21/2014	UAP Policy 2720 "Equal Opportunity , Non-Discrimination, and Affirmative Action" Revised 5/21/14, Revised again 2/26/18
Jan 2015	Pilgrim and Associates Report Publicly Released
5/10/2015	CoG Constitutional Committee reviews <i>Pathfinder</i> and notes Student Grievance Procedures (SGP) link directly to D175
5/15/2015	New UAP Policy 2740 "Sexual Violence and Sexual Misconduct" Issued 5/15/15, Revised 2/26/18
5/21/2015	Shown as a revision date to SGP but can't find copy of version
9/14/2015	CoG sends memorandum to Dean of Students and others requesting comprehensive review of <i>Pathfinder</i> to ensure it aligns with the <i>Faculty Handbook</i> , Regents, and UAP
9/16/2015	CoG sends memorandum to Policy Office asking that RPM 4.3 be revised to link to D175 not <i>Pathfinder</i> . (As of this date the Pathfinder linked directly to D175.)
10/30/2015	<i>Pathfinder</i> SGP links directly to D175 (documented on <i>Pathfinder</i> website printout)
Nov 2015	University Secretary and Policy Consultant met with Kim Kloeppel, Student Affairs COO to discuss concerns with <i>Pathfinder</i>
12/2/2015	OUS Policy Consultant met with VP for Student Affairs, Dean of Students, SA COO, Debbie Morris and others to discuss concerns with <i>Pathfinder</i> .
12/10/2015	OUS Policy Consultant sent Debbie Morris a preliminary analysis of the <i>Pathfinder</i> showing SGP linked directly to D175
12/22/2015	A53.1 approved and issued showing student grievance procedures covered by D175
1/13/16	Shown as a revision date to SGP in the <i>Pathfinder</i>
4/22/2016	DOJ letter to President Frank states SGP as of November 2015 in <i>Pathfinder</i> violated Title IX and Title IV
6/2/2016	University Counsel response to DOJ states SGP in <i>Pathfinder</i> revised 1/13/2016 to comply with Title IX and Title IV
8/28/2016	OUS prepared analysis of SGP which are now in the <i>Pathfinder</i> as a separate document (don't know when SGP prepared) with major discrepancies from D175
10/17/2016	DOJ agreement signed
11/14/16	FSPC appointed taskforce begins work
12/29/2016	Printed off modified OEO Discrimination Claims Procedures (not dated so don't know when modified)
3/22/2017	OEO Discrimination Claims Procedures modified again
4/7/2017	Revised D175 draft sent to campus for comment period ending 5/10/2017
5/8/2017	Received comments on D175 from Amy Wohlert which included DOJ comments
5/10/2017	Received comments on D175 from Dean of Students Office and OEO
June 2017	Sent comprehensive explanations to Amy Wohlert, Dean of Students and OEO
6/25/2017	D175 draft revised to address valid concerns and sent draft with explanations to Wohlert, DOS and OEO requesting subsequent comments. None received by FSPC.
9/6/2017	FSPC approved revised D175 draft to go to Operations for permission to go out for campus comment. Draft placed on hold by Operations so the CoG Constitutional Committee could to study the relationship between the <i>Faculty Handbook</i> and the <i>Pathfinder</i> .
Fall 2017	Policies D175 and D176 on hold pending CoG Committee advisory document.
4/16/18	Background Packet sent to Deputy Provost Wood
8/24/18	Office of University Counsel (OUC) sends comments on latest draft
August 2018	Policy Office sends comments on latest draft
9/5 & 10/3/18	FSPC reviews and addressed OUC and Policy Office comments
11/9/18	FSPC Chairs send policy drafts and summary memo to Operations for permission to send out for 2nd campus comment period.

D176: Graduate and Professional Student Conduct and Grievance Policy

Approved By: Faculty Senate and UNM President

Last Updated: **Draft 2/10/19**

Responsible Faculty Committee: Faculty Senate Graduate and Professional Committee

Office Responsible for Administration: Graduate Studies and Dean of Students

Legend: red all other changes or additional text; proposed deletions shown in ~~strikeout~~.

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. This Policy does not apply to undergraduate students in professional schools, which are subject to Faculty Handbook Policy D175 "Undergraduate Student Conduct and Grievance Policy."

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 academic progress has been evaluated in an unfair or improper manner 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 and/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 (OEO) within 24 hours, or as soon as reasonably practicable, by calling (505) 277-5251 or by email at oeounm@unm.edu. Anonymous reports can be made. Complaints can also be made to the UNM Ethicspoint Hotline 1-888-899-6092. The UNM OEO is tasked with investigating allegations of discrimination, sexual harassment, sexual misconduct and/or sexual violence 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.

UNM recognizes that an individual who has experienced sexual misconduct may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. UNM and community partners have developed a victim-centered and victim-controlled process with information available on UNM's Lobo Respect website loborespect.unm.edu.

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), in addition to this Policy. 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.

The Bulletin governs students enrolled in the Law School and to the extent this Policy differs from the policies and procedures in the Bulletin, the Bulletin supersedes this Policy. The School of Law may 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 5.3 and 6.7 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 (HSC) 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 OEO, to the extent that HSC academic programs have adopted policies and procedures the govern the adjudication of student conduct and student grievance matters, those policies and procedures supersede this Policy. A decision by the dean of the School of Medicine, College of Pharmacy, College of Nursing, or College of Population Health may be appealed to the HSC Chancellor, or designee, under procedures adopted by the HSC Chancellor's Office.

Discretionary review by the UNM President and Board of Regents, as provided for in sections 5.3 and 6.7 herein, is accorded to graduate and professional students in academic programs in the HSC.

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 ten (10) working days of the decision.

3.4. 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 of others or yourself, 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.

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, 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 UNM holidays, class breaks and summer session, if the student is enrolled for the preceding spring and following fall academic terms. This Policy does not apply to undergraduate students in professional schools.

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.

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 in the Office of Equal Opportunity
- 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 "Reporting Suspected Misconduct and Whistleblower Protection from Retaliation"

2720 "Prohibited Discrimination and Equal Opportunity"

2740 "Sexual Misconduct"

3405 "Holidays"

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

Reasonable deviations from these procedures by UNM will not invalidate a decision or proceeding unless significant prejudice results.

UNM School of Law Students

Graduate and professional 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). To the extent these Procedures differ from the Bulletin, the Bulletin supersedes these Procedures. Pertaining to law students, the Dean of the Law School, or designee, has the same sanctioning authorities as granted to the Dean of Students, and may fulfill the responsibilities placed with the Dean of Graduate Studies.

Health Sciences Center Students (HSC)

Graduate and professional students in academic programs in the HSC 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). To the extent these Procedures differ from HSC student codes of conduct, the HSC student codes of conduct supersede these Procedures. Pertaining to HSC graduate and professional students, the Chancellor of the HSC, or designee, has the same sanctioning authorities as granted to the Dean of Students, and may fulfill the responsibilities placed with the Dean of Graduate Studies.

Article 1. Petition to Modify Academic Requirements

Graduate and professional students wishing to petition to modify academic requirements should contact the head of graduate and professional programs for their respective school or college. Graduate and professional students at the HSC wishing to petition to modify academic requirements should contact their school or college dean. Graduate and professional students at the Law School wishing to petition to modify academic requirements should contact the Associate Dean for Academic Affairs.

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. ~~1.~~ The student must first submit the petition to his/her the student's graduate or professional advisor or equivalent, if one is assigned to the student. The advisor should indicate whether he/she the advisor endorses the student's request, and why.

1.2.2. ~~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. ~~3.~~ The petition should then be forwarded to the school or college dean. ~~the Office of Graduate Studies.~~ The student may choose to submit the petition to school or college dean Graduate Studies the OGS even if it was not supported by his/her the student's academic unit. ~~In certain cases,~~ The school or college 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 school or college dean is final.~~

A written response to a petition will usually be mailed sent to the student within ten (10) working days ~~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.~~

1.2.4. The student may appeal the dean's decision to the President and Board of Regents in accordance with sections 3.4.2 and 3.4.3 herein.

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 fifteen (15) working days of receipt. If the instructor has not responded within fifteen (15) working days, the Faculty Senate Admissions and Registration Committee ("Committee") shall proceed to consider the petition without the instructor's response.

2.3. Committee Decision and Appeals Process

At the next regular meeting after receipt of the instructor's response (or lack of response), the Faculty Senate Admissions and Registration 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. ~~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. ~~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. ~~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 school or college dean or director of that unit for assistance.

3.3. Formal Resolution of Academic Matters

~~4.~~ 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. ~~4(a)~~ The Student must submit a formal, written statement of his/her the grievance within ten (10) working days ~~two weeks~~ following completion of the informal discussions. 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 five (5) working days ~~two (2) weeks~~ in which to respond in writing to the school or college dean.

3.3.2. ~~4(b)~~ The school or college dean will review all written materials submitted and provide both parties the opportunity to review and respond to all evidence. The school or college dean will interview each party, as well as any other persons who may have relevant information. The school or college 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 school or college dean may require that questions be directed though the school or college dean. ~~him/her.~~

3.3.3. ~~4(c)~~ The school or college 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. ~~4(d)~~ Generally, a written report on the grievance will be issued by the school or college dean within a period of ~~four weeks~~ twenty (20) working days after it has been formally filed, unless an informal hearing is held, in which case the decision shall be made within thirty (30) twenty (20) working days. (This period may be extended to allow for ~~University holidays or other~~ periods when UNM is not in session.) The report will explain the school or college 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, Chancellor, President, and/or Board of Regents cannot overrule a faculty member's academic judgement.

