



UNIVERSITY  
ADMINISTRATIVE POLICIES  
& PROCEDURES MANUAL

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## UAP 2720: Equal Opportunity, Prohibited Discrimination, and Related Misconduct

Authorized by [RPM 2.3 \("Equal Opportunity, Affirmative Action, Anti-Discrimination, Anti-Harassment, and Anti-Retaliation"\)](#)

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 9 below.~~

### 2. Purpose and Scope

This Policy authorizes and designates the Office of Compliance, Ethics & Equal Opportunity (CEEEO) as the independent, impartial, and neutral campus entity designated to review and investigate issues that apply to civil rights and Related Misconduct. CEEEO reports directly to the University President to maintain optimal independence and impartiality. CEEEO utilizes an established [Grievance Procedure](#) when evaluating claims brought under this and other civil rights policies.

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, program participant, or visitor~~ based on protected category. This ~~policy~~Policy covers nondiscrimination in ~~both~~both employment and employment benefits, education, admissions, housing, financial aid, and athletics. Any member of the UNM community who acts to deny, deprive, or limit the educational or employment access to

educational, benefits, and/or opportunities. Any of 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 Protected Class is in violation of this policy 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 accommodation, 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 Office of Compliance, Ethics & Equal Opportunity (CEEEO) is the independent, impartial, and neutral campus entity designated to investigate issues that 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.

This Policy outlines the University's commitment to:

- : Compliance with federal and state laws governing discrimination on the basis of a Protected Class, as defined by those laws.

- : Compliance with the Americans with Disabilities Act of 1990 (ADA) as amended, Sections 503 and 504 of the Rehabilitation Act of 1973, and the New Mexico Human Rights Act, which prohibit discrimination against individuals with disabilities and/or serious medical conditions and provides for equal opportunity and access to individuals with disabilities.
- : Providing reasonable accommodation for the religious beliefs, observances, and practices of its students, employees, and applicants.

### 3. Applicability

This Policy applies to all members of the University community – including students, employees, applicants for admission or employment, Contractors, Program Partners, volunteers, and visitors – as well as all college programs, branch campuses, and the UNM Health Sciences Center. It governs conduct occurring on campus, at University-sponsored events, and within any University program or activity. It also applies to any off-campus conduct that affects the University Community or its members.

When alleged discriminatory conduct is raised on the basis of sex – which is inclusive of gender, gender expression, gender identity, pregnancy and related conditions, sex, and sexual orientation – UNM Policy 2740 will be applied, rather than this Policy.

### 4. Exclusions

No exclusions apply.

### 5. Definitions

1. “Discrimination” prohibited by this Policy means conduct or action taken based on an actual or perceived Protected Class that results in the denial of equal access to, unequal treatment in, participation in, benefits of, or otherwise adversely affects any term or condition of an individual’s employment, education, living environment, or participation in a University program or activity. The following types of discrimination prohibited by this policy.
  - a. “Differential treatment” occurs when people, whether an individual or a group, are treated differently than similarly situated individuals who are not in the same Protected Class because of their membership in the Protected Class.
  - b. “Hostile Environment” harassment exists when conduct is sufficiently serious (i.e., severe or 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 and education. In determining whether harassment has created a hostile environment, the University considers both whether the conduct was unwelcome to the individual and whether a reasonable person in similar circumstances would view the conduct as objectively offensive. Whether a hostile environment exists is determined by considering the totality of the circumstances.

- c. **“Disparate Impact”** occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected class.
- d. **“Retaliation”** means intimidation, threats, coercion, discrimination, or adverse action against an individual for the purpose of interfering with any right or privilege secured by this Policy or applicable civil rights law, or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. More information on Retaliation can be found in Section 10 of this Policy.
- e. **“Failure to Accommodate”** refers to instances in which the University does not provide a reasonable accommodation to a qualified student, employee, applicant, or visitor after being informed of a disability, serious medical condition, sincerely held religion belief, or pregnancy and related conditions in the following circumstances:
- : Without first being afforded an opportunity to participate in an interactive dialogue to determine a reasonable accommodation and where providing such an accommodation would not impose an undue hardship or fundamentally alter an academic program, service or activity; or
  - : Where an accommodation already exists but is not effectively provided.
2. **“Protected Class”** means those personal traits or characteristics, statuses, and/or beliefs that are defined by applicable law and policy as protected from discrimination or harassment including age, ancestry, color, ethnicity/ethnicity characteristics, gender, gender identity (including gender expression), genetic information, military status, national origin, physical or mental disability, pregnancy and related conditions, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation, and veteran status.
- a. **“Age”** means an actual or perceived age of 40 or older.
- b. **“Ancestry”** means an individual’s actual or perceived ethnic, cultural, or ancestral background (e.g., lineage, familial origins, genetic inheritance, language, customs, societal norms, and heritage).
- c. **“Color”** means one’s skin pigmentation or shade, distinct from but often overlapping with one’s race and/or ancestry.
- d. **“Disability” (or “Serious Medical Condition”)** refers to an actual or perceived physical or mental impairment that substantially limits one or more major life activity. This includes individuals who have a record of such impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability.
- e. **“Ethnicity”** means a group a person belongs to based on cultural factors such as ancestry, language, religion and physical features.
- f. **“Genetic Information”** means information based on someone’s DNA, family medical

