

Administrative Policies and Procedures Manual - Policy 2720: Equal Opportunity and Prohibited Discrimination and Related Misconduct (Interim)

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Authorized by RPM 2.3 ("Equal Opportunity and Affirmative Action for Employees and Students")

Process Owner: Director of Equal Opportunity

Note: This policy was formerly numbered UAP 3100.

1. General

The University of New Mexico is committed to providing a safe and inclusive environment that draws on the diversity of its members. The University prohibits discrimination, harassment, or related retaliation based on protected class (as defined in Section 2) in any educational and work environment. It is critical to this commitment that anyone who experiences, witnesses, or is aware of such discrimination, harassment, or retaliation report the behavior pursuant to Section 8 below.

The University adheres to all federal and state civil rights laws and regulations prohibiting discrimination. UNM does not discriminate against any applicant, employee, or student based on protected category. This policy covers nondiscrimination in both employment and access to educational opportunities. Any member of the UNM community who acts to deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of the UNM community, guest, or visitor on the basis of actual or perceived membership in a protected class is in violation of this policy.

The University is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA) as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified individuals with disabilities and provides for equal opportunities and accessibility to individuals with disabilities. Consistent with federal and state law, individuals with disabilities are entitled to access, support, reasonable accommodations, and academic adjustments.

The University is committed to protecting the rights of pregnant and breastfeeding employees, students, guests, and visitors, and provides necessary accommodations to students and employees (faculty, staff, and student employees) affected by pregnancy or childbirth in the same manner as other individuals unable to work or participate in their work or education because of their physical condition.

The University is committed to providing reasonable accommodation for the religious beliefs and practices of its students and employees.

The University is committed to fostering an environment of inclusiveness that respects an individual's preferred form of self-identification, including a name other than a legal first name and the pronoun that aligns with their gender identity. This policy prohibits gender-based discrimination, including discrimination based on gender-identity or expression, and affirms the right of individuals to use the gender-specific facilities consistent with their gender identity.

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

The University of New Mexico is committed to ensuring that University programs and activities are accessible to individuals who, as a result of national origin, are limited in English proficiency (LEP). Consistent with the requirements of Title VI of the Civil Rights Act of 1964 and Executive Order 13166, the University seeks to provide appropriate translation and interpretation services for persons with limited English proficiency.

The Office of Compliance, Ethics & Equal Opportunity (CEEEO) is the independent, impartial, and neutral campus entity designated to investigate issues that apply to civil rights. CEEEO reports directly to the University President to maintain optimal independence and impartiality. The CEEEO investigative process can be accessed [here](#).

This policy applies to the programs and activities of UNM, to conduct that takes place on the campus or on property owned and controlled by UNM, a UNM sponsored events, or in buildings owned or controlled by UNM or UNM's recognized student organizations.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to UNM work or educational programs including cyber harassment.

Regardless of where the conduct occurred, UNM will address complaints filed pursuant to this policy to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial UNM interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of UNM.

All vendors serving UNM through third-party contracts are subject to their employers' policies and procedures, or to these policies and procedures where their employer has agreed to be bound through their contracts.

UNM reserves the right to address conduct which may not meet the definition of discrimination in this policy, but which nonetheless creates a working or learning environment that is unproductive, unprofessional, or unwelcoming. Such conduct may be addressed through respectful conversation, remedial actions, education, other alternative resolution mechanisms, or discipline if appropriate. CEEO may further determine that items reported to it as discrimination should be referred to other UNM offices with more appropriate authority over the alleged misconduct, such as Human Resources, the Office of the Provost, EVP for Health Sciences, or the Dean of Students Office.

CEEEO also retains jurisdiction, under this policy and UAP 2745, to assess and investigate matters which constitute crimes under the VAWA (Violence Against Women Act) Amendments the Clery Act, which are outlined in UAP 2745. These acts include sexual assault, domestic violence, dating violence, and stalking and do not require that the acts be motivated by a protected status.