3.4.1. Appeal to Provost or Chancellor

~~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 school or college dean's decision within ten (10) working days of receipt of the decision to the Provost or Chancellor. The Provost or Chancellor or designee shall resolve the grievance utilizing any procedures available to the school or college dean set out above. The Provost or Chancellor 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 ten (10) 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 as defined in the Definitions Section of this Policy. These procedures are not exclusive; various UNM departments and programs may have additional policies and procedures on academic dishonesty.

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. 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 may report the matter to the Dean of Students, by submitting written documentation describing the events and indicating if the faculty member wishes the Dean of Students Office to pursue any additional disciplinary action against the student. The faculty member may use the Dean of Students Office's faculty adjudication form in submitting the written documentation. The Dean of Students Office will notify the student of the report, and the student may request a copy of the report from Dean of Students Office. In cases where the student has multiple finding of academic dishonesty, 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 may 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 respectively.

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 (OEO) within 24 hours, or as soon as reasonably practicable, by calling (505) 277-5251 or by email at oeounm@unm.edu. Anonymous reports can be made. Complaints can also be made to the UNM Ethicspoint Hotline 1-888-899-6092.

UNM recognizes that an individual who has experienced sexual misconduct may want to speak with someone on campus before deciding whether to report the incident to the police or OEO for investigation. UNM and community partners have developed a victim-centered and victim-controlled process with information available on UNM's Lobo Respect website loborespect.unm.edu.

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 an undergraduate 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 HSC Chancellor for HSC students, the Dean of the Law School for law students, or the Dean of Students Office for all other graduate or professional students to determine the sanction to be imposed as defined in 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.

Before determining sanctions for sexual discrimination, the Dean of the Law School or the applicable HSC dean should consult with the Dean of Students to ensure consistency of sanctions pertaining to OEO findings.

5.3. Appeals

Graduate and professional students in the law school and the HSC may appeal sanction decisions to the UNM President and the Board of Regents per sections 5.3.2 and 5.3.3 herein.

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 ten (10) 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 sixty (60) calendar-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) calendar 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.

QUESTION: Do we want to copy the text from Section 5.1.1 "Options for Resolving the Charges" of D175 to this policy. They specify the processes used by Dean of Students to resolve charges.

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 the Law School, HSC Chancellor, or 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 of Students 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 of Students 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. (see above question)

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

Graduate and professional students in the law school and the HSC may appeal sanction decisions to the UNM President and the Board of Regents per sections 6.7.2 and 6.7.3 herein.

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 ten (10) 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 school or college 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

February 10, 2019 – Draft revision updated with recommendation from Operations Committee for consideration by Policy Committee.

October 11, 2018 – Draft revised to include changes from FSPC Oct 2018 meeting.

September 28, 2018 – Draft revised to address comments at and after FSPC Sept 2018 meeting.

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.

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

C230: Military and Related Service Leave of Absence

Approved By: Faculty and Board of Regents

Effective Date: **Draft 2/12/19**

Responsible Faculty Committee: Policy Committee

Office Responsible for Administration: Office of the Provost

Legend: **Red highlights**—changes from current policy.

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

POLICY RATIONALE

The University of New Mexico (UNM) recognizes the need of some faculty to fulfill military obligations.

POLICY STATEMENT

Any full-time member of the faculty on regular (i.e., not temporary) appointment as instructor or above is eligible for Military **and Related Service** Leave “military leave” of Absence upon presentation of official military orders indicating that he/she the faculty member is entering active military duty or related service. When a Military Leave of Absence is granted for active duty for training or local emergency during the period of a regular contract (whether nine-, ten-, or twelve-month), UNM will continue to pay the faculty member's salary, uninterrupted, up to a maximum of fifteen (15) working days per calendar year (see 20-4-7 New Mexico Statutes Annotated, 1978 Compilation).

When a Military Leave of Absence is granted for active duty other than annual duty for training or local emergency, such leave is without pay. Unless called to active duty for a "local emergency," faculty may not receive Military Leave of Absence with pay during the period of a summer session supplemental contract.

In accordance with Section B Policy on Academic Freedom and Tenure, subsection B3, “If a faculty member goes on leave of absence without pay for a semester or more during a year of probationary service, the probationary period will normally, upon timely request of the probationary faculty member, be suspended for the duration of the leave, and subsequent mid-probationary and tenure reviews will be one full year later.”

APPLICABILITY

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

DEFINITIONS

Refer to [University Administrative Policy 3425 “Military and Related Service Leave”](#)

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

- Faculty
- Department Chairs
- Academic deans and other academic administrators and executives

RELATED DOCUMENTS

[UNM Regents’ Policy Manual Policy 5.3 “Leaves of Absence”](#)
[Faculty Handbook Section B Policy on Academic Freedom and Tenure, subsection B3](#)
[University Administrative Policy 3425 “Military and Related Service Leave”](#)

CONTACTS

Direct any questions about this policy to the UNM Office of the Provost or HSC Chancellor.

PROCEDURES

[Applicable procedures pertaining to federal and state laws and regulations for military and related service leave are discussed in University Administrative Policy 3425 “Military and Related Service Leave.”](#)

[Tenure Clock](#)

[Deans, department chairs, and program directors should help faculty members to make an informed decision about suspending the probationary period. If the length of the military leave is undetermined or results in a significantly shorter or longer duration than first anticipated, the faculty member may request to change their tenure clock decision by contacting the Provost or Chancellor within two \(2\) months after returning from military leave. Any changes are subject to approval by the Provost or Chancellor.](#)

DRAFT HISTORY

[February 12, 2019 – Draft incorporated December Policy Committee discussions](#)

November 27, 2018 – Preliminary draft for consideration by Policy Committee.

HISTORY

August 29, 1978—Approved by the Board of Regents

May 10, 1978—Approved by Faculty

May 18, 1975 May 18, 1975—Approved by Board of Regents

April 8, 1975—Approved by Faculty

February 1, 1975—Approved by the Board of Regents

March 14, 1974—Approved by the Board of Regents

March 12, 1974—Approved by Faculty

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

D75: Classroom Conduct

Information

The classroom instructor is responsible for all classroom conduct, behavior, and discipline. University policy permits only enrolled students, persons authorized by the instructor, and administrative personnel to be admitted to instructional areas during scheduled periods. University policy and New Mexico state law also prohibit all forms of disruptive or obstructive behavior in academic areas or any actions which would disrupt scheduled academic activity. The instructor may refer situations involving classroom misconduct to the Dean of Students for additional action under the **Student Code of Conduct** (<https://pathfinder.unm.edu/code-of-conduct.html>) as published in the UNM *Pathfinder* (<http://pathfinder.unm.edu/>). Use of classrooms and other areas of academic buildings during nonscheduled periods is permitted only in accordance with departmental, college, or university practices.

Any person or persons in unauthorized attendance or causing a disturbance during scheduled academic activity shall be identified by the instructor and asked to leave. Persons refusing such a request may be removed by the University Police and are liable to legal prosecution.

Smoking, eating and drinking are prohibited in all classrooms and teaching laboratories, including seminars.

Re: UNM policy questions about Learn

Kimberly Gauderman

Mon 1/28/2019 9:13 AM

To: Jacqueline Hood <jnhood@unm.edu>; Martha Muller <MLMuller@salud.unm.edu>;

Cc: Candyce Torres <ctorres@unm.edu>; Kenedi Hubbard <kthubbard@unm.edu>; Carol Stephens <stephens@unm.edu>;

Also, just copying here the message from Lora Stone on this topic in November for our consideration of this matter:

Hi Kymm and all,

I have never heard of a chair or administrator at any UNM campus requesting LEARN access without permission of the instructor. Around 15% of courses at the branches are totally online.

Although our online courses at the branches don't fall under the auspices of Extended University in the same way as Main's, in all other ways we are very similar. Chairs request or approve an online course for the schedule and instructors are completely responsible, as experts in their subjects, for developing content. In the past at the branches they typically were not paid extra to develop that content, although different branches may have changed that recently.

I do not recall any explicit discussion of online teaching in the FH or other policy documents, which will likely be increasingly a problem as more of UNMs courses are totally online.

Regarding length of access, I believe IT can set up or close down access for any period of time.

Regarding intellectual rights of material, I believe the same rules apply as in face-to-face courses.

That's all I can think of right now, but will add more if I think of anything else during the day.

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Kimberly Gauderman
Sent: Monday, January 28, 2019 8:36:56 AM
To: Jacqueline Hood; Martha Muller
Cc: Candyce Torres; Kenedi Hubbard; Carol Stephens
Subject: Re: UNM policy questions about Learn

Great thinking! So do you think we could build on this policy to outline an instructor's authority over a physical and on-line class?

I am including Carol in this stream, as she might know if there would be other policies out there that might pertain to this situation of a chair/dean enrolling in an on-line class without the instructor's approval.

Cheers,
Kymm

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Jacqueline Hood
Sent: Monday, January 28, 2019 8:30 AM
To: Kimberly Gauderman; Martha Muller
Cc: Candyce Torres; Kenedi Hubbard
Subject: Re: UNM policy questions about Learn

Kymm,

Wow, you really know your policies! I didn't know that policy existed. It does sound like your Chair would be "administrative personnel" and could enter the classroom at any time. I'm sure that part of the policy exists for the protection of students. I haven't heard from anyone of a Chair or Dean just showing up without the faculty member's permission. Online is different because it provides total oversight of the class, not just one session. Most administrators rely on student feedback at the end of the semester to determine if there is a problem. However, if there are complaints now, maybe they want to intervene.

Similarly, an administrator might attend a class if students complained the faculty member was abusive or harassing students. We just don't know the circumstances in this case for this to occur, but they should be extraordinary. Maybe a policy that says the administrator needs a significant reason (e.g., complaint) to

enter a class without permission, whether online or face-to-face?