- history, or genetic services.
- g. “Military Status” or “Veteran Status” means a person's active membership in the armed forces or state defense force or being a veteran of the armed forces or state defense force and includes a spouse or child of an active member or veteran of the armed forces or state defense force.
  - h. “National Origin” refers to a country where a person was born or where their ancestors lived. It also includes aspects of birthplace, language, and physical appearance.
  - i. “Race” means a social construct based on physical characteristics and cultural traits typically associated with a particular group of individuals including skin color, hair texture, and other physical traits.
  - j. “Religion” means a person’s actual or perceived beliefs in a religion or faith.
  - k. “Spousal Affiliation” refers to an individual’s marital status (e.g., married, single, widowed) as well as to whom an individual is married.
3. “Related Misconduct” under this Policy includes failures to report potential Policy violations to CEEQ, as well as hate/bias incidents.
4. “Contractors” and “Program Partners,” for purposes of this Policy, may include any individual who is not a University student or employee, but performs services, supervision, instruction, guidance, or program-related functions on behalf of the University or in connection with a University program or activity. This includes, but is not limited to:
- : Contract personnel and vendors,
  - : Preceptors, internship, practicum, and clinical site supervisors,
  - : Personnel at internship or placement sites,
  - : Contracted service providers,
  - : Volunteers, visiting scholars, and trainees, and
  - : Other individuals who interact with University students or employees through a University-sponsored program or activity.
5. “Reasonable Accommodation” refers to a modification, adjustment or auxiliary aid provided to ensure equal access to the University’s programs, services, activities, employment opportunities, or facilities for individuals with disabilities or serious medical conditions. A Reasonable Accommodation enables a qualified individual to participate fully or perform essential functions without fundamentally altering the nature of a program or activity or imposing an Undue Hardship on the University. Reasonable Accommodations also may be provided for the sincerely held religious observances, beliefs, and practices of its students and employees.

6. **“Undue Hardship”** means a significant difficulty, expense, or disruption that would fundamentally alter the nature of a University program or activity, or that would impose a substantial financial or administrative burden on the University. An accommodation may constitute an Undue Hardship when providing a requested accommodation would compromise essential academic or job requirements, infringe on the rights or safety of others or requires resources or changes that are unreasonable in light of the University’s size, structure, and operational capacity. Undue Hardship may be determined through a consideration of one or more 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;
- : The number, type, and location of facilities;
- : Whether equally effective, less burdensome alternatives exist;
- : Whether the accommodation would infringe on the rights of others, significantly increase workload, or require inequitable redistribution of responsibilities;
- : The duration or frequency of the accommodation;
- : Whether external standards such as, but not limited to, accreditation, licensure, or clinical requirements will limit the University's ability to implement modifications or adjustments; and/or
- : Whether the accommodations would fundamentally alter academic standards, essential learning outcomes, or core job duties.

Terms Relevant to the CEEO Grievance Process:

1. **“Advisor”** is a person chosen by a Complainant or Respondent, or provided by UNM, who acts as an advocate for the party during a UNM administrative hearing, if one takes place. An Advisor acts as a party’s representative during a hearing for the purpose of conducting cross-examination of witnesses and the opposing party. An Advisor may also act as a party’s Support Person, as defined herein.
2. **“Complainant”** is the person or people who have experienced alleged discrimination or Related Misconduct.
3. **“Hearing”** is an administrative proceeding in which the parties present testimonial evidence and respond to questions relevant to the allegations and/or other evidence. Hearings are not legal proceedings.
4. **“Jurisdiction”** is a term used to describe CEEO’s authority to address or act on a concern raised to the University.
5. **“Reporter”** is someone reporting a concern to CEEO and who is not the party affected by civil rights violations, including a responsible employee, witness, or other individuals with knowledge or information regarding potential civil rights violations.

