1. General

Ombuds Services for Staff provides an independent, impartial, confidential, and informal resource that promotes constructive conflict management on campus. Ombuds Services provides informal dispute resolution and collaborative problem solving processes for managing or resolving work-related issues and problems. Except as limited in Section 3, Ombuds Services is available, free of charge, to all staff, their supervisors (including faculty supervising staff), and their co-workers (employees). Ombuds Services operates in accordance with the International Ombudsman Association (IOA) Standards of Practice and supervisors, as well as to faculty who supervise employees. Emphasis is on early Code of Ethics and informal identification applicable University policies and resolution with fair consideration of all sides of an issue or problem. The procedures in this policy should be administered flexibly and expeditiously at the lowest possible level with the cooperation of all concerned.

1.1. Retaliation

Retaliation against an employee for raising an issue or participating in any way in dispute resolution under this policy is strictly forbidden and shall be cause for disciplinary action if found to have occurred. Refer to UAP 2200 ("Reporting Suspected Misconduct and Whistleblower Protection from Retaliation") for policies and procedures on retaliation.
2. Confidentiality

Information obtained by Ombuds Services staff shall not disclose the course of facilitation, informal attempts at resolution, mediation, a visitor or other activities is the substance of confidential to the extent permitted by law. At the or personally identifiable communications—whether written, spoken, or otherwise—unless the office:

- receives permission from a visitor to make a disclosure;
- determines there is imminent risk of serious harm to the visitor or to others; or
- is compelled or required by law to make the disclosure.

The University supports the confidentiality of Ombuds Services and encourages parties to make use of Ombuds Services to develop options for addressing their concerns.

3. Informal and Voluntary Resource

Ombuds Services provides informal assistance to voluntarily pursue constructive outcomes. A supervisor may require staff to schedule an initial visit with Ombuds Services. The visitor to Ombuds Services may then choose whether to pursue such services. The level of participation with Ombuds Services is determined by the visitor. Ombuds Services is not a required step in any formal processes at the University; it supplements, but does not replace, formal processes (such as disciplinary actions).

4. Responsibilities and Authority

Ombuds Services tailors its responses to each visitor’s concerns and questions based on the particular dynamics of a situation. Services provided by Ombuds Services may include:

- visits, or private conversations, with a neutral ombuds who will explain any limitations to confidentiality before discussing listen and may help develop options for problem solving;
- referrals to specific issues. With permission from the employee, Ombuds Services staff may seek assistance from various University offices such as the Office of Equal Opportunity (OEO); Counseling, Assistance, and Referral Service; Human Resources; Risk Management; and Internal Audit to resolve issues or resources or to University policy for guidance in addressing the visitor’s situation;
- informal inquiries to gain a greater understanding of a situation;
- mediations or informal conversations facilitated by an experienced neutral party; and
- trainings on constructive conflict management skills and related topics.

Ombuds Services regularly informs University leadership about campus trends or systemic problems in a flexible, cooperative, and responsive manner, that protects confidentiality.
3. Scope
This policy is intended to help employees with issues or problems that affect them in the workplace. Ombuds Services staff serve in a neutral role and use alternative dispute resolution methods, described in Section 6, to return the primary responsibility for resolving conflicts to the individuals involved. If an individual believes there is a conflict of interest with Ombuds Services staff conducting the dispute resolution process, a mediator selected by mutual agreement from a panel of outside mediators is available to conduct dispute resolution. Ombuds Services staff assist and guide individuals or groups in their efforts to identify mutually agreeable solutions. The Faculty Dispute Resolution Office offers alternative dispute resolution methods to faculty. Ombuds Services Department may work with the Faculty Ombuds/Dispute Resolution Office in instances of faculty/staff disputes with appropriate consent and releases from all participants. Both programs coordinate services and protocols to assist faculty and staff, in accordance with the “best practices” of the International Ombudsman Association Standards of Practice and Code of Ethics, and applicable University policies and procedures.
Employees with concerns about possible violations of University policy or state or federal laws or regulations that are more general in nature (sometimes called “whistleblowing”), should report such concerns according to UAP 2200 (“Reporting Suspected Misconduct and Whistleblower Protection from Retaliation”). Allegations of unlawful discrimination or sexual harassment are handled by OEO in accordance with UAP 2720 (“Equal Opportunity, Non-Discrimination, and Affirmative Action”) and UAP 2730 (“Sexual Harassment”). Ombuds Services staff will refer employees to report such allegations to OEO.
Employees who are members of a collective bargaining unit have specific grievance procedures, some of which include participation in the Ombuds Services process. These employees should refer to their specific collective bargaining agreements. Employees should be aware that there may be federal or state laws and remedies pertaining to workplace complaints, and that use of the dispute resolution process under this policy does not extend the deadlines within which to seek assistance from outside agencies or file legal proceedings.