2. Definitions

1. "**Protected class**" or "**protected status**" means those personal traits, characteristics, statuses, and/or beliefs that are defined by applicable law as being protected from discrimination or harassment. UNM recognizes the following as protected statuses under federal and state law: age, ancestry, citizenship or immigration status, color, ethnicity, gender, gender identity, genetic information, military status, national origin (including limited English proficiency), physical or mental disability, pregnancy or related conditions, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation, and veteran status.
2. "**Discrimination**" prohibited by this policy broadly means conduct based on a protected class that treats an individual differently than similarly-situated individuals who are not in the protected class by excluding an individual from participation in, denying the individual the benefits of, or otherwise adversely affecting a term or condition of an individual's employment, education, living environment, or participation in a University program or activity. Differential treatment, disparate impact, and hostile environment harassment are types of discrimination prohibited by this policy.
3. "**Differential Treatment Discrimination**" occurs when people, whether an individual or a group, are treated differently than similarly situated individuals who are not in their protected class because of their membership in the protected class.
4. "**Disparate Impact Discrimination**" occurs when a policy or procedure creates a significant disparity in outcomes based on a protected status when the policy is applied. When assessing disparate impact, CEEEO also investigates whether there is a substantial, legitimate need for the policy or practice, and whether there is an alternative policy or practice that is equally effective in meeting the University's goals and results in lower disparity.
5. "**Hostile Environment Discrimination**" is conduct based on a protected status which is severe or pervasive, is objectively offensive, or which has the purpose or effect of unreasonably interfering with an employee's work performance and/or advancement or a student's academic performance and/or advancement, or creates an intimidating, hostile, or offensive work or academic environment.
6. "**Sex discrimination**" is discrimination based on sex, sex stereotypes, sex characteristics, gender identity, sexual orientation, pregnancy or related conditions, and sexual harassment. Sex discrimination also includes, but is not limited to, Sexual Misconduct. Sexual misconduct includes sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. These types of discrimination are separately addressed by UAP 2740 ("Sex-Based Discrimination Including Sexual Misconduct"). Please see that policy for additional information.

7. “**Discrimination**” and/or “**Harassment**” exists when harassment is sufficiently serious (i.e., severe/pervasive) and objectively offensive so as to deny or limit a person’s ability to participate in or benefit from the University’s programs, services, opportunities, or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual’s employment. In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Harassment that creates a hostile environment is prohibited by this policy. Whether a hostile environment exists is determined by considering all related circumstances.

8. “**Sexual Assault**” is an offense that meets the definition of rape, fondling, incest, or statutory as used in the FBI’s UCR program:

- Rape. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent.

9. “**Dating Violence**” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic abuse.

10. “**Domestic Violence**” is a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

11. “**Stalking**” is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

12. “**Retaliation**” means any action by an accused individual (i.e., Respondent) or by a third party to seek retribution or take materially adverse action against any individual or group of individuals involved in filing a complaint or report under this policy, filing an external civil rights complaint, participating in the investigation of a complaint or report under this policy, or reasonably opposing conduct made unlawful by this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual or group because of their complaint or participation.

13. “**Reasonable accommodation**” means any reasonable adjustment to a work, academic, or educational environment which provides equal opportunities to individuals with disabilities or serious medical conditions; for pregnancy and its related conditions; or for the religious observances, beliefs, and practices of students and employees.

14. “**Undue hardship**” is determined through a consideration of the following factors:

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

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

15. “**Interpretation**” is an immediate rendering of oral language from the source language into the target language.

16. “**LEP Individuals**” are individuals who do not speak English as their primary language or who have a limited ability to read, write, speak, or understand English. LEP Individuals may also be referred to as “LEP Persons.”

17. “**Qualified Translator or Interpreter**” is an in-house or contracted translator or interpreter who has demonstrated competence to interpret or translate through court certification or through another professional language skills assessment certification.