6. **“Respondent”** is the person or people responding to a complaint filed with CEEO, or alleged to be responsible for the conduct reported to CEEO.
7. **“Responsible Employee”** is a UNM employee who is required to report incidents of discrimination and harassment or Related Misconduct as defined in this Policy. All UNM employees are considered Responsible Employees under this policy unless specifically designated as a confidential employee, as defined in Section 11 of this Policy.
8. **“Support Person”** is any person of a Complainant or Respondent’s choosing who attends CEEO interviews and helps to guide the party through the CEEO process. A support person may accompany a Complainant or Respondent during CEEO meetings and interviews to provide personal support. A support person cannot speak or otherwise participate in a CEEO meeting, but they can take notes during meetings and help a Complainant or Respondent understand the process, prepare questions, and stay organized. To maintain the integrity of a CEEO process, a support person cannot be a potential witness in the CEEO investigation that the Complainant or Respondent is involved in, nor can they be someone in the Respondent’s supervisory chain.
9. **“Unaffiliated”** refers to an individual who does not have a relationship with UNM as a student, employee, or contractor.

#### Terms Relevant to Limited English Proficiency

1. **“LEP”** stands for “Limited English Proficiency.” **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.”**
2. **“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 other professional language skills assessment certification.
3. **“Vital documents”** are documents that contain information critical for obtaining the institution’s services and/or benefits or are documents that are required by law. Vital documents include applications, consent and complaint forms, notices of rights, notices advising LEP individuals of the availability of free language assistance, and letters or notices that require a response from the beneficiary or client.

## 6. Jurisdiction

CEEEO has been granted authority to address civil rights violations and Related Misconduct under [Regents Policy 2.3](#) and under the [University Student Disciplinary Procedure](#) (see Section 6(b)) found in the [UNM Pathfinder](#).

This Policy applies when CEEEO has authority to address alleged conduct occurring in or impacting UNM’s education and work programs or activities. CEEEO has Jurisdiction over conduct that:

- : [Occurs on campus](#);

- : Occurs on property owned or controlled by UNM or in building owned or controlled by UNM's officially recognized student organizations;
- : Occurs at UNM-sponsored or UNM-sanctioned events, regardless of location;
- : Occurs off campus but substantially impacts the campus community, its programs, or its services; or
- : Prohibited conduct that occurs through digital or other technological means, when that conduct either makes use of UNM networks or technology and/or causes a demonstrative disruption to UNM programs or activities.

~~Regardless of where~~ UNM will evaluate all 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 in which 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 holds a substantial interest. 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 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 in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any University community member;
- ~~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 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.~~  
Any situation that is detrimental to UNM's educational interests or mission.
- ~~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 their employer has agreed to be bound through their contracts).~~

## 7. Definitions

1. ~~“Protected class” means those personal traits or characteristics, statuses, and/or beliefs that are defined by applicable law and policy as protected from discrimination or harassment including age, ancestry, color, ethnicity, gender, gender identity (including gender expression), genetic information, national origin, physical or mental disability, pregnancy, race, religion,~~

- serious medical condition, sex, sexual orientation, spousal affiliation, and veteran status.
2. **"Discrimination"** prohibited by this policy means conduct based on a protected class that treats the 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 and harassment that creates a hostile environment based on an individual's membership in a protected class are types of discrimination prohibited by this policy.
  3. **"Differential treatment"** 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. **"Sexual harassment"** under this policy is unwanted conduct of a sexual nature that is sufficiently serious (i.e., severe/pervasive) and objectively offensive as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or that has the purpose or effect of unreasonably interfering with an individual's employment. See [UAP 2740](#) (including sexual harassment, sexual assault, stalking, domestic and dating violence) for definitions of sexual harassment under Title IX of the Education Amendments of 1972.
  5. **"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.
  6. **"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.
  7. **"Affirmed pronoun"** means a pronoun that a person chooses to use or have used for self-identification (e.g., she, her, hers, he, him, his, ze, they).
  8. **"Gender identity"** means one's internal sense of gender identity, which may be different than the assigned sex at birth.
  9. **"Gender expression"** means gender characteristics or gender identity that may or may not conform to gender stereotypes about masculinity or femininity.
  10. **"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, or for the religious observances, beliefs, and practices of its students and employees.

11. **“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.”
12. **“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 \(“Reasonable Accommodation for Employees With Disabilities”\)](#).

## **8. 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.

## 8.1. 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.

## 8.2. 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.[1] 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.~~

## ~~9. Other Civil Rights Offenses~~

~~In addition to the forms of sexual harassment described in [UAP 2740](#), UNM prohibits the following forms of discrimination when the act is based upon the Complainant's perceived or actual membership in a protected class.~~

### ~~9.1. Sexual Exploitation~~

~~Sexual exploitation is taking nonconsensual or abusive sexual advantage of another person for their own benefit or the benefit of anyone other than the person being exploited, and which does not otherwise constitute sexual harassment under this policy or [UAP 2740](#).~~

