1. General

The University of New Mexico (UNM) strives to create and maintain a community that enables each person to reach their full potential. To do so requires an environment of trust, openness, civility, and respect. Intimate relationships may raise concerns of conflict of interest, abuse of authority, favoritism, and unfair treatment when both people are in the UNM work and/or academic environment, and one person (the Primary) holds a position of supervisory, decision-making, and/or evaluative authority over the other (the Secondary). These relationships may also affect others in the work or academic environment, undermining one party’s perceived integrity or ability to supervise or evaluate third parties or the other party’s perceived integrity or ability to be supervised or evaluated by a third party. These concerns exist even when the relationship is considered consensual by both individuals.

Therefore, UNM prohibits consensual intimate relationships within the University community in which one person holds a position of power or authority over the other.

This Policy does not apply to conduct that is defined as prohibited discrimination or sexual harassment, which are subject to the University Administrative Policies 2720: Prohibited Discrimination and Equal Opportunity and 2740: Sexual Harassment, Including Sexual Assault.

This policy applies to all members of the University community, including faculty, staff, students and others who participate in the University’s programs and activities, whether on- or off-campus and including abroad. While it is meant to supersede all prior versions of University
Administrative Policy (UAP) 2215, implementation of this policy does not prevent an academic or administrative unit at UNM from adopting an even stricter policy concerning consensual relationships.

2. Definitions

For the purposes of this policy:

- A “consensual intimate relationship” means a romantic, dating, intimate, amorous, and/or sexual relationship agreed to by the involved parties. Physical contact is not a required element of such relationships. The relationship may exist on the basis of a single interaction or be entirely online. Consent may be difficult to assess or construed as coercive due to the inherent power differential and other factors such as race, gender, sexual orientation, citizenship status, English proficiency, or past relationships and victimization.

- A “Primary” means a person in the consensual intimate relationship who holds academic, supervisory, decision-making, and/or evaluative authority over another in the relationship.

- A “Secondary” means a person in the consensual intimate relationship who is at a hierarchical academic, supervisory, decision-making, and/or evaluative disadvantage to another in the relationship.

3. Prohibited Consensual Intimate Relationships

A consensual intimate relationship exists when there is a romantic, dating, intimate, amorous, and/or sexual relationship that is agreed to by the involved parties. Physical contact is not a required element of such relationships, which may occur entirely online, and the relationship may be continuing or exist on the basis of a single interaction. Because of the possible adverse effects of a prohibited consensual intimate relationship – on its participants as well as fellow students, co-workers, colleagues, and others – UNM prohibits a faculty member, staff member, or student from engaging in a consensual intimate relationship with any student, staff member, or faculty member over whom they have or might reasonably be expected to have direct or indirect academic, supervisory, decision-making, or evaluative authority. This prohibition is defined by the intimate nature the consensual relationship, as well as the existence of academic or supervisory authority between the participants, and not the location of the behavior (which may be conducted on- or off- campus as well as through electronic media) or the frequency/duration of intimate relations. This prohibition does not mean that there is a total ban on intimate consensual relationships among members of the university community. Intimate relationships that do not involve one party having academic, evaluative, decision-making, or supervisory authority over another are not prohibited, and such relationships are excluded from the policy.

Examples of prohibited consensual intimate relationships may include, but are not limited to:
• Faculty member and a student who the faculty member evaluates or supervises
• Teaching assistant and student in their class
• Supervisor and employee
• Administrator and employee under their supervision
• Faculty or Administrator with decision-making authority over faculty, staff, or student
• Principal investigator and postdoctoral scholar or research assistant working on the project
• Advisor and advisee
• Coach and athlete
• Mentor and trainee

Questions about this policy can be addressed to the Office of the Provost, the Office of the EVPHS, the Vice President for Human Resources, or the Dean of Students. The Primary and the Secondary, as well as anyone possibly affected by such a relationship, may also seek support and guidance from confidential campus resources such as SHAC, LEO, WRC, and Ombuds Services.

There are three standard exemptions through which the policy accommodates pre-existing consensual, intimate relationships. Authorized exemptions are defined in the Standard Exemptions section below. An exemption is not automatic and must be requested in accordance with this Policy. Once an exemption is approved, a detailed management plan is required to ensure the relationship does not create a conflict of interest, abuse of authority, favoritism, or unfair treatment.