Jackie

From: Kimberly Gauderman
Sent: Monday, January 28, 2019 8:17:06 AM
To: Jacqueline Hood; Martha Muller
Cc: Candyce Torres; Kenedi Hubbard; Kimberly Gauderman
Subject: Re: UNM policy questions about Learn

Thank you for your response Jackie.

So, D75, copied below, outlines instructors' authority over a physical classroom. The policy does allow "administrative personnel" to enter the classroom. So, according to this policy, could my Chair just start attending my class without my permission?

Cheers,
Kymm

<https://handbook.unm.edu/policies/section-d/d75.html>

D75: Classroom Conduct :: Faculty Handbook | The University of New Mexico

handbook.unm.edu

D75: Classroom Conduct. Information. The classroom instructor is responsible for all classroom conduct, behavior, and discipline. University policy permits only enrolled students, persons authorized by the instructor, and administrative personnel to be admitted to instructional areas during scheduled periods.

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Jacqueline Hood
Sent: Monday, January 28, 2019 8:04 AM
To: Kimberly Gauderman; Martha Muller
Cc: Candyce Torres; Kenedi Hubbard
Subject: Re: UNM policy questions about Learn

Kymm,

Interesting question. Clearly our policies are old and have not kept up with technology. In this situation, it would be like the Chair/Dean walking into your class. Of course, it's best to get your permission. No academic freedom violation has occurred from just accessing the course. However, to me sometimes it feels like the online Learn advisors are coming close to academic freedom violations. I do think the policy committee might want to grapple with these questions.

Jackie

From: Kimberly Gauderman
Sent: Monday, January 28, 2019 7:56:26 AM
To: Martha Muller; Jacqueline Hood
Cc: Candyce Torres; Kenedi Hubbard; Kimberly Gauderman
Subject: Fw: UNM policy questions about Learn

Hola Companeras,

I am checking in about this faculty member's concern and forwarding her message from this morning. My understanding is that we believe there is not a policy that would constrain her Chair or Dean from monitoring her Learn site? Is that correct? But, that we believe that we would like to discuss the need of such a policy? Is that correct? Please let me know if I am correct and any suggestions you have for a response to her.

Thank you!

Cheers,

Kymm

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Joan Marie Lucas
Sent: Monday, January 28, 2019 7:42 AM
To: Kimberly Gauderman; Joan Marie Lucas
Subject: Re: UNM policy questions about Learn

Hello!

Just wondering if you ever got an answer about my question.

Can a Dean and/or Dept Chair decide that they want to be enrolled in my Learn course for the entire semester? My Dean thinks "yes". I believe that Learn will enroll the Dean whenever she asks for that access to the course.

thanks, Joan Lucas

UNM-Los Alamos

From: Kimberly Gauderman
Sent: Wednesday, November 21, 2018 12:41:50 PM
To: Joan Marie Lucas
Cc: Kimberly Gauderman
Subject: Re: UNM policy questions about Learn

Hola Joan,

AF&T is the Academic Freedom and Tenure Committee. In our discussion, we believe that the issues you raise might impact Academic Freedom and that, therefore, your inquiry might be in the jurisdiction of that committee and/or the chair of that committee could give us some helpful advise on your concerns to assist you and to help us strengthen faculty protections in an existing or new policy. I am really sorry that you seem to be in a difficult situation, but please know that we are taking action to find accurate information for you. I will inquire about the accuracy of the information that was given to you by the Learn Tech Support Team.

Kind Regards,
Kymm

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Joan Marie Lucas
Sent: Wednesday, November 21, 2018 11:44 AM
To: Kimberly Gauderman
Subject: Re: UNM policy questions about Learn

thanks! what does AF&T stand for?

I talked to the Tech Support at Learn, and they told me that a Dean and/or Dept Chair can request access to any online course at any time for any reason, due to their supervisory role.

From: Kimberly Gauderman
Sent: Tuesday, November 20, 2018 10:09:36 PM
To: Joan Marie Lucas
Cc: Martha L Muller; Kenedi Hubbard; Kimberly Gauderman
Subject: Re: UNM policy questions about Learn

Good Evening Joan,
We have discussed your inquiry and have sent it to the chair of AF&T for further consultation. We will let you know what information we find out.
Thank you for your patience.
I wish you a happy Thanksgiving!
Kind Regards,
Kymm

Dr. Kimberly Gauderman
Associate Professor
Co-Chair, Faculty Senate Policy Committee
Trained Advocate, UNM Dreamer Project

2079 Mesa Vista Hall
University of New Mexico
Department of History
MSC068760
1 University of New Mexico
Albuquerque, NM 87131-0001
505-277-2451

From: Joan Marie Lucas
Sent: Monday, November 5, 2018 9:25 AM
To: baum@law.unm.edu; Kimberly Gauderman
Cc: Joan Marie Lucas

Subject: UNM policy questions about Learn

Dear Prof. Baum and Prof. Gauderman,

I am contacting you as the Co-Chairs of the UNM Faculty Senate Policy Committee. I am a Lecturer at the Los Alamos branch campus, and I have a policy question concerning Blackboard Learn.

I understand that a Learn Course has an Instructor and enrolled Students, who are all automatically given access to the Course content. I understand that I, as the Instructor, can give access to other people (such as a colleague) so that they can have access to the Course content.

What I would like to know is:

What policies exist regarding WHO can have access to courses and under WHAT CONDITIONS

For example, suppose my department chair or Dean wanted to have access to my Learn Course contents. Could the Dean simply ask Learn to set-up that access, without getting permission from me?

Could my Dean ask for this access for the entire semester, or would this access be time-limited in any way (such, as only for 1 week)?

My second question is: Who owns the Intellectual Property rights to the content that I develop for my courses? Do I own it, or does UNM own it?

Thank you for your help.

Respectfully, Joan Lucas

Joan M. Lucas, Ph.D.
Lecturer III in Computer Science
University of New Mexico, Los Alamos



Faculty Rights and Responsibilities in Distance Learning (2000)

Distance Learning and Intellectual Property:
Ownership and Related Faculty Rights and Responsibilities
By Donna R. Euben, AAUP Counsel
April 2000

According to a recent study by the U.S. Department of Education, nearly half of all U.S. colleges and universities offer classes taught outside a traditional classroom (by audio, video or over the Internet). See "Survey Finds 72% Rise in Number of Distance-Education Programs," *The Chronicle of Higher Education* (Jan. 7, 2000) at A57. By 1998, distance learning classes were offered by over 79 percent of public four-year universities. A total of 1.6 million students were enrolled in approximately 54,000 on-line courses nationwide. Not surprisingly, the greatest area of growth is in courses taught over the Internet. The data also revealed that public universities were getting involved in distance education at a much faster rate than private institutions, and that the largest colleges and universities were the most likely to offer such courses.

Distance education poses both opportunities and challenges. The opportunities include reaching out to those students who would not necessarily have access to college and university courses, such as parents with young children ("It is hard to be a single parent and be in school."), those in rural areas, individuals with disabilities, and those who work full-time. See, e.g., Jefferey R. Young, "Dispatches From Distance Education, Where Class is Always in Session," *The Chronicle of Higher Education* (Mar. 3, 2000).

Traditional notions of ownership, control and use of educational materials are being challenged by the revolution in communications technology. The authority and responsibilities of faculty members in this digital era with regard to how courses are developed, taught, and revised are in flux, and many existing institutional policies on these issues fail to address important questions raised in this changing environment. Accordingly, over the past several years the American Association of University Professors (AAUP) has studied these issues and developed policy guidance to focus on faculty rights and responsibilities. (For a list of relevant AAUP statements and reports, see the references at the end of this outline. AAUP statements on distance education and intellectual property are attached.)

The AAUP does not oppose the concept of distance education. Rather, the Association emphasizes the need to ensure the educational quality and integrity of such programs so as to be

consistent with the goals and ideals of colleges and universities in the development and dissemination of knowledge.

I. Educational Decision-Making

Distance education raises many of the same issues as traditional courses with regard to academic governance. As recognized in the AAUP [*Statement on Online and Distance Education*](#),

The governing board, administration, faculty, and students all have a continuing concern in determining the desirability and feasibility of utilizing new media as instruments of education. Institutional policies on distance education should define the responsibilities for each group in terms of the group's particular competence.

85 *Academe*: Bulletin of the American Association of University Professors 3:41, at 42 (May-June 1999) (hereinafter "*Academe*"). With regard to the role of faculty members in curriculum development in this context, the Statement notes that:

As with all other curricular matters, the faculty should have primary responsibility for determining the policies and practices of the institution in regard to distance education. The rules governing distance education and its technologies should be approved by vote of the faculty concerned or of a representative faculty body, officially adopted by the appropriate authority, and published and distributed to all concerned.

The applicable academic unit--usually a department or program--should determine the extent to which the new technologies of distance education will be utilized, and the form and manner of their use. These determinations should conform with institutional policies.

Id. Thus, when considering the development of distance education courses, it is important to be aware of the existing institutional procedures on curriculum approval.

For example, the collective bargaining agreement between Yuba College Faculty Association and the Yuba Community College District, Article 10.0 (Distance Learning), provides:

Other governance issues raised by distance education in which AAUP calls upon institutions to recognize and respect the faculty role in decision-making include the amount of credit awarded for such courses, rules regarding teaching loads and required faculty-student contact, and the allocation of necessary supporting resources (see section IV, *infra*).

II. Ownership and Control of Course Materials

The complexity and expense of the resources needed to provide distance education courses have raised questions about the appropriate distribution of authority and control among the administration, academic departments or units, and faculty members. See, e.g., Gail S. Chalmers, "Toward Shared Control of Distance Education," *The Chronicle of Higher Education* (Nov. 19, 1999) at B8 (discussing different ownership models).