~~Examples of sexual exploitation include but are not limited to:~~

- ~~• Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person being observed).~~
- ~~• Invasion of sexual privacy.~~
- ~~• Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity where there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe, or disseminating photos without the photographed person's consent), including the making or posting of revenge porn.~~
- ~~• Prostitution or prostituting another.~~
- ~~• Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI), without informing the other person of the infection. [Note: even if the viral loads are undetectable and transmission chances are low to non-existent, many state laws still require a person to disclose their HIV status to sexual partners].~~
- ~~• Administering drugs or alcohol (such as so-called "rape drugs") to another person without their knowledge or consent.~~
- ~~• Exposing one's genitals in non-consensual circumstances, including unwelcome sexting.~~

## ~~10. Gender Identity~~

### ~~10.1. Preferred or Affirmed First Names and Pronouns~~

~~This policy prohibits discrimination and harassment based on gender identity or gender expression.~~

~~Individuals shall not be required to obtain a court-ordered name change before being addressed by the first name and pronoun that corresponds to their gender identity. The University is committed to using preferred or affirmed names and pronouns wherever possible in the course of University business and education.~~

~~Members of the University community are expected to make reasonable efforts to address individuals by a pronoun corresponding to their gender identity upon request. Individuals may not be subjected to unwelcome questions or invasive requests for documentation related to their gender identity.~~

~~The intentional or persistent refusal to respect a preferred or affirmed name or pronoun can constitute discrimination or harassment that is a violation of this policy. This policy does not prohibit inadvertent slips or mistakes in using an individual's preferred or affirmed name or pronoun.~~

## ~~10.2. Gender-Specific Facilities~~

~~Individuals shall be provided access to designated gender-specific facilities consistent with their gender identity.~~

## ~~11. 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.~~

## ~~12. Hate/Bias Crimes and Incidents~~

### 12.1. Claims Against Contractors and Program Partners

The University partners with Contractors and Program Partners to support its educational programs and institutional mission. When Contractors and Program Partners participate in, supervise, or otherwise support a University program or activity, the University has the authority to receive, review, and respond to reports of conduct by Contractors and Program Partners that may violate this Policy.

If, following the University's review – which does not afford either process or appeal rights as outlined in this Policy or the [CEEO Grievance Procedure](#) – a Contractor or Program Partner is found to have violated this Policy, the University may take appropriate action, including but not limited to:

- : [Removal from participation in University programs or activities;](#)
- : [Modification, suspension, or termination of the Contract or Program Partner's contract, affiliation agreement, or site authorization;](#)
- : [Ineligibility for future University contracts, placements, or partnership agreements; and/or](#)
- : [Other appropriate action as permitted by University policy or agreement.](#)

Nothing in this section is intended to create an employment relationship or confer employee disciplinary authority over non-University personnel. Further, nothing in this section precludes a non-University entity from reviewing or addressing the same conduct under its own policies, procedures, or professional standards as applicable.

## **13. Prohibited Discriminatory Conduct and Practices**

It is a violation of this Policy to engage in conduct or practices that constitute Discrimination, Harassment, Differential Treatment, Disparate Impact, Retaliation, or Failure to Accommodate as defined herein.

For discrimination to be based on a protected status, the alleged conduct must demonstrate a connection to a Protected Class in one or more of the following ways:

- : Direct: the alleged conduct is motivated by a person's actual membership in a Protected Class
- : Perception: the alleged conduct is motivated by the Respondent's belief (perception) that a person is a member of a Protected Class, even if that belief (perception) is not true
- : Association: the alleged conduct is motivated by a person's connection to another person who is a member of a Protected Class
- : Third-Party Impact: the individual being impacted by the alleged conduct is not the target of the discrimination, but still experiences the effects of the alleged conduct
- : Third-Party Retaliation: alleged conduct in which a Respondent takes adverse action against an individual (the third party) not for their own conduct, but because of their close relationship to someone who engaged in a protected activity

Such violations would include discriminatory conduct which is based on a protected status, including but not limited to: hazing, hate or bias crimes, cyberstalking, and name-calling.

### **13.1. Hate/Bias Crimes and Incidents**

AIn New Mexico, a hate crime is a crime committed in whole or in part because of the victim's actual or perceived raceRace, ethnicityReligion, religionColor, colorNational Origin, national-originAncestry, ancestryAge, ageDisability, 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 attempt or commission of a crime with the intent to commit the crime because of the actual or perceived raceRace, ethnicityEthnicity, religionReligion, xz2colorColor, national-originNational Origin, ancestryAncestry, ageAge, disabilityDisability, 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)See 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 277-2241,505-277-2241 or calling 911 in case of emergency, or by filing a hate/bias incident report on the UNMPD website.

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~~)as defined by law. A hate/bias incident may also be a violation of this ~~policy~~Policy and should be reported to CEEEO ~~or reported~~ via the ~~hate/bias reporting form~~compliance reporting hotline on the CEEEO website.

CEEEO evaluates reports of hate/bias crimes and incidents to determine whether they are a potential violation of civil rights protections pursuant to this Policy.