18. “**Translation**” is the conversion of written documents from one language into another language by a qualified translator.

19. “**Vital Documents**” are documents that contain information that is critical for obtaining or accessing the services, benefits, programs or activities offered by the University. Vital documents include but are not limited to the following: a) applications for enrollment, services, or benefits; b) consent and complaint forms; c) notices regarding an individual's rights or responsibilities; d) notices advising LEP Persons of the availability of free language assistance; and e) correspondence or notices that require a response from the recipient.

3. Prohibited Discrimination

This policy applies to the programs and activities of UNM, to conduct that takes place on the campus or on property owned and controlled by UNM, a UNM sponsored events, or in buildings owned or controlled by UNM or UNM's recognized student organizations.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to UNM work or educational programs including cyber harassment.

Regardless of where the conduct occurred, UNM will address complaints filed pursuant to this policy to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial UNM interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of UNM.
- All vendors serving UNM through third-party contracts are subject to the policies and procedures of their employers (or to these policies and procedures to which
- Any member of the University community or visitors whose acts deny, deprive, or limit the educational or employment [or residential and/or social] access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of this policy.

3.1. Differential Treatment

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

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

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

3.2. Disparate Treatment

The University prohibits unintentional discrimination as well as intentional discrimination such as differential discrimination as described in Section 3.1 and harassment as described in Section 3.3. Disparate treatment discrimination occurs when a policy that is neutral on its face excludes or negatively impacts employees protected class. The University considers the following factors in assessing disparate impact:

- Does the policy, test, or practice have a disparate impact on the basis of a particular Protected Class? This typically requires a statistical analysis.
- Is the policy, test, or practice job-related and consistent with business necessity?
- If job-related and consistent with business necessity, is there a less discriminatory alternative available? Does the policy, test, or practice have a disparate impact on the basis of a particular Protected Class? This typically requires a statistical analysis. 2. Is the policy, test, or practice job-related and consistent with business necessity? 3. If job-related and consistent with business necessity, is there a less discriminatory alternative available?

3.3. Other Discriminatory Conduct Based on a Protected Class

Harassment constitutes a form of discrimination that is prohibited by this policy. Harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law that created a hostile environment in a work or educational program.

UNM does not tolerate discriminatory harassment of any employee, student, visitor, or guest.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive. Examples include:

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens the health or safety of another based on protected class.
- Depriving, limiting, or denying educational or employment opportunities based on a protected class.
- Intimidation or implied threats or actions based on a protected class.
- Hazing; acts likely to cause physical harm or social ostracism when related to admission, initiation, pledging, or joining a group activity when based on a protected class.
- Bullying; repeated and/or severe behavior that is likely to intimidate or intentionally hurt another person physically or mentally when based on a protected class.

Violation of any of UNM's policies may constitute a civil rights offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or education benefits or opportunities.

UNM reserves the right to address offensive conduct and/or harassment that does not rise to the level of creating a hostile environment. Addressing such conduct will not result in the imposition of discipline under University policy, but may be addressed through respectful conversation, remedial actions, education, and/or other informal resolution mechanisms.

4. Freedom of Speech and First Amendment Protection

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

5. Hate/Bias Crimes and Incidents

A hate crime is a crime committed in whole or in part because of the victim's actual or perceived race, ethnicity, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, gender identity, and/or among these characteristics' intersections. Under New Mexico state law, hate crimes are "motivated by hate," meaning the commission of a crime with the intent to commit the crime because of the actual or perceived race, ethnicity, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity of the victim, whether or not the offender's belief or perception is correct. NMSA 1978, Section 31-18B-(1). A person who has experienced a hate crime should report the crime to the University of New Mexico Police Department by calling [277-2241](tel:277-2241), calling 911 in case of emergency, or by filing a [hate/bias incident report](#).