A. Academic Freedom and the "Work for Hire" Doctrine

Traditionally, colleges and universities have not sought to assert copyright over course materials and other traditional scholarly works. See, e.g., Gorman, Robert A., "Intellectual Property: The Rights of Faculty as Creators and Users," 84 *Academe* 3:14 (May-June 1998); see also University-wide Task Force on Copyright: Report and Recommendations, University of California (Oct. 1999). Under the principle of academic freedom, faculty members generally have the right to develop and modify course materials within their fields of expertise, and to use pedagogical techniques they deem most appropriate for the subject matter. See "1940 Statement of Principles on Academic Freedom and Tenure," AAUP Policy Documents & Reports 3 (1995 ed.). As AAUP discusses in its policy statements, the "work made for hire" doctrine (see Copyright Act of 1976, 17 U.S.C. Sections 101 and 201)--under which an employer can assert ownership over materials prepared by its employees acting within the scope of their employment--is not an appropriate model for wholesale application to the preparation of scholarly and teaching materials because of the nature of academic work and academic freedom.

Few court decisions have been rendered on this subject, but some of the most prominent decisions of federal courts have followed traditional academic practice and found that faculty authors own copyright in their academic materials. See, e.g., *Weinstein v. University of Illinois*, 811 F.2d 1091, 1094 (7th Cir. 1987) (discussing the longstanding tradition that higher education faculty own the copyrights in their academic work, as stated in Nimmer's Copyright treatise and elsewhere); *Hays v. Sony Corp. of America*, 847 F.2d 412, 416 (7th Cir. 1988) (noting that although college faculty do academic writing as part of their employment responsibilities and use employer facilities and resources to do so, "[a] college or university does not supervise its faculty in the preparation of academic books or articles, and is poorly equipped to exploit their writings, whether through publication or otherwise").

B. Faculty Ownership and Institutional/CBA Policies

AAUP's Statement on Copyright provides that faculty members who create the intellectual property own it, unless an agreement between the faculty a member and administration provides otherwise. That statement states:

It has been the prevailing academic practice to treat the faculty member as the copyright owner of works that are created independently and at the faculty member's own initiative for traditional academic purposes.

The AAUP-Wright State University contract, Section 27.2.3 provides:

Traditional faculty products of scholarly activity that have customarily been considered to be the restricted property of the author will be owned by the author regardless of the medium in which the work is embodied.

There are three limited and expressly defined set of circumstances in which the college or university can claim ownership of the copyright:

1. special works credited in circumstances that may properly be regarded as "made for hire"; the

use of university resources, facilities or materials of the sort traditionally made available to faculty members does not transform a faculty work into "made for hire"; extra ordinary university resources must be used

2. negotiated contractual transfers; and

3. joint works, as defined in the Copyright Act, where the institution may be considered a co-author.

The current AAUP-Rider University contract provides the following:

The bargaining unit creators of intellectual property, in all its forms, shall be the owners of that property, except when a bargaining unit member and the University enter into a specific agreement to create such intellectual property or the University provides "substantial or unusual funds, facilities or opportunities which the bargaining unit member would not ordinarily be entitled to have for any chosen project."

Article XXIX, 2.

At the University of Texas System, faculty members retain ownership of any Web courses they create. The University claims ownership, however, when parties agree beforehand that some is hired for the sole purpose of creating an on-line course.

At the University of Missouri at Columbia, faculty members own the on-line courses they create. They also can control how the on-line courses are used, and may even leave with the course content if they move to another university. The institution does own the graphics and artwork that are developed by university staff for the on-line courses, unless the faculty member develops those features without assistance. Dan Carnevale & Jeffery R. Young, "Who Owns On-Line Courses? Colleges and Professors Start to Sort It Out," *The Chronicle of Higher Education* (Dec. 17, 1999).

At the same time, a collective bargaining agreement may allow for institutions to use works created by faculty members without charge for educational and administrative purposes within the institution. In addition, faculty members should be encouraged to include such uses in their agreements transferring copyright for such works to a publisher.

B. Contractual Ownership Arrangements

In many instances, colleges and universities have avoided confusion regarding ownership by entering contracts with faculty members in advance of the development of course materials for distance education. Under these circumstances, a faculty member agrees to develop particular materials for the institution, and the terms and conditions of those arrangements, including ownership and control rights, are specified in writing upfront.

In the absence of such contracts, institutions may find that their policies do not clearly address certain situations in which faculty members create and use course materials. Many institutional policies assert university ownership when "substantial university resources" are used, for

example, but questions inevitably arise about the nature and extent of normal institutional support for day-to-day faculty work.

Arthur Miller, a prominent Harvard Law School professor, recently became embroiled in a dispute with Harvard after he supplied videotaped lectures for Concord University School of Law, an on-line institution, without Harvard's permission. See "Who Owns On-Line Courses? Colleges and Professors Start to Sort It Out," *The Chronicle of Higher Education* (December 17, 1999) at A45 (discussing a future in which faculty members might become free agents who would own their course materials and sell access to various on-line institutions). Professor Miller argued that he did not violate Harvard's policies because he did not teach at the virtual law school or interact with its students either in person or on-line. What about professors who publish books and articles, or give lectures off-campus on topics within their professional expertise? The Arthur Miller controversy raises these possible analogies for university policies and practices.

Some universities have negotiated contracts with other institutions so that their faculty members may offer on-line courses at these other institutions. Still other universities have reached agreements with for-profit corporations to market on-line courses. See, e.g., "For-Profit Venture to Market Distance-Education Courses Stirs Concern at Temple," *The Chronicle of Higher Education* (Dec. 17, 1999) at A46. In all of these situations, contracts can be used to sort out rights of ownership and control. In the rush to expand markets or earn profits, however, colleges and universities should take care not to lose sight of notions of academic freedom, shared governance, and educational quality.

III. Educational Quality and Integrity Issues

Distance education raises a host of educational quality and integrity issues that have yet to be answered in this rapidly changing environment. AAUP recommends that faculty members should be involved in the oversight of distance-education courses to the same extent as in other courses with regard to factors such as course development and approval, selection of qualified faculty to teach, pedagogical determinations about appropriate class size, and oversight of final course offerings by the appropriate faculty committee to ensure conformity with previously established traditions of course quality and relevance to programs. See "AAUP Statement on Distance Education," 85 *Academe* 3:41, at 42 (May-June 1999). For a helpful list of practical considerations for faculty, see "Teaching at an Internet Distance: The Pedagogy of Online Teaching and Learning: The Report of a 1998-1999 University of Illinois Faculty Seminar," <http://www.vpaa.uillinois.edu/tid/report/tid_report.html.> See also "Distance Education Quality Checklist," National Education Association (1999).

A. Academic Freedom in Course Content and Delivery

Distance education creates special concerns with academic freedom and educational quality to the extent that the creation, use, and revision of course materials may not necessarily be handled by the same faculty member(s)--or even by faculty members at all. In some for-profit institutions, for example, the individuals who create original course materials are not involved at all in the use of those materials and do not interact with students. Thus, their ideas are left in the hands of others to interpret and revise. The individuals who are responsible for the "delivery" of

the course content may not have the same expertise or training as the creators. The institution might also ask for courses to be structured and packaged in very specific ways to meet its own needs, thus placing other constraints on traditional academic freedom in teaching.

AAUP's Committee on Accrediting of Colleges and Universities, which has been active in seeking to ensure that accrediting agencies maintain standards of academic quality and integrity in the face of increasing requests involving on-line courses, has noted that distance education can alter the very nature of higher education because of the change in the nature of faculty involvement:

The fundamental difficulty with institutions that rely heavily, or exclusively, on distance education is that they are characterized by a practice called 'unbundling.' In that practice, course materials are prepared by a 'content expert' and delivered by a 'faculty facilitator,' in a uniform manner, producing predictable and measurable 'outcomes' that fit uniform assessment tools. Such a process of turning education into modular units represents a basic change in an essential characteristic of higher education.

Perley, James & Tanguay, Denise Marie, "Accrediting On-Line Institutions Diminishes Higher Education," *The Chronicle of Higher Education: Colloquy* (Oct. 29, 1999), expressing concerns with regional accreditation of totally on-line institutions using traditional methods.

AAUP recommends the following:

The faculty member (or an appropriate faculty body) who teaches the course (or adopts a pre-existing course) for use in distance education shall exercise control over the future use, modification, and distribution of recorded instructional material and shall determine whether the material should be revised or withdrawn from use.

Moreover, additional compensation may be negotiated for faculty members involved in extensive revision and modifications of courses they develop.

The AAUP-Rider University collective bargaining agreement provides: "The faculty member will have the same responsibility for the selection and presentation of materials and points of view in a Distance Learning course as he/she would have in a traditional course." Art. XXXVI, 3.d. Furthermore, "[a]ll such courses must be approved by the department/program and by the appropriate APC. This review will occur even then the proposed Distance Learning course is a section of an already existing and approved course." Art. XXVI, 3.b.

The policy from the University of North Texas provides an example of how to address some of these concerns:

D. Revision Rights. Faculty members should normally retain the right to update, edit or otherwise revise electronically developed course materials that become out of date, or, in certain circumstances, should place a time limit upon the use of electronically developed course materials that are particularly time sensitive, regardless of who owns copyright in the electronically developed course materials. These rights and limitations may be negotiated in advance of the creation of the electronically developed course materials and may be reduced to

writing. Absent a written agreement, each faculty member will have the right and moral obligation to revise work on an annual basis in order to maintain academic standards. . . . University of North Texas, "Creation, Use, Ownership, Royalties, Revision and Distribution of Electronically Developed Course Materials," (Draft Policy Adopted by the Faculty Senate, 12/08/99).