## 14. Reporting and Process Options

It is the policy of the University to prevent and eliminate forms of unlawful Discrimination in employment and educational settings. People who believe they have been discriminated against on the basis of a Protected Class are encouraged to contact CEEEO.

Parties have the option of filing an informal or formal complaint with CEEEO, pursuant to the CEEEO Grievance Procedure (CGP). 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.

In some instances, the behavior at issue may be harassing, but not sufficiently severe, persistent, pervasive, or objectively and subjectively offensive, 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.

Individuals can file reports in the following ways:

- : UNM Complaint Hotline – [online form](#)
- : UNM Complaint Hotline – via phone at [1-888-899-6092](tel:1-888-899-6092)
- : Email: [ceeo@unm.edu](mailto:ceeo@unm.edu)
- : Phone: [\(505\) 277-5251](tel:(505)277-5251)
- : [Drop in at CEEEO](#) during regular business hours

## 15. Grievance and Disciplinary Procedure

For reports involving alleged violations of this Policy, the CGP will be utilized. In the event a policy violation is found under this Policy, the following disciplinary procedures will apply:

- : Findings against students: the UNM Pathfinder, the Student Code of Conduct, the UNM Faculty Handbook at sections D175 or D176, and/or the disciplinary procedure applicable to the student's graduate or professional program.
- : Findings against faculty: the UNM Faculty Handbook at section C07.
- : Findings against staff members: University Administrative Policy 3215 ("Performance Improvement").

Employees, inclusive of faculty, staff, and students, who are represented by a union, will be subject to discipline pursuant to their applicable bargaining agreement.

## **16. Supportive Measures and Confidentiality**

UNM offers and implements appropriate and reasonable supportive measures to parties following a report of harassment, discrimination, or Related Misconduct.

Supportive measures are confidential, reasonably available, individualized services offered as appropriate and without cost to the parties to restore or preserve access to UNM's educational program or activity. These measures are designed to protect the safety of the parties or the educational or work environment, and/or to deter harassment or retaliation. Supportive measures must not be unreasonably burdensome to a party or be imposed for punitive or disciplinary reasons. Supportive measures may include but are not limited to counseling, extension of deadlines, restrictions on contact applied to one or more parties, and changes in class, work, or housing. Supportive measures are kept confidential to the extent possible.

CEEO works with other departments as appropriate to promptly provide reasonably available supportive measures and can provide information on how to access supportive measures. See the [CEEO Grievance Procedure](#) (CGP) for more information about supportive measures.

UNM maintains as confidential any supportive measures or accommodations provided to individuals under this Policy, to the extent that maintaining such confidentiality would not impair the ability of the University to provide supportive measures. If information needs to be shared among UNM officials, it must be on a need-to-know basis and as authorized under University Administrative Policy and federal and state law.

## **17. Retaliation**

It is a violation of this policy to retaliate against any person who engages in a civil rights-protected activity. Protected activity includes but is not limited to:

- : Reporting discrimination, different treatment, or related retaliation
- : Participating or declining to participate in a CEEO investigation or proceeding.
- : Requesting supportive measures or accommodations.
- : Assisting or supporting an individual who is involved in a CEEO investigation or proceeding.

**Retaliation is prohibited regardless of whether a Formal Complaint is filed and applies to conduct occurring before, during, or after any report, investigation, or resolution process under this Policy. Retaliation also includes interference with an individual's access to supportive measures or accommodations provided under this Policy.**

Concerns that a student, staff, or faculty member has threatened to retaliate or has retaliated against another student or employee should be reported promptly to CEEO. Any staff member, faculty member, or student who retaliates against a person who engages in a civil rights-protected activity may be subject

to disciplinary action.

## 18. Reporting to UNM

### 18.1. Responsible Employees

The UNM community has a role to play in ensuring the University effectively responds to discrimination and Related Misconduct. ALL UNM staff, faculty, student employees, medical residents, fellows, post-doctoral fellows, graduate assistants, teaching assistants, research assistants, or anyone otherwise employed by the University are considered mandatory reporters and therefore Responsible Employees, except as outlined in UNM Policy or privileged under applicable laws.

Responsible Employees who receive information about a student, employee, or visitor who has experienced discrimination or Related Misconduct must report the entirety of that information to CEEO **within 24 hours**, or as soon as reasonably practicable. This includes information obtained via a third-party or rumors, as well as directly from the affected individual. Having knowledge of someone else reporting an incident of discrimination or Related Misconduct does not fulfill an individual's reporting obligations.

It is important to recognize that disclosing an experience of discrimination or other misconduct might be traumatic, sensitive, and/or difficult. It is the Responsible Employee's job to listen without judgment and respond with respect and kindness. **It is NOT the Responsible Employee's job to investigate the disclosure or seek additional facts beyond the initial disclosure.** If a specific person or the campus community is in imminent harm, contact law enforcement immediately by dialing 9-1-1.