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

6. Reasonable Accommodation

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

6.1. Reasonable Accommodation for Religious Observances, Beliefs, and Practices

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

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

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

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

The Director of Equal Opportunity in CEEO or their designee serve as the University's Americans with Disabilities Act (ADA) Coordinator. Any applicant, employee, or visitor needing guidance on seeking a reasonable accommodation for disability should contact the Director of the CEEO. Once an accommodation has been put into place, the accommodation should be registered with the ADA Coordinator for tracking and implementation purposes. In addition, any students, employees, and applicants who feel that they have been denied a reasonable accommodation can file a complaint with CEEO pursuant to section 13 below. Visitors to the University who feel they have been denied a reasonable accommodation can utilize the process outlined in the University's [ADA Grievance Procedure](#).

6.3. Accommodation for Pregnancy and Related Conditions

The University is committed to protecting the rights of expecting persons and makes reasonable accommodations for pregnancy, [lactation](#), and conditions related to pregnancy for students, employees, and prospective students and employees. The University makes accommodations for expectant students and employees unless an accommodation has the end result of fundamentally altering the nature of the course or program, or have the end result of relieving, reallocating, or altering the essential functions of a job or place an undue hardship on the operation of the University.

Students, employees, and applicants to CEEO if assistance is needed. Please see [UAP 2760: \("Pregnancy or Related Conditions"\)](#) for additional information on the pregnancy accommodation and/or modification process.

7. Limited English Proficiency Requirements

Departments must take reasonable steps to ensure that LEP Individuals have meaningful access to their programs and activities. Meaningful access is language assistance that is accurate, timely, and effective and is available at no cost to the LEP Individual.

7.1. Document Translation Requests

When an LEP Individual requests a department translate a document from English to another language, the department must use a Qualified Translator. Departments should continually evaluate the extent to which they utilize Vital Documents to translate any document on an ad hoc basis or to translate Vital Documents frequently used by the Department. Information on the UNM-approved request services translation process is available at <https://www.ceeo.unm.edu>. Any costs associated with translation services are the responsibility of the requesting department.

7.2. Interpretation Services

Some LEP Individuals may feel more comfortable when a trusted family member or friend acts as an interpreter. When an LEP Person attempts to access department services and an interpreter is needed, the Department should inform the LEP Person that the Department can provide an interpreter for them at no charge, or they may use their own interpreter. Departments should also consider whether it is appropriate for a family member or friend to serve as an interpreter under the following circumstances: 1) in an emergency situation, 2) when the subject matter or situation requires a higher level of language competency, or 3) when there are concerns about confidentiality, privacy, or a conflict of interest. Departments cannot require LEP Persons to provide an interpreter and should not use their family members or friends as interpreters without the consent of the LEP Individual. LEP Persons also have the right to decline interpretation services.

If interpretation services are needed, Departments must use a Qualified Interpreter unless the individual requested that their friend or family member serve in this capacity and the Department informed the person of the availability of professional interpretation services. For information on UNM's interpretation services, visit <https://www.ceeo.unm.edu>. Any costs associated with professional interpretation services are the responsibility of the requesting department.

7.3. Admissions Language Requirements

The provisions in this policy do not override the minimum requirements for language proficiency applicable to all applicants for admission to the University. For more information visit <https://international.unm.edu/english-proficiency.html>.

8. Reporting and Investigations

It is the policy of the University to prevent and eliminate forms of unlawful discrimination in employment and educational settings. Persons who believe they have been discriminated against on the basis of a protected class are encouraged to contact CEEO.

Parties have the option of filing an informal or formal complaint with the Office of Compliance, Ethics & Equal Opportunity. An informal complaint will not trigger an investigative process, but will allow a Complainant the ability to seek supportive measures. A formal complaint will include a formal investigation and may culminate in a live hearing before a hearing officer or other decision maker.

The CEEO follows its [Grievance Procedure \(CGP\)](#) when addressing and investigating claims of discrimination. The CGP describes the procedures that apply when a complaint is filed pursuant to this section.