4. Resources
The University has a number of resources that can provide employees with advice and assistance in resolving work-related issues and problems. These resources include:

• the management chain
• Ombuds Services
• the Faculty Ombuds/Dispute Resolution Office
• the Human Resources Division
• OEO
If employees are working with more than one (1) of the offices mentioned above concerning the same issue or problem, they should inform the other offices involved, in order to avoid duplication of services.

5. Supervisor Responsibilities

Supervisors at all levels, are responsible for resolving work-related issues and problems in an appropriate, fair, and prompt manner as soon as reasonably possible after becoming aware of the issues or problems. Supervisors are responsible for participating in training offered by the University on management and supervisory skills. Supervisors should seek advice and assistance in resolving issues and problems, as appropriate, from the University resources listed in Section 4 above.

6. Employee Responsibilities

Employees should try to resolve work-related issues or problems as soon as reasonably possible after becoming aware of the issues or problems. Employees are encouraged to consider their supervisors as resources in their problem-solving efforts. Employees are also encouraged to go to Ombuds Services for assistance with constructive dispute resolution efforts.

Non-bargaining unit employees may request and have advisors of their choice present for all Ombuds Services processes. Bargaining unit employees may request advisors if defined in their collective bargaining agreement. Advisors provide support and assistance to employees using the Ombuds Services process. The extent of the advisor’s role may vary on a case-by-case basis. Advisors share the responsibility with employees of making efforts to resolve concerns in a collaborative manner and observe the appropriate level of confidentiality.

To assist employees in resolving work-related problems and issues, the University offers communication skills and conflict resolution training. Employees may seek advice and assistance in resolving work-related issues or problems, as appropriate, from the University resources listed in Section 4 above:

7. Dispute Resolution Processes

In all instances Ombuds Services staff serve in a neutral role. In collaboration with Ombuds Services staff, the individuals affected by the issue or problem will select one or more of the appropriate dispute resolution methods described below.

- **Collaborative problem solving**: Ombuds Services staff facilitates conversations with individuals involved in a conflict in finding ways to work together to acknowledge their interests and improve their relationship.

- **Employee/supervisor consultation**: Ombuds Services staff assists employees and supervisors with problem solving, effective communication, management skills, and preventing conflicts.
• Mediation: Ombuds Services staff assists individuals in reaching a mutually acceptable resolution to workplace issues.

• Staff as Mediators Program: UNM employees coordinated by the Ombuds Services staff are available to assist employees on request.

• Ombuds Services staff reviews and assesses situations and makes recommendations.

• Formal policy interpretation obtained from the applicable office.

• Departmental consultations, assistance, and training designed to improve interactions and productivity and reduce conflict.

• Facilitation: Ombuds Services staff creates a process intended to encourage ongoing communication and problem-solving.

• Training: Ombuds Services staff provides training in dispute resolution and other related issues.

• Referral to other University resources.

All individuals involved in an issue or problem are required to participate in the dispute resolution process unless otherwise provided by in the applicable collective bargaining agreement. If one or more of the involved individuals does not participate, the Ombuds Services has the discretion to pursue resolution through the applicable management chain or appropriate administrators. The Ombuds Services may also bring forward to the appropriate administrators concerns about specific supervisors or employees when a policy violation or pattern of inappropriate behavior is observed, subject to the confidentiality requirements described in Sections 2 and 3.