4. Reporting Responsibility

The responsibility to report the existence of a prohibited consensual intimate relationship rests with the Primary. Even if the Primary simultaneously seeks confidential or administrative support to handle the situation, the nature and duration of the relationship shall be reported to the Primary’s academic or staff supervisor within five (5) business days of the initiation of the relationship or the change in circumstances that results in the relationship being prohibited, whichever is later, regardless of whether the relationship has continued or the participants expect the relationship to endure. Although the responsibility for reporting consensual intimate relationships rests with the Primary, a Secondary may report a consensual intimate relationship to the Primary’s immediate supervisor.

If, after the report is made, the supervisor of the Primary determines that the relationship is prohibited and is not eligible for an exemption in section 7, either the relationship shall end or the hierarchical position of the Primary over the Secondary shall be changed as soon as possible, but no later than five (5) business days after the supervisor’s determination, so as to end the prohibition on the relationship. When a student is the Secondary in a consensual relationship, the immediate supervisor of the Primary should endeavor to preserve the student’s immediate and long-term educational opportunities, ability to meet program requirements, and career progression. It is recommended that, in making these determinations, the supervisor should consult with their higher administrative office (e.g., Human Resources, Office of Academic Affairs, or EVPHS).
Failure by the Primary to report a prohibited consensual intimate relationship to the appropriate authority within the mandated time frame will result in an investigation leading to possible sanctions (refer to C07 for faculty, UAP 3215 for staff, D175 or D176 for students). Prompt reporting to the appropriate authority about the existence of a consensual intimate relationship by the Primary will mitigate potential sanctions.

5. Other Reporting Options and Non-Retaliation

Any individual who reasonably believes that a prohibited intimate relationship as defined by this policy has occurred, is encouraged to report the concern in accordance with UAP: 2200 “Reporting Suspected Misconduct and Whistleblower Protection from Retaliation,” which offers multiple avenues for reporting, including anonymous options. Any member of the UNM community who knowingly makes a false report of suspected misconduct may be subject to administrative action by UNM per UAP 2200. Retaliation of any kind will not be tolerated and will be promptly investigated by the University, in accordance with UAP 2200.

6. Confidentiality

Care must be exercised at all times to ensure confidentiality to the extent possible and to protect the privacy of persons involved in a policy violation inquiry or investigation. The privacy of those who report a possible policy violation in good faith will also be protected to the extent possible. Files involved in an inquiry or investigation shall be kept secure, and applicable state and federal law shall be followed regarding confidentiality of personnel records. Refer to Faculty Handbook Policy C70 (“Confidentiality of Faculty Records”). For staff, immediate supervisors should keep all documentation related to a consensual relationship secure and separate from the official files that are maintained on the parties to the relationship. If at any step in this Policy it is determined that no policy violation has occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the reputation of all parties (Primary, Secondary, and third-party reporters.)

Every reasonable effort shall be made to preserve confidentiality, to provide information only on a need-to know basis, and to protect the privacy of the Primary and the Secondary. As indicated above, this Policy does not apply to conduct that is defined as prohibited discrimination or sexual harassment, which are subject to the University Administrative Policies 2720 “Prohibited Discrimination and Equal Opportunity” and 2740 “Sexual Harassment, Including Sexual Assault,” and therefore issues of reporting and confidentiality related to such policies are not applicable under this Policy, but rather under UAP 2720 and 2740.

For staff, immediate supervisors should keep all documentation related to a consensual relationship secure and separate from the official files that are maintained on the parties to the
relationship. For faculty, immediate supervisors should maintain documentation related to consensual relationships in the applicable faculty personnel files, in accordance with Faculty Handbook Policy C70 ("Confidentiality of Faculty Records"). Retaliation of any kind will not be tolerated and will be promptly investigated by the University, in accordance with UAP 2200: ("Reporting Suspected Misconduct and Whistleblower Protection from Retaliation"). Counseling and other support services are available to the parties involved in consensual relationships, including from Student Health and Counseling; Counseling, Assistance, and Referral Services; Ombuds (Faculty or Staff); and the Office of Equal Opportunity.

7. Standard Exemptions

The following three (3) standard exemptions are designed to accommodate established relationships, while also addressing the situation to mitigate any conflict of interest, abuse of authority, favoritism, or unfair treatment. In order for a specific intimate consensual relationship to qualify for an exemption, it must be reported by the Primary to their supervisor within the indicated time frame and conform to the requirements listed below. Development and approval of a management plan in accordance with Section 8 below is required for all exemptions discussed below.