In some instances, the behavior at issue may be harassing, but not sufficiently severe, persistent, or pervasive as to constitute a discriminatory hostile work or learning environment. In such cases, the University may take steps to protect the safety and welfare of the students and employees involved and/or campus community by offering supportive measures, requiring training, or other informal processes. Information on these informal processes are in the CGP.

9. Disciplinary Procedure

The Faculty Handbook [Policy D175](#) and the UNM [Pathfinder](#) contain the disciplinary and grievance policies and procedures related the undergraduate, graduate and professional students, as well as visitors.

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

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

If, after the conclusion of the grievance procedure, including a live hearing, a student, faculty, or member Respondent has been found responsible for violating this policy related to an allegation of sexual assault, domestic violence, dating violence, or stalking, they will be disciplined pursuant to UNM disciplinary policies and procedures.

Students

Under the University's [Student Code of Conduct](#), a student who commits a violation of this Code, including an act of sexual assault, domestic violence, dating violence, or stalking, is subject to the following possible sanctions:

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

Students living in UNM residence halls are subject to the following possible sanctions for misconduct involving sexual assault, domestic violence, dating violence, or stalking occurring in the residence halls:

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

Visitors

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

- Verbal Warning;
- Written Warning;
- Probation;
- Removal from campus;
- Barred from campus;
- The sanctions of denial of admission, readmission, or employment by the University.

Faculty*

Unrepresented Faculty who are found to be in violation of this policy as it relates to an allegation of sexual assault, domestic violence, dating violence, or stalking may be subject to disciplinary action as provided in the [Faculty Handbook Policy C07 \("Faculty Disciplinary Policy"\)](#) including:

- Warning;
- Censure;
- Disciplinary probation
- Suspension without pay;

- Dismissal.

Staff**

Staff who are found to be in violation of this policy as it relates to an allegation of sexual assault, domestic violence, dating violence, or stalking may be subject to disciplinary action as provided in UAP 3215 (“Performance Improvement”) including:

- Letter of Improvement;
- Written Warning;
- Suspension;
- Discharge.

*Faculty Members of United Academics- UNM Unit 1: Censure, suspension without pay, termination

*Faculty Members of United Academics – UNM Unit 2: *Censure, suspension without pay, termination*

**Employee Members of United Staff - UNM: *Letter of improvement, written warnings/notice, suspension, discharge*

**Employee Members of the University of New Mexico Police Officer’s Association Albuquerque: *Letter of improvement, written reprimand/warning, suspension without pay, dismissal/discharge*

**Employee Members of Communications Workers of America: *Letter of improvement, written warning, suspension, discharge*

**Employee Members of the United Electrical, Radio and Machine Workers of America (United Graduate Workers of UNM): *Written reprimand, suspension without pay, discharge*

10. Mandatory Reporting Responsibility

When University faculty, administrators, and supervisors witness or receive a written or verbal report or complaint of discrimination or harassment, they are required to promptly notify CEEO. The University relies on its employees to notify CEEO of all disclosures of discrimination and harassment as defined in this policy. The University encourages all members of the University community to report all known or suspected discriminatory conduct. The University can take corrective action only when it becomes aware of issues. Therefore, it encourages persons who believe they have witnessed or experienced discrimination or harassment to come forward promptly with their inquiries, reports, or complaints. Nothing in this policy impedes individuals’ rights to pursue legal remedies or to contact outside administrative civil rights agencies in addition to the remedies provided in this policy.

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

10.1. Supervisors

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

1.1. Confidentiality

The University recognizes that individuals have a right to privacy; however, the University also has an obligation to address concerns and inquiries, to investigate and resolve civil rights claims, and to comply with state and federal disclosure rules, regulations, and laws. All complaints will be handled in a confidential manner to the extent possible. Information will be shared with parties in order to participate in the CEEO discrimination grievance procedure, among University employees or external parties on a need-to-know basis, as permitted under University policy, and as permitted or required by applicable federal and state law.