7.1. Progressive Discipline

Upon request, Ombuds Services staff will assist employees and supervisors in their efforts to resolve disagreements or conflicts. This assistance may eliminate the need for disciplinary action. If a supervisor initiates disciplinary action, non-bargaining unit employees may request an advisor of their choice be present at any meeting with the supervisor where the disciplinary action is initiated, but such meetings must be coordinated by Ombuds Services. Bargaining unit employees may request advisors if defined in their collective bargaining agreement.

Ombuds Services is intended to supplement, not replace, formal procedures. Employees can contest any disciplinary action through Ombuds Services, although the final decision on disciplinary action is made by the employee’s supervisor. Participating in an informal dispute resolution process does not necessarily put discipline on hold. However, supervisors in consultation with the Ombuds may choose to place disciplinary action on hold pending the results of dispute resolution process. Refer to UAP 3215 (“Performance Management”).
8. Dean or Director’s Decision

If after a good faith effort the individuals have not resolved the conflict, any party involved in the dispute resolution process may request a decision from the cognizant dean or director. The dean or director will issue a written decision within four (4) weeks concerning the issues raised unless extenuating circumstances delay such action. If the dean or director was involved in the dispute resolution process, the request shall be forwarded to the next level supervisor or cognizant vice president not involved in the dispute resolution process.

The parties to the issue will forward any written concerns to the dean or director. The dean or director shall meet with the parties involved before making a decision. In most circumstances the dean or director may choose to refer the parties to meet individually with Ombuds Services. The dean or director may meet separately with each of the parties. Non-bargaining unit employees may request an advisor of their choice be present in the meeting with dean or director. Bargaining unit employees may request advisors if defined in their collective bargaining agreement. The decision of the dean or director shall be final, unless there is discretionary review by the President or Board of Regents as provided in Section 10.

9. Review of Suspension Without Pay or Termination

If a post probationary employee has been suspended without pay or discharged, the employee is entitled to a peer hearing or arbitration upon request. The employee should send the request, with the Notice of Final Action, to the Main Campus Compliance Office within two (2) weeks of the employee’s receipt of the Notice of Final Action per Section 6.5 of UAP 3215 (“Performance Management”). Failure to do so may have legal consequences. Because a peer hearing or arbitration is a process with significant legal implications, the employee may wish to seek the advice of a private attorney in considering how to proceed. Upon receiving the request for a peer hearing, Main Campus Compliance Office forwards the request to the Office of University Counsel, which appoints an attorney to advise the peer panel. The Main Campus Compliance Office’s role in peer hearings and arbitration is limited to providing administrative support.

9.1. Peer Hearing

If a peer hearing is requested, the Main Campus Compliance Office will arrange for the hearing. Identification of potential Peer Review Panel members will begin within five (5) working days from the date of the request and Notice of Final Action. The Main Campus Compliance Office may request that Ombuds Services offer informal dispute resolution facilitation. The hearing will be held as soon as reasonably possible before a Peer Review Panel. The decision of the Panel is final, unless a discretionary appeal is allowed by the University President or the Board of Regents, as provided in this policy (Section 10). Non-bargaining unit employees may request an advisor of their choice be present at the peer hearing. Bargaining unit employees may request advisors if defined in their collective bargaining agreement. Hearings shall be conducted according to the University’s Dispute
Resolution Hearing Procedures (Exhibit B). A copy of these procedures may also be obtained from the Main Campus Compliance Office. Hearings shall be recorded and shall be private unless both parties agree that the hearing be open.

9.1.1. Peer Review Panel

The Peer Review Panel shall consist of three (3) uninvolved University employees who have no connection with the dispute, nor any interest in the outcome of the hearing. All faculty and staff who are called upon to serve on a Panel are required to participate in peer hearings. Individuals will be excused only in extreme circumstances as determined by the Main Campus Compliance Office. Members of the Peer Review Panel will be randomly selected from a pool consisting of all University employees as follows.