UNM employees who hold a supervisory role 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 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 and immediately address and seek to stop such discriminatory behavior, and can ask CEEO for assistance.

Responsible Employees can file reports in the following ways:

- : UNM Complaint Hotline – [online form](#)
- : UNM Complaint Hotline – via phone at 1-888-899-6092
- : Email: [ceeo@unm.edu](mailto:ceeo@unm.edu)
- : Phone: [\(505\) 277-5251](tel:(505)277-5251)
- : [Drop in at CEEO](#) during regular business hours

### 18.2. Mandatory Training for Responsible Employees

All Responsible Employees must complete training on (1) UNM's obligations to address discrimination and harassment, (2) mandatory reporting duties and timelines, and (3) how to respond to disclosures

and connect individuals to resources.

Responsible Employees must complete mandatory training according to applicable personnel onboarding procedures. Training may be completed through Learning Central or via live training provided by CEEO. Failure to complete required training may result in corrective or disciplinary action.

## **18.3. Contractor and Program Partner Reporting Responsibilities**

Contractors and Program Partners must promptly report any information they receive about misconduct under this Policy:

- : Involving a UNM student or employee; and
- : Occurring within or arising from a University program or activity in which the UNM student or employee is participating, that may constitute harassment, differential treatment, failure to accommodate or retaliation prohibited by this Policy, whether the information is disclosed directly, observed, or reported to them by a third party.

Reports must be made regardless of whether the information was disclosed directly, observed, or conveyed by a third party.

## **18.4. Confidential Employees**

Designated employees within certain departments at UNM are confidential employees as determined by CEEO and are exempt from the reporting obligations described in this Policy. Confidential employees receiving information about potential misconduct disclosed to them are not required to share identifiable information with CEEO. This is to ensure that individuals who experience discrimination or Related Misconduct can seek support and guidance at the University, even if they do not want to engage with CEEO or law enforcement. If a confidential employee witnesses potential misconduct, they must report their observations to CEEO.

**A disclosure to a confidential employee will not result in an identifiable report to CEEO.**

Employees at UNM who are confidential for purposes of this Policy still have reporting obligations as Campus Security Authorities (CSAs) under the Clery Act. CSAs are required to report all crimes that are reported to them or that they personally witness as soon as possible and may do so by using de-identified information about the parties involved. For more information about CSA reporting requirements under the Clery Act, see [UAP 2745 \("Clery Act Compliance"\)](#).

Confidential employees may be asked to provide de-identified, aggregate information regarding the nature and frequency of reports received and of supportive measures facilitated by the confidential employee, solely for purposes of compliance monitoring, trend analysis, and resource allocation.

UNM encourages students and employees to consult with a confidential employee on campus who can guide them through available options. Professionals at these sites provide safe and welcoming environments on campus and are trained to help impacted individuals decide how to move forward in a

direction of their choosing. Information provided to a confidential employee does not generate a formal report; however, they can help the Complainant make a report to law enforcement and/or the UNM administration should they wish to report to either one. Certain sites can also offer advocacy services and assist with requesting, accessing, or requesting changes to supportive and/or protective measures, which are available following a disclosure—regardless of whether someone decides to report to law enforcement. Confidential employees serve students and employees at all UNM branch campuses.

## **18.5. Failure to Report**

Failing to report incidents of discrimination, harassment, or Related Misconduct is a violation of this Policy and can result in disciplinary action against Responsible Employees.

Failure by a Contractor or Program Partner to comply with reporting obligations in this Policy may result in:

- : Removal from participation in University programs or activities;
- : Modification, suspension, or termination of the Contract or Program Partner’s contract, affiliation agreement, or site authorization;
- : Ineligibility for future University contracts, placements, or partnership agreements; and/or
- : Other appropriate action as permitted by University policy or agreement.

Allegations of failure to report are administrative violations that do not require the filing of a Formal Complaint and are resolved through administrative processes rather than the grievance procedures described in this Policy.

## **18.6. Responsible Employees as Witnesses**

When a witness to alleged misconduct under this Policy is also a Responsible Employee, they are required to provide CEEO with all details and facts related to the alleged conduct. A Responsible Employee’s intentional refusal to provide relevant information under CEEO processes could result in discipline for failing to report under this Policy. If CEEO requests a Responsible Employee participate as a Witness, they are strongly encouraged to do so.

# **19. Civil Rights Programs and Protections at UNM**

## **19.1. Limited English Proficiency**

Departments must take reasonable steps to ensure that LEP Individuals who are not otherwise required to meet UNM’s [English Proficiency Requirements](#) for admission or employment have meaningful access to programs and activities. Meaningful access is language assistance that is accurate, timely, and effective and is available at no cost to the LEP Individual.

### **19.1.1. 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 the CEEEO website. Any costs associated with translation services are the responsibility of the requesting department.