B. Student-Faculty Interaction

Universities may be tempted to create mega-courses to make as much money as possible from them, especially in light of the substantial expenditures necessary to develop and provide on-line courses. The number of students is a critical factor, however, in determining how a course will be taught and what types of interaction will be most effective. If distance-education courses are expected to produce substantial interaction among students and faculty, the student-faculty ratio must be considered even if the technology makes it possible to reach a much larger number of students than a traditional course. See, e.g., University of Illinois faculty report, "Teaching at an Internet Distance," <<http://www.vpaa.uillinois.edu/tid/report/>>.

Given the overall mission of colleges and universities, the need for some form of socialization and interaction for students may be critical to the success and viability of many distance-education programs. See, e.g., "An On-Line Student Enjoys Class Flexibility but Misses Social Contact," *The Chronicle of Higher Education: Academe Today* (Dec. 8, 1999). On the other hand, some proponents of distance education have noted that the lack of personal interaction may encourage shy, quiet students to participate more actively electronically than they would in person.

Finally, the fact that students can participate in distance-education courses at times and places that suit their own schedules may mean that some students will be more well-prepared than they would be otherwise. Yet some students may need direct, personal interaction with a faculty member and fellow students to motivate and inspire them. According to a recent article in *The Chronicle of Higher Education*,

No national statistics exist yet about how many students complete distance programs or courses, but anecdotal evidence and studies by individual institutions suggest that course-completion and program-retention rates are generally lower in distance-education courses than in their face-to-face counterparts. . . . [S]everal administrators concur that course-completion rates are often 10 to 20 percentage points higher in traditional courses than in distance offerings . "As Distance Education Comes of Age, the Challenge is Keeping the Students," *The Chronicle of Higher Education: Academe Today* (Feb. 7, 2000).

C. Grading and Evaluations

Distance education programs have begun to raise questions about how to grade students whom the faculty member has never met, how students are to evaluate faculty, and how to ensure that the students themselves (rather than surrogates, for example) are participating in the course, taking the examinations. Thus, distance-education programs must include safeguards to ensure

that students are held to the same standards of academic honesty as students in traditional courses.

Students enrolled in distance-education courses should be held to the same requirements of academic honesty as students enrolled in traditional courses. In addition, protections should be built into the collective bargaining agreement to ensure that students have the opportunity to evaluate faculty, and faculty should have protections to ensure that faculty members are evaluated fairly. In the end, "Faculty members participating in the distance-education program shall be evaluated in the same manner as all other faculty members in accordance with the appropriate provisions of the collective bargaining agreement or institutional policy." At the same time, that evaluation form should be modified to address issues relevant to distance-education courses. For example, a question that addresses technological difficulties should be included, but should not reflect positively or negatively on the faculty member's teaching because that is an institutional responsibility.

Technical difficulties can also hamper the ability of students to participate fully or to complete course requirements. For example, in the fall of 1999, more than half of the 1,900 students enrolled in an experimental on-line course at the University of Iowa received F's on their midterm report cards. Many of them had not even started the course, and some of the lessons were not even up on the course website. The course was taught by a single professor (with help from 20 undergraduate teaching assistants), making it very difficult for the faculty member to have a sense of each individual's circumstances. Although such problems already exist in large lecture courses, they are exacerbated by the nature of distance education and the lack of face-to-face contact.

IV. Institutional Support and Compensation

Significant resources are required to develop and maintain distance-education programs. Faculty members must give thought to how materials will be presented and how students will be evaluated, and must also become familiar with the technologies of instruction prior to delivery of distance-education courses. Accordingly, faculty members charged with these responsibilities may need significant release time from ordinary teaching duties while developing such courses. See AAUP "Report on Distance Education and Intellectual Property Issues," *Academe* (May-June 1999). Once a course has been developed, a faculty member also needs to figure out how best to maintain contact with his or her students.

A. Faculty Workload/Teaching Responsibility

Faculty workload and salary policies should take these types of considerations into account. Anecdotal evidence "suggests that investment of faculty time involved in teaching a distance education course is substantially greater than that required for a comparable traditional course. The time spent on-line answering student inquiries is reported as being more than double the amount of time required in interacting with students in comparable traditional classes." AAUP, "Special Committee on Distance Education and Intellectual Property Issues: Sample Language for Institutional Policies and Contract Lineage" (Dec. 3, 1999).

In terms of enrollment, class size should be based on pedagogical considerations, and "[l]arge sections should be compensated by additional credit in load assignment in the same manner as traditional classes." *Id.* The AAUP-Rider University contract provides: "Enrollment maximums for Distance Learning Courses will be no greater than for the same or similar level courses offered by that department or program." Art. XXVI, 3.e.

The extra time required by faculty to prepare distance education courses should be additionally compensated either financially or the form of a credit toward load assignment.

Furthermore, faculty regular in-the-office hours for those teaching on-line courses may not be helpful to students; accordingly, faculty members may determine whether some of the expected office hours may be held on-line.

Moreover, that assignment of faculty to distance-education courses should be voluntary, not mandatory. The current AAUP-Rider University Contract provides: "No faculty member will be required to develop or teach a Distance Learning Course." Article XXVI, c.

Accordingly, distance-education offerings should not reduce on-campus offering to the point where a faculty member must teach distance-education courses to teach a full load. As discussed above, these issues should be addressed in writing in collective bargaining agreement policies, faculty contracts and/or institutional policies before the commencement of such work.

B. Technical Assistance

To carry out their instructional responsibilities, faculty members will need technical training and support. As noted in the AAUP report, however,

The technical and administrative support units responsible for maintaining and operating the means of delivering distance-education courses and programs are usually separate from particular academic departments or units which offer those courses and programs. *Id.* at 42. Accordingly, faculty members will need to be able to call upon these technical resources as needed throughout the duration of distance-education courses.

V. Use of Intellectual Property

Faculty members involved in distance-education courses are users as well as creators of intellectual property. Thus, complicated questions involving "fair use" of intellectual property arise in the distance-education context--particularly in light of the increased ease of gaining access to and reproducing information in a variety of formats using computers. Questions arise not just in the development and dissemination of materials for on-line teaching purposes, but also in the development of coursepacks and web pages. As Professor Robert Gorman has aptly summarized,

The statutory provisions of fair use are open-ended. They require the consideration, and the weighing, of a number of factors: the purpose of the copying, whether it is done for commercial

or nonprofit purposes, the quantity copied, the nature of the copied material, and the adverse impact that copying may have on the market for the copyrighted work.

Gorman, Robert A., "Intellectual Property: The Rights of Faculty as Creators and Users," 84 *Academe* 3:14, at 17 (May-June 1998). Professor Gorman warns that the existing fair-use doctrine may not be applied in a manner that makes the boundaries clear for faculty members engaged in distance education:

[T]he very power that the new pedagogies have to bring education to geographically dispersed audiences may lead courts to apply the fair-use doctrine in an ungenerous manner; the larger the audience, after all, the fairer it might seem to allow the copyright owner to share in academic fees or at least to require that the instructor consult before embarking upon such new and potentially renumeration projects.

Id. at 17-18. Thus, institutions need to help faculty members understand their responsibilities as users of intellectual property when creating and disseminating course materials.

VI. Resolution of Disputes

In light of the rapidly changing legislative, policy, and technological environment, disputes about intellectual property rights and responsibilities on campus are inevitable. Accordingly, AAUP has recommended that colleges establish an Intellectual Property Committee--representing both faculty and administration--to play a role in both policy development and dispute resolution. See AAUP "Special Committee on Distance Education and Intellectual Property Issues: Suggestions and Guidelines" (Dec. 3, 1999), <http://www.aaup.org> (under "Distance Education & Intellectual Property Issues").

Some Helpful Resources from AAUP

For updated information on policies and reports from the American Association of University Professors (AAUP), see the AAUP website and click on "Issues." The Association has also recently established a Working Group on Distance Education to monitor and guide AAUP's response to developments in distance education, and an Intellectual Property Rights Strike Force to monitor developments regarding intellectual property rights and responsibilities. Additional information can be obtained by calling the national office at (202) 737-5900.

85 *Academe: Bulletin of the American Association of University Professors* 5 (Sep./Oct. 1999) Special issue on Education Bytes: The Problems and the Promise of Technology, including several articles on distance education.

85 *Academe* 3 (May/June 1999)

Contains the "Report of Special Committee on Distance Education & Intellectual Property Issues," including the "Statement on Distance Education" and the "Statement on Copyright."

84 *Academe* 3 (May/June 1998)

Special issue on Technology & Intellectual Property: Who's in Control?

Contains "Report on Distance Learning" (by AAUP's Committee R on Government Relations),

as well as "Report on Copyright Issues in Colleges and Universities" (by subcommittee of AAUP's Committee A on Academic Freedom and Tenure), and several articles on intellectual property issues.

83 *Academe* 4 (July/August 1997)

Contains the preliminary report on Academic Freedom and Electronic Communication (by subcommittee of AAUP's Committee A on Academic Freedom and Tenure).

82 *Academe* (May/June 1996)

Contains the preliminary report on The Use of Technology in College and University Instruction (by subcommittee of AAUP's Committee C on College and University Teaching, Research, and Publication).



Sample Distance Education Policy & Contract Language

By the Special Committee on Distance Education and Intellectual Property Issues

While proponents and opponents debate the implementation and effectiveness of distance education, colleges and universities across the country continue to implement programs utilizing broadcast and computer technology. In several recent documents, AAUP has addressed the issue, recognizing that the existence of distance education is not a future possibility, but a current reality where growth potential is virtually unlimited.

Although the Association accepts the reality of distance education programs, it continues to affirm the responsibility of faculty to play a significant or meaningful role in determining the appropriate implementation of these programs. In 1999, the AAUP adopted the [*Statement on Online and Distance Education*](#), which asserts the fundamental principle that:

As with all other curricular matters, the faculty should have primary responsibility for determining the policies and practices of the institution in regard to distance education. The rules governing distance education and its technologies should be approved by vote of the faculty concerned or of a representative faculty body, officially adopted by the appropriate authority, and published and distributed to all concerned.