7.1. An exemption may be allowed if the Primary’s relationship with a Secondary preceded the time when the Secondary became a UNM student. The exemption must be requested by the Primary within five (5) business days of the date the Secondary becomes a UNM student.

7.2. An exemption may be allowed if the relationship existed before the Primary was promoted, hired, or appointed to a position of authority or evaluation over the Secondary. This includes cases in which a faculty member's administrative or service obligations place the Primary in a position of temporary authority over the Secondary, which may result in the Primary's recusal from relevant authority or review functions, to be specified in the Management Plan. The exemption must be requested within five (5) business days of the date the Primary officially begins the position of authority or evaluation.

7.3. An exemption may be allowed if the relationship existed before the effective date of this Policy. The exemption must be requested within sixty (60) calendar days of the effective date of this Policy. Section 7.3 will therefore become moot sixty-one (61) days after implementation of the policy revision dated _______.

8. Management Plan

The purpose of the management plan is to outline supervision and evaluation procedures that will mitigate possible conflict of interest, abuse of authority, favoritism, or unfair treatment.

8.1 Management Plan Contents
The Plan shall include but need not be limited to:

- The rationale for the exemption, as affirmed by the Dean or Director (or HR authority) with supervisory authority over the Primary.
- Description of any measures already taken or to be implemented to manage any conflict of interest potentially stemming from the relationship.
- Reporting relationships, supervision, and evaluation that will assure that there will be no decision making based upon relationships in promotion, wage, hours, or other conditions of employment.
- Anyone with supervisory or academic authority over the student should be recused from decisions impacting assessment and recommendation of the student.
- Management of the approval and review process for expenditures and travel to preclude any potential appearance of conflict of interest, abuse of authority, favoritism, or unfair treatment.

8.2 Development and Approval of Management Plans

The management plan will be developed by the supervisor of the Primary, in consultation with both the Primary and Secondary. It is recommended that, in developing the management plan, the supervisor should consult with their higher administrative office (e.g., Human Resources, Office of Academic Affairs, or EVPHS). The management plan will be reviewed by the dean or director and adjusted as needed to protect all individuals impacted. The management plan must be approved by the dean or director and the Provost or EVPHS and must be signed by all the involved parties. After approval the management plan will be placed in the Primary party’s personnel (for faculty) and/or departmental file (for staff and students) for as long as the management plan is in force.

If the relationship involves a Primary who holds supervisory authority, the Primary’s administrative supervisor shall perform the functions assigned in this section. For example, in the case of the President being the Primary, the functions would be performed by the Board of Regents.

8.3 Periodic Review

To ensure continuity, appropriateness, and adherence, a unit review of the approved plan should take place annually and in the event of any germane change in personal or reporting relationships. This review will determine whether the terms of the plan adequately manage the situation. If it is determined the Plan does not adequately manage the situation, the Plan will be revised to address the identified conflict(s).

9. Policy Violations

Violations of this Policy will be considered misconduct and will result in sanctions in accordance with the applicable UNM discipline policy or as provided in applicable collective bargaining agreements.
For faculty, that means:

- *Faculty Handbook* Policy **C07** “Faculty Misconduct and Progressive Discipline Policy”

For staff, that means:

- *University Administrative Policies and Procedures Manual* Policy **3215:** “Performance Improvement”

For students, that means:

- *Faculty Handbook* Policy **D175** “Undergraduate Student Conduct and Grievance Procedures”
- *Faculty Handbook* Policy **D176** “Graduate and Professional Student Conduct and Grievance Procedures”

Prompt reporting to the appropriate authority about the existence of a consensual intimate relationship by the Primary will mitigate potential sanctions. Non-disclosure, violating a management plan, or continuing in a relationship that has been found to violate the policy may result in sanctions for the Primary.

**10. Related Policies**

- *Faculty Handbook* Policy **C07** (“Faculty Disciplinary Policy”)
- *Faculty Handbook* Policy **C30** (“Employment of Relatives”)
- *Faculty Handbook* Policy **C70** (“Confidentiality of Faculty Records”)
- *Faculty Handbook* Policy **D175** (“Undergraduate Student Conduct and Grievance Procedures”)
- *Faculty Handbook* Policy **D176** (“Graduate and Professional Student Conduct and Grievance Procedures”)
- **UAP 2200** (“Reporting Suspected Misconduct and Whistleblower Protection from Retaliation”)
- **UAP 3210** (“Recruitment and Hiring”)
- **UAP 2740** (“Sexual Harassment Including Sexual Assault”)
- **UAP 3215** (“Performance Improvement”)