### **19.1.2. 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 the [CEEEO website](#). Any costs associated with professional interpretation services are the responsibility of the requesting department.

### **19.1.3. English Proficiency 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 UNM's [International Admissions website](#). Additionally, this Policy does not require the University to translate academic materials or otherwise provide a language accommodation in the academic setting.

## **19.2. 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 New Mexico 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 effective recruitment and retention strategies.

Further, the University commits itself to a program of affirmative action to increase access by, and participation of, individuals with disabilities and veterans pursuant to federal law.

## 20. 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~~ Accommodate can constitute ~~discrimination~~ 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 ~~CEEEO~~ CEEEO.

### 20.1. Reasonable Accommodation for Religious Observances, Beliefs, and Practices

The University makes ~~reasonable accommodations for~~ Reasonable Accommodations for sincerely held religious ~~beliefs~~, observances, ~~beliefs~~, and practices for students, employees, and prospective students and employees. Reasonable Accommodations are made unless such accommodations ~~are made for students unless such accommodations~~ have the ~~end result~~ effect of altering educational requirements ~~of a course or program~~ or essential job functions, or place an ~~undue hardship~~ Undue Hardship on the operations of the University. ~~Reasonable accommodations are made for faculty and staff unless such accommodations have the end result of substantially disrupting the efficiency or effectiveness of the workplace~~ Failure to Accommodate religious observances and practices can constitute discrimination on the basis of Religion in some instances, ~~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 ~~CEEEO~~ CEEEO if assistance is needed.

### 20.2. 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 ~~students, employees, prospective students and employees, and visitors. The University~~ the physical and mental Disabilities of a student unless an accommodation has the effect of fundamentally altering the nature of the course or program, or places an Undue Hardship on the University. The University makes ~~reasonable~~ Reasonable Accommodations for the physical or mental Disabilities of an employee or applicant unless such accommodations ~~for the physical and mental disabilities of a student unless an accommodation has the end result of fundamentally~~ have the effect of relieving, reallocating, or altering the ~~nature of the course or program, or places an undue hardship~~ essential functions of a job or place 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.~~University.

Failure to ~~accommodate~~Accommodate can constitute ~~discrimination~~Discrimination on the basis of ~~disability~~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 or their designee serve as the University's Americans with Disabilities Act (ADA) Coordinator. Any applicant, employee, or visitor ~~needing guidance on seeking~~who needs a reasonable accommodation for disability should contact the Director of Equal Opportunity. 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.

## ~~20.3. Pregnancy Accommodation~~

~~The University is committed to protecting the rights of expecting persons and makes reasonable accommodations for pregnancy (UAP 2760), lactation (UAP 2750), 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 should contact CEEO if assistance is needed.~~

## ~~21. 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.~~

### ~~21.1. 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.~~

## 21.2. 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.

## 21.3. Language Interpretation 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>.

## 22. 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.

CEEEO follows its [CEEEO 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.

## 23. Disciplinary Procedure

The Faculty Handbook [Policy D175](#) and the UNM [Pathfinder](#) contain the disciplinary and grievance policies and procedures related to 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.

Employees, inclusive of faculty, staff, and students, who are represented by a union, will be subject to discipline pursuant to their applicable bargaining agreement.

## 24. 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 CEEEO. The University relies on its employees to notify CEEEO 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.

### 24.1. Supervisors

Supervisors shall report all known or suspected discriminatory conduct to CEEEO. If supervisors fail to notify CEEEO 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.

## 25. 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 CEEEO 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.

## ~~26. 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 or harassment, or participating in an investigation related to an allegation of discrimination or harassment.~~

~~Allegations of civil rights retaliation should be reported to CEEO. 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 CEEO process~~

~~Any students, employees, and applicants who feel that they have been denied a Reasonable Accommodation can file a complaint with CEEO pursuant to section 7 of this Policy.~~

~~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](#).~~

## 27. 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 and perceptions. 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~~ and subsequent hearing does not 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.~~

## ~~28. 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 effective recruiting and retention strategies.~~

~~Further, the University commits itself to a program of affirmative action to increase access by, and participation of, individuals with disabilities, and veterans.~~

However, the University may discipline employees or students when it is determined they brought an accusation in bad faith or with reckless disregard for the truth or falsity of the claim.

Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, may be subject to disciplinary action.

## **29. 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 to the United States Constitution must be considered if issues of speech or expression are involved. For more information on First Amendment protections and parameters, please see [UAP 2220](#) ("Freedom of Expression and Dissent"). Please also see the [UNM Faculty Handbook](#) for information about the parameters of academic freedom.