Policies or contract language governing distance education programs, need to be developed within the context of the overall purposes of colleges and universities: "to preserve, augment, and transmit knowledge and to foster the abilities of students to learn" ([*Statement on Online and Distance Education*](#)). Whether within collective bargaining contracts or through some other understanding such as policies adopted through the faculty governance process, faculties need appropriate guidance and protection. The following sample language was taken from a review of existing policies, contracts, and AAUP policy statements, and may be modified to fit varied circumstances.

Matters to Address

- General Definitions
- Academic Freedom
- Working Conditions
- Workload; including Compensation, Appointment & Evaluation
- Technical Support

- Intellectual Property
- Miscellaneous

General

Be sure to refer to all types of technology and incorporate all non-traditional media. Make your language broad so that it will not be out of date as technology changes.

The Parties recognize that advances in technology, as they relate to this collective bargaining agreement (policy), may allow for the development of technologically innovative methods of instruction. The terms "Distance Education" or "Distance Learning" as used herein refer to instruction where the teacher and the student are separated geographically so that face-to-face communication is absent; communication is accomplished instead by one or more technological media. This communication consists of live or recorded visual presentations and material using direct signal or cable, transmission by telephone line, fiber-optic line, digital and/or analog videotape, audiotape, CD-ROM, computer or internet technology, email or other electronic means, now known or hereafter developed, utilized to teach any course originating from or sponsored by X institution. "Course" refers to any class offered for credit or otherwise required for a degree.

Academic Freedom

Academic freedom applies to both distance education and traditional classroom instruction.

Faculty members engaged in distance education shall have academic freedom as teachers and researchers in full accordance with the provisions of the 1940 [*Statement of Principles on Academic Freedom and Tenure*](#), including "freedom in the classroom in discussing their subject" and "full freedom in research and in the publication of the results."

Methods of presentation and course materials are to be under the control of the faculty member assigned to develop and/or teach the distance education course. Oversight by the faculty member's colleagues within the department or program shall be subject to the usual norms and responsibilities of supervision and oversight associated with the functions of the department.

Selection of Materials

Individual faculty members should have the same responsibility for selecting and presenting materials in courses offered through distance education technologies that they have in those offered in traditional classroom settings. For team-taught or interdisciplinary courses and programs, the faculty involved should share this responsibility.

Quality Control of the Curriculum

Make sure that the same procedures are used for faculty oversight in distance education courses as in any other course.

Distance education courses (or modifications thereto) shall comply with all of the standard practices, procedures, and criteria which have been established for traditional in-the-classroom courses including but not limited to, faculty involvement at the level of course development and approval, selection of qualified faculty to teach the course, pedagogical determinations about appropriate class size, and oversight of all final course offerings by the appropriate faculty committee to ensure conformity with previously established traditions of course quality and relevance to programs.

Working Conditions

Workload/Teaching Responsibility. The time needed to develop a distance education course should be carefully considered. The Association recognizes that evidence documenting the amount of work required for distance education courses remains largely anecdotal. Every attempt should be made to ensure that more definitive information is developed. Some campuses have held roundtables among the faculty to collect actual data on that campus. This practice has proven successful in those cases. In the absence of more definitive data, workload provisions should take into account the anecdotal evidence that distance education course development is taking two to three times as long as comparable courses taught in the traditional manner. The same evidence suggests that the investment of faculty time involved in teaching a distance education course is substantially greater than that required for a comparable traditional course. The time spent online answering student inquiries is reported as being more than double the amount of time required in interacting with students in comparable traditional classes.

Enrollment. Determination of class size for a distance education class should be based on pedagogical considerations. Large sections should be compensated by additional credit in load assignment in the same manner as traditional classes.

Preparation. Faculty who teach in distance education programs should be additionally compensated for the extra time required to prepare for their courses. This compensation should be in the form of credit toward load assignment in order to promote quality, or can be financial.

Compensation. Courses taught via distance education may be included as part of the faculty member's regular load, or may constitute an overload, or a combination of both. The teaching responsibilities as they relate to assignments, scheduling, syllabi, papers and tests, shall be no different from those of the corresponding traditional course sections. Grades will be issued using the normal University procedures.

Faculty members teaching a course utilizing distance-education technology for the first time shall be provided course load reductions to properly prepare the course. This reduction should be provided prior to the offering of the course, and may be supplemented with an additional reduction during the first term the course is taught. Acceptance of these reductions constitutes agreement to teach two additional sections of the course over the next three terms. However, if after the course has been taught for the first time the administration or the department deems (for academic, financial, or other reasons) that it is not viable/practicable to teach it again using the distance-education format, the faculty member shall be relieved of this obligation.

Faculty members shall not be required to travel to distance education off-campus sites. If the faculty member deems it appropriate to visit an off-campus site, the faculty member will receive reimbursement for travel at the normal University rates.

In the event that the institution makes any modifications to the distance education course(s) and/or delivery systems which increase or substantially alter the faculty member's workload, the university shall be required to notify the union at least forty-five (45) days prior to the effective date of the modifications, in order to negotiate with the union over increased compensation and workload.

Online Office Hours

Discussions should occur and agreement should be reached on how the faculty member teaching a distance education course will hold office hours for the distance-education students. Regular office hours may not be helpful for the students.

A faculty member teaching a distance-education course shall conduct the normally expected total number of office hours. In order to accommodate distance education student needs, if it is deemed appropriate by the faculty member, some of the normally expected office hours may be held online to conduct business and consult with students utilizing technology.

Teaching Appointments

From the AAUP [*Statement on Online and Distance Education*](#):

The precise terms and conditions of every appointment should be stated in writing and be in the possession of the faculty member and the institution before the faculty member is assigned to utilize distance education technologies in the delivery of instructional material in a course for academic credit. No member of the faculty should be required to participate in distance-education courses or programs without adequate preparation and training, and without prior approval of such courses and programs by the appropriate faculty body.

We should note that some individual chapters have negotiated agreements that make the assignment of faculty to distance education courses voluntary, not mandatory.

Distance Education Courses Should Not Reduce the On-Campus Programs or Faculty

Care should be taken to ensure that on-campus programs are not jeopardized by distance-education courses. The offerings should not reduce on-campus offerings to the point where a faculty member must teach distance-education courses to maintain a full load. Distance education should enhance not replace on-campus programs.

The use of distance education technology shall not be used to reduce, eliminate, or consolidate full-time faculty positions at the college or university. There will be no reduction in the number of full-time teaching positions as a result of distance-education classes being added to the class schedule. No prerecorded form of instruction shall be employed by the institution for the purpose of replacing faculty members, in whole or in part, regardless of the technology utilized.

Technical Assistance

The [Statement on Online and Distance Education](#) points out that the "institution is responsible for the technological delivery of the course." This means that the institution shall ensure that the necessary technology and equipment is identified and in place, that the institution shall provide appropriate training for faculty members, and that the institution shall ensure that faculty members have access to adequate technical support personnel.

Available Technology and Equipment

Prior to distance education courses being taught, the technology and equipment needs should be identified and in place. The institution will provide the faculty member with the necessary equipment to teach the distance education course.

Training for Teaching

Prior to distance education courses being taught, appropriate training both technical and curricular should be available to potential users. Any faculty member teaching a distance education course for the first time will receive training for which he or she will receive a one time payment. If new technologies are added, further training will be offered and the faculty member will be compensated at a hourly rate. If the necessary training is not available on campus, the college/university shall arrange for and pay the costs of any special training required by the faculty member.

Availability of Assistance

Prior to distance-education courses being taught, appropriate forms of assistance should be made available to the faculty member and the students. The institution will provide adequate support services at both the sending and receiving site for all distance education classes. Further, the institution will provide adequate security for all faculty members teaching distance education courses. Provisions will be made for clerical, technical, and library support as needed. In addition, graduate assistants and/or student employees will be made available on a priority basis to support faculty members in the delivery of distance-education courses.

Assistance will be provided by the college or university, to develop study guides, teaching aids, and other course materials, and in clearing copyrights for use of material in the course.

Intellectual Property

Ownership of Materials

The materials created by faculty members for distance-education courses should be treated in exactly the same fashion as materials created by faculty members for traditional courses. For further information, please see the [AAUP Statement on Copyright](#) (also available upon request from academicfreedom@aaup.org).

Changing and Updating Materials & Re-transmission of Courses

The AAUP [Statement on Online and Distance Education](#) asserts that a "teacher's course

presentation should not be recorded without the teacher's prior knowledge and consent. Recordings of course material are academic documents, and thus, as with other works of scholarship, should have their author or creator cited accordingly." The [Statement on Copyright](#) asserts faculty ownership of the copyright of traditional academic works "regardless of the physical medium" in which they appear. (Institutions may be reimbursed for the technical expenses of producing recordings of courses and presentations.)

Courses and course presentations shall not be recorded without prior knowledge and consent of the faculty member. Such recordings are not to be reused or revised without the written consent of the faculty member.

Copyright of recordings of courses and course presentations shall be owned by the faculty member(s) as in the case of traditional course materials.

The faculty member (or an appropriate faculty body) who creates the course (or adapts a pre-existing course) for use in distance education shall exercise control over the future use, modification, and distribution of recorded instructional material and shall determine whether the material should be revised or withdrawn from use.

Additional compensation may be negotiated for faculty members involved in extensive revision and modifications of courses they developed.

Miscellaneous

Academic Honesty

Students taking distance-education courses should be held to the same requirements of academic honesty as students taking traditional courses.

The University will ensure that safeguards have been built into the distance-education course format to require that students be held to the same standards of academic honesty as students in traditional courses.