Names of five (5) individuals from the same “Primary Occupational Activity” in the University’s biennial EEO-6 Report as the complainant will be drawn at random by computer. Two (2) of these individuals will serve on the Panel and a third will be an alternate who will sit on the Panel should one of the two (2) selected individuals be unable to serve on the Panel.

Names of four (4) individuals from the same “Primary Occupational Activity” in the University’s biennial EEO-6 Report as the respondent will be drawn at random by computer. One (1) of these individuals will serve on the Panel and a second will be an alternate who will sit on the Panel should the selected individual be unable to serve on the Panel.

The nine (9) individuals randomly selected will complete a screening form to determine whether any individual has a conflict of interest that would prohibit him/her from serving in a neutral capacity. The complainant and respondent will then select the Panel members from the randomly chosen names. The members of the Panel will select one of their number to serve as chair. The Office of University Counsel will provide the Panel with training on conducting hearings and will also serve as legal advisor to the Panel.

9.2. Arbitration

If both parties agree, the dispute may be submitted for final and legally binding arbitration instead of a peer hearing. Non-bargaining unit employees may request an advisor of their choice be present at the arbitration. Bargaining unit employees may request advisors if defined in their collective bargaining agreement. If arbitration is requested, the Main Campus Compliance Office will arrange for the arbitration as soon as reasonably possible. Arbitrators are non-UNM employees selected by mutual agreement from a pool of professional arbitrators.

10. Discretionary Review by President and Board of Regents

The University President and the Board of Regents reserve the discretionary authority to review all decisions other than final and binding arbitration. The University President and the Regents will normally accept review
only in extraordinary cases, such as those 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. If an appeal is accepted, it will first go to the University President. The Board of Regents has the discretion to review the University President’s decision. Any appeal will be handled pursuant to the policies of the University President and Regents concerning discretionary reviews.

11. Attachments

Exhibit A Dispute Resolution Process Flowchart
Exhibit B Peer Hearing Procedure

5. Limitations of Ombuds Services

Ombuds Services does not conduct formal investigations. It does not adjudicate disputes, issue findings, impose remedies or sanctions, or make decisions on behalf of the University, its administrators, or the Board of Regents. It does not take sides or advocate on behalf of any individual, University unit, or cause.

Disclosures to Ombuds Services of alleged violations of law or policy are not considered notice to the University, nor can the office accept formal complaints on behalf of the University. Visitors are encouraged to discuss any concern with Ombuds Services, and Ombuds Services can provide assistance and referral information about providing formal notice to the University of alleged violations.

While Ombuds Services can listen and provide visitors with information and assistance in constructive conflict management, visitors are solely responsible for deciding what actions they wish to take.

6. No Retaliation for Participation in Ombuds Services

Employees have the right to consult Ombuds Services without fear of retaliation or reprisal. Retaliation against an employee for raising an issue or participating in Ombuds Services is prohibited. Furthermore, discouraging or preventing employees from seeking Ombuds Services is inappropriate because it is contrary to the University’s intent of promoting constructive conflict management and resolution.

7. Recordkeeping

Ombuds Services does not keep permanent records regarding any individual. Any recordkeeping or note-taking related to a specific individual is used only as a temporary aid to help informally serve visitors. These informal records created by Ombuds Services are kept in the sole possession of the office, securely maintained, and destroyed in accordance with IOA standards.
Ombuds Services may create or maintain generic data, not attributable to specific visitors, for use in annual reporting and other similar purposes.

8. References

UAP 2200 (“Reporting Suspected Misconduct and Whistleblower Protection from Retaliation”)

UAP 2240 (“Respectful Campus”)

UAP 2720 (“Equal Opportunity, Non-discrimination, and Affirmative Action”)

UAP 2730 (“Sexual Harassment”)

UAP 2740 (“Sexual Violence and Sexual Misconduct”)

UAP 3215 (“Performance Management”)