## **30. Reporting to External Agencies**

Concerns about UNM's application of this Policy and compliance with certain civil rights laws may also be addressed with the following agencies:

### **Office for Civil Rights (OCR), U.S. Department of Education**

400 Maryland Ave. SW

Washington, D.C. 20202-1100

Phone: [\(800\) 421-3481](tel:(800)421-3481)

TDD: [\(877\) 521-2172](tel:(877)521-2172)

Facsimile: [\(202\) 453-6012](tel:(202)453-6012)

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Website: <http://www.ed.gov/ocr>

### **Office of Civil Rights, U.S. Department of Health and Human Services (for complaints in the UNM Health System)**

200 Independence Ave. SW

Room 509F, HHH

Washington, D.C. 20201

Phone: (800) 368-1019

TDD: (800) 537-7697

Website: <https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>

Complaint Form

**U.S. Department of Housing and Urban Development (for complaints concerning student housing)**

Fort Worth Regional Office of FHEO

U.S. Department of Housing and Urban Development

307 W. 7th Street, Suite 1000

Fort Worth, TX 76102

Phone: (817) 978-5900

Toll-Free: (800) 669-9777

Website: <https://www.hud.gov/reporhousingdiscrimination>

Complaint Form

**New Mexico Higher Education Department (for students and applicants for admission)**

2044 Galisteo Street, Suite 4

Santa Fe, NM 87505-2100

Phone: (505) 476-8400

Website: <https://hed.nm.gov/students-parents/student-complaints>

Complaint Form

**New Mexico Human Rights Bureau (for employees and applicants to employment)**

P.O. Box 1928

Albuquerque, NM 87103

Phone: (505) 827-6838

Website: <https://www.dws.state.nm.us/en-us/Contact>

## **31. References**

### **31.1. Related Policies**

RPM 2.3 ("Equal Opportunity, Affirmative Action, Anti-Discrimination, Anti-Harassment, and Anti-Retaliation")

Faculty Handbook Policy C07 ("Faculty Disciplinary Policy")

[Faculty Handbook Policy C260 \("Religious Accommodations"\)](#)

[Faculty Handbook Policy D175 \("Undergraduate Student Conduct and Grievance Procedures"\)](#)

[Faculty Handbook Policy D176 \("Graduate Student Grievance Procedures"\)](#)

[UAP 2200 \("Reporting Suspected Misconduct and Whistleblower Protection from Retaliation"\)](#)

[UAP 2215 \("Consensual Sexual or Romantic Relationships"\)](#)

[UAP 2310 \("Reasonable Accommodation for Students with Disabilities"\)](#)

[UAP 2740 \("Sex Discrimination Including Sexual Assault \(Interim\)"\)](#)

[UAP 2745 \("Clery Act Compliance"\)](#)

[UAP 2750 \("Lactation Support Program"\)](#)

[UAP 2760 \("Pregnancy or Related Conditions \(Interim\)"\)](#)

[UAP 3110 \("Reasonable Accommodation for Employees, Job Applicants, and Participants with Disabilities"\)](#)

[Faculty Handbook Policy D176 \("Graduate Student Grievance Procedures"\)](#)

[Faculty Handbook Policy C260 \("Religious Accommodations"\)](#)

[UAP 3215 \("Performance Improvement"\)](#)

[UNM Student Code of Conduct](#)

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

## **31.2. 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 Change and Empowerment \(~~DiCE~~\) \(DiCE\)](#)

[Global Education Office \(GEO\)](#)

[LGBTQ Resource Center](#)

[Arcoiris Center](#)

[LoboRESPECT Advocacy Center \(LRAC\)](#)

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

[Office of the Registrar](#)

[Ombuds Services](#)

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

[Women's Resource Center](#)

## 31.3. Applicable Laws

[New Mexico Human Rights Act](#)

Equal Pay Act of 1963

Titles IV, VI, and ~~CVI~~<sup>VII</sup> of the Civil Rights Act of 1964

Title IX of the Education Amendments of 1972

The Rehabilitation Act of 1973 (Sections 503 and 504)

Vietnam Era Veterans Readjustment Assistance Act of 1974

Age Discrimination Act (~~of~~ 1975)

Pregnancy Discrimination Act of 1978

Americans with Disabilities Act of 1990: Amendments Act of 2008

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

~~Pregnant Workers Fairness Act of 2023~~

~~Providing Urgent Maternal Protections (PUMP) Act of 2022~~

Uniform Services Employment and Reemployment Rights Act of 1994

Violence Against Women Act of 1994

[Genetic Information Non-Discrimination Act \(GINA\) of 2008](#)

Violence Against Women Reauthorization Act of 2013

~~New Mexico Human Rights Act~~

[Providing Urgent Maternal Protections \(PUMP\) Act of 2022](#)

[Pregnant Workers Fairness Act of 2023](#)

## Approval Signatures

Step Description

Approver

Date

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## Applicability

1. University-Level (RPM & UAP), 3. University Administrative (UAP)

## Standards

No standards are associated with this document

DRAFT