Evaluation of Class & Faculty Member

Protections should be built into the collective bargaining agreement or the institutional policy to ensure that students have the opportunity to evaluate a course taken via distance education. There should also be safeguards to ensure that the faculty member is evaluated fairly.

The institution shall implement a process to assure that students are able to evaluate the teaching performance of faculty members who offer courses taken via the distance-education format. Distance-education equipment shall not be used to evaluate faculty performance. Faculty members participating in the distance-education program shall be evaluated in the same manner as all other faculty members in accordance with the appropriate provisions of the collective bargaining agreement or institutional policy. If any classroom observations or evaluations take place, the observer shall be in the same room as the faculty member. No outside visitor shall be allowed unless the faculty member agrees in advance to the visit.

Tuition & Fees

Appropriate tuition and fees should be charged for a distance-education course to assure that a department or college is not losing money.

The tuition and fees charged for a distance-education course shall be set by the administration taking into consideration the added cost of this teaching format. No department or college shall incur any additional financial expenses for offering a course via the distance-education format.

Ten Reasons Why You Should Care Whether You Own Your Online Course (MOOCs or Not)

By Cary Nelson

1. Do you want your U to be able to hire part-time faculty at slave wages to teach the course you designed—even if you were paid fairly for it?
2. Do you want to exercise some ethical and professional authority over how your course is used?
3. Do you want to retain the right to revise and update your online course as you see fit, or do you want to give that right to your U? Do you want the U to have the right to revise a course as *they* see fit?
4. Do you want your U to have the right to market segments of your course separately, perhaps without giving you credit?
5. Do you want the U to be able to insert lectures, powerpoints, graphics, or assignments by others into your course without your permission?
6. Do you want to give the U the right to ask someone else to update your course if you are still willing to do so? Might that person have a different agenda, different values, different intellectual commitments?
7. Do you want to retain the right to use elements of the course in other projects, perhaps another course or a textbook?
8. Do you want to retain the right to offer the course at another institution if you move?
9. Do you want to retain the right to offer the course on a second platform, or do you want the U to own the course and be able to deny you that right?
10. Do you want the right to design a course for another platform/distributor from the outset, perhaps because you think they have a larger distribution network or because you think their software is better, or are you willing to let your U control all your copyrightable intellectual property?

A faculty member wanting to retain copyright to online instructional materials could insist on signing a license that granted the university the right to use the material, without granting the U ownership. But the reality is one faculty member may not have the clout to protect his or her rights. In most cases it's going to take collective action by a faculty senate or a contract negotiating team to secure and preserve those rights for everyone—either in a FACULTY HANDBOOK or a COLLECTIVE BARGAINING CONTRACT.

C150: Political Activities of UNM Faculty

Approved By: Faculty and Board of Regents

Effective Date: **Draft 1/3/16**

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 and Board of Regents

POLICY RATIONALE

The University of New Mexico (UNM) recognizes and approves the right of free speech and expression of opinion on any subject by any member of the UNM community, whether the subject relates to on- or off-campus issues. UNM faculty members are citizens and, like other citizens, are free to engage in political activities so far as they are able to do so consistent with their obligations as teachers and scholars, and in accordance with applicable policies and laws. This Policy document provides policies and procedures pertaining to the political activity of UNM faculty.

POLICY STATEMENT

This Policy pertains to extramural political activities of faculty and is not intended to place any restrictions on the academic freedom of faculty members. Academic freedom is defined in Section B. of the Faculty Handbook and includes, but is not limited to the following:

- “Faculty are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.”
- “Faculty are entitled to full freedom in research and in publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.”

Political Activity

Many kinds of political activity (e.g., holding part-time office in a political party, seeking election to any office under circumstances that do not require extensive campaigning, or serving by appointment or election in a part-time political office) are consistent with effective service as members of a faculty. Other kinds of political activity (e. g., intensive campaigning for elective office, serving in a state legislature, or serving a limited term in a full-time position) may require that the ~~professor~~ faculty member to seek a leave of absence from the University.

1. In recognition of the legitimacy and social importance of political activity by faculty members, UNM should provide institutional arrangements to permit it, similar to those applicable to other public or private extramural service. Such arrangements may include the reduction of the faculty member's workload or a leave of absence for the duration of an election campaign or a term of office, accompanied by equitable adjustment of compensation when necessary.

2. Faculty members seeking leave should recognize that they have a primary obligation to UNM and to growth as educators and scholars, and they should be mindful of the problem which leaves of absence can create for administration, colleagues, and students. If adjustments in their favor are made, such as a reduction of workload, they should expect them to be limited to a reasonable period. A leave of absence should be sought by anyone who becomes or anticipates becoming overly committed to either a major political campaign, an appointive post in an agency of government, an elective position in public office, or to any political activity which results in interference with University function. Such leave should not be automatic and should be governed by the priority needs and considerations of the department, school, college, or division concerned.

3. A leave of absence incident to political activity should come under the University's normal rules and regulations for leaves of absence. Such a leave should not affect unfavorably the tenure status of a faculty member, except that time spent on such leave from academic duties need not count as probationary service. The terms of a leave and its effect on the professor's status should be set forth in writing.

4. All such activity, except that clearly of a consultative nature or under contract through UNM and which is directly in the field or fields of one's professional competencies, should be entirely disassociated from one's University relationship. By this is meant that the faculty member should not create the impression that he/she is acting either for, in behalf of, or with the approval of UNM rather than as an individual citizen. Also, care should be taken not to use UNM supplies, postage, or clerical time for such activities.

5. An advisory opinion may be requested from the Academic Freedom and Tenure Committee about the meaning or application of this policy.

APPLICABILITY

All UNM academic faculty and administrators.

DEFINITIONS

Term of Office. The COG task force asks would the leave of absence pertaining to election to the state legislature be for full years or only for the length of each the legislative session and any related duties, such as committee appointments?

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
--

WHO SHOULD READ THIS POLICY

- [Faculty](#)
- [Department Chairs, academic deans and other academic administrators and executives](#)

RELATED DOCUMENTS

UNM Regents' Policy Manual

[Policy 2.1](#) "Free Expression and Advocacy"

[Policy 6.5](#) "Political Activity by Employees"

Faculty Handbook

[Section B](#) "Academic Freedom and Tenure"

[Policy C240](#) "Leave of Absence Incident to Political Activity"

University Administrative Policies

[Policy 2060](#) "Political Activity"

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

[Policy 3740](#) "Media Response"

CONTACTS

[Direct any questions about this policy to the Office of the Provost.](#)

PROCEDURES

Political Activity Guidelines

The following guidelines apply to all UNM employees who are candidates or who campaign for candidates for political office:

1. Campaigning during work hours at the University is prohibited.
2. University supplies or equipment for campaign purposes may not be used.
3. Personal political views or views of any candidate may not be represented as being those of the University.
4. Employee mailing labels (either home or office addresses) will not be produced by the University for distributing campaign materials. (A candidate may obtain addresses from the UNM student, faculty, staff directory or other published address lists.)
5. Campaign material will not be distributed through Campus Mail unless it has been received from a federal post office and is properly postmarked. Campus Mail may not be used internally to distribute campaign literature.

DRAFT HISTORY

January 3, 2016—Revised draft in new format with addition for religious accommodations.

HISTORY

September 1970—Approved by Regents

April 1970—Approved by Faculty

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

C240: Leave of Absence Incident to Political Activity

Approved By: Faculty and Board of Regents

Effective Date: **Draft 1/3/16**

Responsible Faculty Committee: [Policy Committee](#)

Office Responsible for Administration: [Office of the Provost](#)

Note: This entire policy is excerpted from C150. Is this separate policy needed? It appears to be done to place it in the leave section, perhaps so if a faculty member is searching for available leaves, they will find it. Is there another/better way to accomplish this purpose. However the approval dates seem more extensive than those for C150.

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

POLICY RATIONALE

In recognition of the legitimacy and social importance of political activity by faculty members, UNM should provide institutional arrangements to permit it, similar to those applicable to other public or private extramural service. Such arrangements may include the reduction of the faculty member's workload or a leave of absence for the duration of an election campaign or a term of office, accompanied by equitable adjustment of compensation when necessary. (*excerpted from the Faculty Handbook Policy C150 "Political Activities of UNM Faculty"*)

POLICY STATEMENT

(The following is excerpted from the Faculty Handbook section entitled, "Political Activities of UNM Faculty")

A leave of absence incident to political activity should come under the University's normal rules and regulations for leaves of absence. Such a leave should not affect unfavorably the tenure status of a faculty member, except that time spent on such leave from academic duties need not count as probationary service. The terms of a leave and its effect on the professor's status should be set forth in writing.

APPLICABILITY

[All UNM academic faculty and administrators.](#)

DEFINITIONS

Term of Office. The COG task force asks would the leave of absence pertaining to election to the state legislature be for full years or only for the length of each the legislative session and any related duties, such as committee appointments?

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

- [Faculty](#)
- [Department Chairs, academic deans and other academic administrators and executives](#)

RELATED DOCUMENTS

UNM Regents' Policy Manual [Policy 6.5](#) "Political Activity by Employees"
Faculty Handbook [Policy C240](#) "Leave of Absence Incident to Political Activity"
University Administrative Policies [Policy 2060](#) "Political Activity"

CONTACTS

[Direct any questions about this policy to the Office of the Provost.](#)

PROCEDURES

DRAFT HISTORY

January 3, 2016—Revised draft in new format with addition for religious accommodations.

