

# Sanctioning Process for Any Matter Involving Allegations of Civil Rights Violations

Date adopted: April 14, 2023

Procedure Owner: Assistant Vice President for Human Resources

Related University Policies: UAP 2720, 2740, 3110 and 3215 and other referenced policies

This process applies to any and all matters involving allegations of violations of UAP 2720: Prohibited Discrimination and Equal Opportunity; UAP 2740: Sexual Harassment Including Sexual Assault; and UAP 3110: Reasonable Accommodation for Employees, Job Applicants, and Participants with Disabilities (collectively, “UNM Civil Rights Policies”) and any other UNM policies which arise from or are related to the circumstances underlying the alleged violations of UNM Civil Rights Policies (referred to herein as “Other Applicable Policies”).

The employee potentially subject to discipline and/or non-disciplinary, performance improvement action (“Sanctions”) must be afforded the following:

- (1) notice of the allegations and range of potential Sanctions that may be imposed on the employee if employee is found to have violated one or more UNM Civil Rights Policies or other Applicable Policies;
- (2) an opportunity to respond to the allegations and potential Sanctions via live hearing before the University’s Hearing Officer;
- (3) notice of the determination by the Hearing Officer as to whether employee violated policy and the proposed Sanctions, if any;
- (3) the right to appeal any finding by the Hearing Officer that employee violated policy and proposed Sanctions, if any; and
- (4) notice of the final Sanction to be imposed, if any

## 1. Administrative Hearing Notice

An employee alleged to have violated one or more UNM Civil Rights Policies and any Other Applicable Policies is entitled to certain written information related to the allegations. Consistent with Section 3.4 of the [UNM Administrative Hearing Procedure](#), the employee will receive an Administrative Hearing Notice from the UNM Hearing Office which will include but may not be limited to the following information:

- A description of the allegations against the employee;
- A list of all policies the employee is alleged to have violated;
- A description of the formal grievance procedures applicable to such alleged violations;
- A copy of an Investigative Report that includes all relevant evidence underlying the allegations.
- A statement that, if a preponderance of the evidence presented at the hearing supports a finding that one or more of the policies alleged to have been violated have in fact been violated, Sanctions up to and including discharge from employment may be issued.

For more information related to the Investigative Report and Administrative Hearing Notice referenced herein, please refer to the [Discrimination Grievance Procedure](#) (“DGP”) of the Office of Compliance, Ethics and Equal Opportunity (“CEEO”), at Section IV(C)(3)(h) (Investigative Report) and the [UNM Administrative Hearing Procedure](#) at Section 3.4.

## **2. The Administrative Hearing**

In matters where the employee is alleged to have violated one or more UNM Civil Rights Policies or Other Applicable Policies and has received an Administrative Hearing Notice, the employee will be permitted to respond to the allegations and proposed Sanction described therein via a live hearing before a Hearing Officer. During the live hearing, the employee will have opportunity to offer exonerating evidence, including but not limited to documents, employee’s testimony, witness testimony. The Hearing Officer will determine whether the employee violated UNM Civil Rights Policies and/or Other Applicable Policies and will issue a written determination which sets forth the Hearing Officer’s findings and the Sanctions to be imposed (Administrative Hearing Determination”), if any. The live hearing process is outlined in the [UNM Administrative Hearing Procedure](#).

## **3. Administrative Hearing Determination**

All live hearings ultimately will result in the issuance of an Administrative Hearing Determination by the Hearing Officer. This document will be issued to the employee and other parties to the hearing. It will include the Hearing Officer’s finding as to whether the employee violated UNM Civil Rights Policies and/or Other Applicable Policies and the reasoning for this finding.

Where the Hearing Officer has found, based on a preponderance of the evidence presented at the hearing, that the employee engaged in misconduct in violation of UNM Civil Rights Policies and/or Other Applicable Policies, this finding constitutes just/proper cause for the imposition of Sanctions on the employee set forth in Section 5 and/or Section 8 of UAP 3215: Performance Improvement. The Hearing Officer will consult with the applicable supervisor, manager, chair or director (“Sanctioning Authority”), Title IX Coordinator or designee (as appropriate) and UNM Division of Human Resources to determine the appropriate Sanctions to be imposed, if any. The Hearing Officer will include the Sanctions recommended by the Sanctioning Authority, if any, in the Administrative Hearing Determination in accordance with Section 5.4 (Sanctions) of [UNM Administrative Hearing Procedure](#).

Where the employee is found not responsible for violating any policy identified in the Administrative Hearing Notice, the Hearing Officer shall so state in the Administrative Hearing determination and no Sanctions shall be proposed.

The Administrative Hearing Determination includes but is not limited to the following information:

- The policies (if any) which the employee has been found to have violated.
- The rationale for the Hearing Officer's determination of each policy violation, or that a policy violation was not found for each policy identified in the Administrative Hearing Notice.
- The proposed Sanctions, if any, to be imposed on the employee.
- A description of the parties' right to appeal the Hearing Officer's findings and proposed Sanctions, if any.

See [UNM Administrative Hearing Procedure](#), Section 5.3 for a complete list.

## 4. Appeal

Parties to the hearing may appeal the Hearing Officer's determination, including the proposed Sanctions, if any, and grounds therefor in accordance with the process set forth in Section X of CEEO's [Disciplinary Grievance Procedure](#).

## 5. Notice of Final Action

The applicable Sanctioning Authority shall issue a Notice of Final Action (NFA) to the affected employee only after the conclusion of all appeals of the Administrative Hearing Determination or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Notice of Final Action shall contain the following information:

- The Sanctions to be taken, if any, and the effective date Sanctions will be imposed.
- A statement that the employee can refer to the Administrative Hearing Determination and any written appellate decisions, if issued, for a summary of the evidence and grounds for the decision to impose or not to impose final Sanctions.
- Where the Hearing Officer determined the employee violated one or more UNM Civil Rights Policies and/or Other Applicable Policies, a statement that the violation(s) constitutes just/proper cause for the Sanctions to be taken.
- Where the Hearing Officer determined that the employee violated one or more UNM Civil Rights Policies and/or Other Applicable Policies, a statement that no Sanctions will be imposed.

### 5.1 Delivery of the NFA

The applicable Sanctioning Authority shall deliver the written NFA to the employee within seven (7) days of the conclusion of all appeals of the Administrative Hearing Determination or, if an appeal is not filed, the expiration date of the appeal period.

The NFA may be delivered in person, electronically, or via certified mail. At the time of

delivery, the employee should be asked to sign acknowledgement of receipt via wet signature or electronically. If the employee declines to acknowledge receipt of the NFA, the supervisor, manager, chair or director responsible for issuing the Sanctions shall so note for the record. If delivered via certified mail, the NFA must be properly stamped and addressed to the last address provided by the employee. Notice is complete on the date that the NFA is hand delivered, sent electronically, or deposited with the United States Postal Service for delivery by certified mail with a return receipt requested. The applicable Sanctioning Authority shall send a copy of the NFA to the following departments:

- UNM Division of Human Resources for placement in the employee's official personnel file; and
- CEEO in those instances where the employee was sanctioned for violations of one or more UNM Civil Rights Policies.

## **5.2 Computing Time**

Any time period noted under this policy does not include the day of the action from which this time period begins to run. If the last day of the time period falls on a Saturday, Sunday, holiday, or other recognized University closure (such as Winter Break), the last day of the time period shall be the next business day.

## **6. Modification of Processes**

The Assistant Vice President for Human Resources has the right to modify these processes as deemed necessary. These processes are intended to aid in the implementation of university policies and are not subject to UAP 1100: Development and Approval of Administrative Policies.