12. Retaliation

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

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

- Work related threats, warnings, or reprimands.
- Transfers to less prestigious work hours or duties.
- Engaging in activity that is likely to deter reporting pursuant to this policy.
- Trying to improperly influence or intimidate a witness or other party's involvement in the CEEEO process

13. Providing False Information

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

Notwithstanding this provision, any member of the University community who: knowingly gives false or materially inaccurate information; knowingly makes a false report of suspected misconduct or a subsequent false report of retaliation; or who knowingly provides false answers or information in response to an ongoing investigation may be subject to administrative action by the University including disciplinary action, up to and including termination from employment or expulsion from the University.

14. Equal Opportunity and Affirmative Action

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

Further, the University commits itself to a program of affirmative action to increase access by, and participation of, traditionally underrepresented groups, including women, racial/ethnic minorities (to include, Native Americans, Black/African Americans, Latinx/Hispanics, Asians, and Pacific Islanders), individuals with disabilities, and veterans. CEEEO provides guidance and assistance to the University leadership in identifying effective recruitment and retention strategies to meet its affirmative action responsibilities. This includes monitoring or auditing all employment activity for staff and faculty at the University.

14.1. Responsibility for Affirmative Action Plan

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

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

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

15. References

15.1. Related Policies

[Regents Policy 2.3 \("Equal Opportunity and Affirmative Action for Employees and Students"\)](#).

[Regents Policy 2.5 \("Sexual Harassment"\)](#).

[Faculty Handbook Policy D176](#) (“Graduate Student Grievance Procedures”)

[Faculty Handbook Policy C260](#) (“Religious Accommodations”)

[UAP 2200](#) (“Whistleblower Protection and Reporting Suspected Misconduct and Retaliation”)

[UAP 2215](#) (“Consensual Relationships and Conflicts of Interest”)

[UAP 2310](#) (“Academic Adjustments for Students with Disabilities”)

[UAP 2740](#) (“Sex Discrimination Including Sexual Misconduct (Interim)”)

[UAP 2745](#) (“Clery Act Compliance”)

[UAP 2750](#) (“Lactation Support Program”)

[UAP 2760](#) (“Pregnancy or Related Conditions (Interim)”)

[UAP 3110](#) (“Reasonable Accommodation for Employees with Disabilities”)

[UNM Student and Visitor Codes of Conduct](#)

15.2. Resources and Contacts

[Accessibility Resource Center \(ARC\)](#)

[Campus Police \(UNMPD\)](#)

[Center for Academic Program Support \(CAPS\)](#)

[Counseling, Assistance, and Referral Service \(CARS\)](#)

[Dean of Students](#)

[CEEEO Grievance Procedure](#)

[Division for Equity and Inclusion](#)

[Global Education Office](#)

[LGBTQ Resource Center](#)

[LoboRESPECT Advocacy](#)

[Office of Compliance, Ethics & Equal Opportunity \(CEEEO\)](#)

[Office of the Registrar](#)

[Ombuds Services](#)

[Student, Health, and Counseling \(SHAC\)](#)

[Women’s Resource Center](#)

15.3. Applicable Laws Age Discrimination Act of 1975

Americans with Disabilities Act of 1990: Amendments Act of 2008

Civil Rights Act of 1964 (Titles IV, VI, and VII)

Education Amendments Act of 1972 (Title IX)

Equal Pay Act of 1963; Lilly Ledbetter Fair Pay Act of 2009

Executive Order 11246 (Affirmative Action in Employment)

Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)

Immigration Reform and Control Act of 1986

Pregnancy Discrimination Act of 1978

Pregnant Workers Fairness Act of 2023

Providing Urgent Maternal Protections (PUMP) Act of 2022

Rehabilitation Act of 1973 (Sections 503 and 504)

Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)

Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA)

Violence Against Women Act of 1994 (VAWA); Violence Against Women Reauthorization Act of 2013

New Mexico Human Rights Act

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