HISTORY

8/29/78—Approved by Regents
5/10/78—Approved by Faculty
5/18/75—Approved by Regents
4/8/75—Approved by Faculty
2/1/75—Approved by Regents
3/14/74—Approved by Regents
3/12/74--Approved by Faculty

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

Policy Committee Work Status Table (updated 2/12/19)

(Rows shaded orange indicates active with FSPC; shaded purple indicates on hold pending action by another group)

Policy #	Brief Title	Date Last Revised	Date Added to List	Summary of Recommended Action	Related Documents & Notes or Concerns	Target Cycle	FSPC Action	Campus Comment Period	Faculty Senate Action	FH Status
NA	Policy Approval Table	N/A	November 2015	Identify the required approvals for all FH Policies						
A52.1.1	FMRC Charge		Feb 2018	Recommended by AF&T linked to C07		Spring '19 ???	AF&T and FSPC approved 3/7/18 to go to Operations. Operations placed on hold pending review.			
A60	Faculty Senate Bylaws	4/27/04	11/4/15	Major changes required to reflect the Faculty Senate restructure. COG taskforce asked FSPC to add reference to RPM 1.7. Final action awaiting FS report to COG		Spring '19	Drafts reviewed by FSPC 2/7/18 and sent to Operations 2/27/18 for review			
A61 – A70	Council and Committee Charges			Charges need to be developed for new councils and committee charges need to be revised to reflect FS restructure in accordance with revision of A60 above		Spring '19	Drafts reviewed by FSPC 2/7/18 sent to Operations 2/27/18 for review			
A61.8	Faculty Ethics and Advisory Committee	unknown	June 2015	The Ethics Committee wants to update their charge. Referred to AF&T		Spring '19	AF&T recommendation for the FMRC linked to C07 being discussed with Operations			
Sec B	AF&T			Professor of Practice title. But approval date (1/25/13) does not seem to be added.						
C05	Rights and Responsibilities at UNM	July 1982	12/2/15	COG taskforce asked FSPC to perform a comprehensive review. AF&T recommend change to State of Emergency and move disciplinary language to C07		Spring '19	FSPC approved 3/7/18 to go to Operations. Operations placed on hold pending review.			
C07	Faculty Disciplinary Policy	3/22/11	5/6/15	Assigned to AF&T for review. 1) need to add peer hearing procedures. 2) C Parker has implementation concerns. Stephens working with AF&T on revision		Spring '19	AF&T and FSPC approved 3/7/18 to go to Operations. Operations placed on hold pending review.			
C50	Faculty Contracts	unknown	3/6/14	Update and possibly remove annual leave issues if C205 developed			Referred to C Parker. Sent memo to C Parker to remind her			
C150	Political Activities of UNM faculty	Sept 1970	12/2/15	COG taskforce asked FSPC to perform a comprehensive review.			On FSPC 2/13/19 agenda			
C170	Endowed Chairs	10/15/13		Add definitions for endowed chairs and named professors. ON HOLD pending AF&T	Related to Sec B issues above		Researched other colleges and universities for definitions			
C200	Sabbatical Leave	05/14/04	01/29/14	Good enough for now, but needs to be updated.	RPM 5.4; May require BOR approval	???	Addressed campus comments. FSPC sent draft to AF&T for review. M Baum thinks AF&T requested policy not be changed	2/18/15 to 3/20/15		
C205	Annual Leave	Unknown	01/29/14	Propose a policy be written that reflects current practice and removes annual leave information from C50 Faculty Contracts Policy	C50 RPM 5.4; May require BOR approval. Look at HSC policies for outside work	Depends on C50	Tied to C 50 included in memo to be sent Parker to remind her			

C210	Sick Leave	08/29/78	01/29/14	Out of date. Needs to be completely rewritten	C50 RPM 5.4; May require BOR approval		Discussed at 2/4/15 meeting. Per FSPC Chairs leave alone.			
C225	Professional Leave	8/29/78	11/4/15	COG taskforce asked FSPC to add reference. FSPC identified a few other required changes		Spring '17	Approved by OPS for campus comment.	Ends 4/19/16	Approved by FS 4/26/16	Needs approval of faculty and Regents
C230	Military Leave	8/29/78	10/13/14	Review for consistency with revised admin policy; need to address tenure and also new military recruiting policy which Kim will send me	UAP 3425 Military recruit law	???	Discussed at 2/4/15 meeting and again at 12/5/18 meeting. On FSPC 2/13/19 agenda			
C240	LOA Incident to Political Activity			See C 150 above			On FSPC 2/13/19 agenda			
C250	Academic Leave for Lectures	10/8/13	July 2015	Need to align with proposed changes to Sabbatical		??? depends on C200				
C290	Ombuds for Faculty	new	May 2016	The C09 Respectful Campus Taskforce suggested the Handbook needed a policy on Ombuds for Faculty similar to the staff policy			FSPC approved 12/5/18 to go to Operations to go out for campus comment			
C305	Emeriti Policy	4/27/10	12/20/15	Add dept. processes and criteria for emeriti status. Under consideration by AF&T						
D75	Classroom Conduct	Unknown	10/5/16	Reassign from info item to Policy document put in new format.			FSPC on hold until competition of D175 & D 176. On FSPC 2/13/19 agenda.			
D170	Student Attendance	unknown	12/2/15	COG taskforce asked FSPC to perform a comprehensive review. Taskforce work progressing	Pathfinder, Dean of Students pro, Catalog	Fall '18	Approved by FSPC; awaiting Operations permission to send out for comment. Sent out for comment	1/30/19 – 3/1/19		
D175	Student Grievance Procedure	5/13/2014	June 2016	Inconsistencies between Pathfinder and FH; identified by DOJ as needing immediate attention			Approved by FSPC; awaiting Operations permission to send out for comment. On FSPC 2/13/19 agenda.	4/7/17 to 5/10/17		
D176	Graduate Student Grievance Procedure	3/1/17		Remove graduate students from d175 and expand D176			Approved by FSPC; awaiting Operations permission to send out for comment. On FSPC 2/13/19 agenda.			
E40	Research Misconduct	4/13/04	9/2015	Address ORI Concerns	RPM 5.13 may need to be revised.	Fall '17	ORI endorses per Dr Larson. RPM 5.13 may need to be revised.	4/7/17 to 4/21/17	Approved by FS 4/25/17	Posted Sept 2017 May need to be approved by Regents—previous versions were

Recently Completed Work

A53.1	Policies Applicable to Faculty	12/22/2015	3/27/2018	Update to reflect new and revised policies		Spring '18	Approved by FSPC 4/4/18	NA	Approved by Operations April 2018	Posted
A61.6	IT Use Committee		6/7/17	IT Use Committee requested changes		Spring '18	Approved by FSPC 4/4/18	3/23/18 - 4/22/18	Approved by FS 4/24/2018	Posted
A66	Policy Committee	11/27/07	6/7/1715	Update Committee membership.		Fall '17	FSPC approved draft	10/13/17 11/13/17	Approved by FS 11/28/2017	Posted
A91 Standard	Research Centers and Institutes	4/28/15		Need to post standard on FH webpage						POSTED to FH Resources page
C20	Employment of UNM graduates	03/12/51	01/29/14	Comprehensive review to address diversity and recruitment & NM Minority Doctoral Loan-for Service Program	RPM 5.3 Does not need to be revised	Fall '17	FSPC and Operations recommended deletion, but based on campus comments revised draft to reflect current practices	4/17/17 – 5/18/17 and 10/13/17 11/13/17	Approved by FS 11/28/2017	Posted
D50	Assignment of Credit Hours	NEW	2/26/18	HLC requires an institutional policy	Glossary of Terms Catalog	Spring '18	Out for campus comment. FSPC approved draft	3/23/18 - 4/22/18	Approved by FS 4/24/2018	Posted
D90	Posthumous Degrees			Revise to address new situations		Fall '17	FSPC approved; Approved by OPS for campus comment.	10/13/17 11/13/17	Approved by FS 11/28/2017	Posted
E40	Research Misconduct	4/13/04	9/2015	Address ORI Concerns	RPM 5.13 may need to be revised.	Fall '17	ORI endorses per Dr Larson. RPM 5.13 may need to be revised.	4/7/17 to 4/21/17	Approved by FS 4/25/17	Posted Sept 2017
E90	Human Beings as Subjects in Research	11/15/1966	1/27/16	IRB and Dr. Larson propose revisions	RPM 5.13 & 5.14; FH E40	Fall '17	ORI endorses per Dr Larson. RPM 5.14 may need to be revised.	March 2017	Approved by FS 4/25/17	Posted Sept 2017
E110	Conflict of Interest in Research	5/12/2003	5/2017	Coffee Brown requesting change to definition of significant financial int.	RPM 5.10	No action	Policy Committee not making requested change on advice of legal FSPC advised by legal counsel proposed change is contrary to state law.			Issue Closed—No changes on advice of legal
F10	Role and Functions of UNM Branch Community Colleges		4/20/17	Branch campus taskforce working on updating policies			FSPC approved; Approved by OPS for campus comment.	10/13/17 11/13/17	Approved by FS 11/28/2017	Posted
F70	Articulation, Degree Approval ...		4/20/17	Branch campus taskforce working on updating policies		Spring '18	FSPC addressed campus comments, FSPC approved to go out for subsequent comment period.	2/27/18 – 3/29/18 October 2018 ???	Approved by FS 1/22/19	Posted Feb 2019
F80	Representation on FS and Its Committees		4/20/17	Branch campus taskforce working on updating policies		Spring '18	FSPC approved 12/6/17, Operations approved to go out for campus comment.	2/27/18 – 3/29/18	Approved by FS 4/24/2018	Posted
F90	AF&T Appointment and Grievance Procedures		Oct 2017	Branch campus taskforce working on updating policies			Approved by AF&T and FSPC. Went to faculty for vote and was approved.		Approved by full faculty in Nov 2017	Posted
F100	Teaching Load		4/20/17	Branch campus taskforce working on updating policies			Approved by AF&T and FSPC. Went to faculty for vote and was approved.		Approved by full faculty in Nov 2017	Posted