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### Faculty Senate Meeting Minutes, 02/24/2004, p 393-403

UNM Faculty Senate

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# FACULTY SENATE SUMMARIZED MINUTES

(Draft, awaiting approval)

2003-2004 Faculty Senate

February 24, 2004

The Faculty Senate meeting for February 24, 2004 was called to order at 3:03 p.m. in the Roberts Room, Scholes Hall, Room 230. Senate President Beverly Burris presided.

## ATTENDANCE (follows minutes)

**Guests Present:** Associate Provost Nancy Uscher, Associate Professor Virginia Seiser (General Library), Senior Associate University Council Robert Beinstock

## APPROVAL OF THE AGENDA

The agenda was approved as written.

## APPROVAL OF SUMMARIZED MINUTES FOR January 27, 2004 MEETING

The minutes for the January 27, 2004 meeting were approved as written.

## PRESIDENT'S REPORT

President reported on the following:

- The President spoke of Bill Tierney's visit. He was pleased to have the initiative to get Dr. Tierney on campus. President Caldera spent time with him personally and attended the afternoon session. There was good open dialogue with comments and discussions. Dr. Tierney spoke of different trends in governance and the rolls of faculty, especially how to re-engage a sense of participation and commitment in the life of the University.
- The legislative session is over. The University of New Mexico is now in the part of the budget cycle where it will generate recommendations that go to the Regents. Traditionally, the Budget Planning Subcommittee looks at issues and must-pay bills first. It then goes to the Planning Council, next to the Executive Cabinet, and finally to the Regents. The President announced today that UNM will be engaging in a different process. The campus community will be asked to discuss the challenges UNM is facing, and UNM will educate people on those challenges. A Budget Summit is planned for April 1, 2004. An invitation to representatives from campus organizations will be generated and it will be open to anyone who wants come and listen. People can submit papers or written comments to a web site where all the materials will reside. The Faculty Senate will be asked to name five representatives. The Associated Students of the University of New Mexico (ASUNM), Graduate and Professional Students Association (GPSA), Staff Council, Dean's Council, and others on campus will also be asked to name representatives. These representatives will be responsible for participating and being informed through circulated papers and information, talking with others and making recommendations, and coming together to discuss choices and options UNM might have. The President hopes to have a good, robust discussion, and walk away with a consensus or sense of solutions. The process will take one month. A paper will be issued in a week explaining the budget challenges facing the University. Approximately one week to ten days later, the President will ask people to provide any submissions in response to the paper or for suggestions any other issues that need to be addressed. Those submissions will be circulated and available on the web site so people can see what others have to say about the challenges and issues. After looking at all the recommendations and submissions, the President will issue a final set of materials prior to the summit date. The materials will include thoughts and comments, budget scenarios, and possible choices. The entire process will involve the Planning Council, the Cabinet, and the Regents, who will make the final decisions. All will be invited to the Summit. In mid-April, the recommendations will go through the rest of the process. UNM must submit its budget to the Commission on Higher Education (CHE) by May 1, 2004.
- A Senator inquired how the University ended up after the legislative session. President Caldera answered the results were mixed. There is a two percent compensation increase, full formula funding was recommended, however there is a lot of under-funding within the formula so it does nothing for things like deferred maintenance. UNM is assessing all the places where money is hidden. There were some things in the basic budget bill that funded academic programs across the state. How UNM did relative to others in that process is being determined. Extra contributions will not be required to the employment retirement system. The legislature did not fund the changes in the employer mandated healthcare system. Pooled insurance items did not pass. The Biology and Engineering renovation was funded at four million dollars. The CHE had recommended \$13.5 million. The President is looking for a way to permit the Engineering Department to proceed with phase one of the Centennial Engineering Building with the expectation that UNM will get the money back.
- A Senator inquired about the status of a Faculty Club. The President stated that he, Provost Brian Foster, and Faculty Senate President Burris would be discussing the Faculty Club soon.
- A Senator asked about where the President stands on his administrative reorganization plan. He replied that it was put on hold during the legislative session.
- A Senator requested that the President encourage the administrations at the branch campuses to hold mini-summits to

discuss budgets there. The President responded that it was a good suggestion. Provost Foster added that the branch campuses have a totally different source of funds, and that they do not come from this campus.

### 5. PROVOST'S REPORT

The Provost reported on the following:

- As a follow up to what President Caldera said about the Budget Summit, Provost Brian Foster gave the example of enrollment growth as what UNM needs to be thinking about. The are approximately 1,500 more full time students than in the year 2000. One thousand new students taking four courses a term means there are 8,000 seats filled over a year. The average class size at UNM is 28 students. UNM would need to come up with another 267 sections to serve those 1,000 students. The 267 sections is not a trivial number of classes for funding, staffing, and supporting with advisement. If the freshman class size does not change and retention rates do not change, by 2006 UNM will grow by 3,000 students, requiring almost 800 new sections. Assuming UNM fills and schedules classrooms effectively, adding 267 sections would require an additional 17 classrooms. This type of data needs to get out so everyone can think about how this fits into all of the other things we need to do.
- Academic Affairs Associate Provost Nancy Uscher has accepted the position of Provost at the California Institute of Technology.
- A symposium on scholarly publishing titled "Stewardship of the University Community's Knowledge Base" will be held on March 12, 2004 in the Sub Ballroom from 1:00-4:30 p.m. Provost Foster highly recommends it to everyone, especially the academics at a research university.
- A promising discussion with the American Association of University Professors (AAUP) has begun on contingent faculty.
- The Degree Audit System (DARs) is old and obsolete. It is being replaced by the windows version of DARs, called DARWIN. The implementation has begun and a task force will be working on it. DARWIN will link with the banner student system. The implementation of this system may bring up a number of curriculum questions. A discussion of these issues will need to be undertaken in a timely manner.
- Starting new discussions on how we deal with the core curriculum have begun. The core curriculum is complex because it involves 47 hours of a mandated statewide core that UNM must comply with by statute. UNM must have a core that will be in students learning a set of skills, habits of mind, and baseline knowledge that all students need to take away from UNM. UNM will be constrained by the statewide core, by the cost of delivering the core, and it must work for honors students as well as remedial students. It must work for transfer students and those entering as resident freshmen. It has to work for all of the accredited programs. There is no option but a well defined set of learning outcomes and a rigorous system for assessing whether the students are coming away with that set of knowledge and habits of mind. This must be in place by our next National Collegiate Athletics Association (NCAA) review or UNM will be in some difficulty. This is now a hard requirement of the NCAA.
- Senator Hugh Witemeyer (English) asked about the shortage of classroom space and scheduling. Provost Foster reported that a study is currently underway. Dr. Foster does not know if UNM has a shortage of space yet. President Caldera added that the study will look at UNM's specialization, determine where the shortages are, and what the capacity is given student enrollment. It will also determine utilization rate. Provost Foster stated that there is already a shortage in instructional labs.
- A Senator asked who will be replacing Nancy Uscher on the committee to revise the Core Curriculum. Nancy Uscher reported that there is a process going on that will help define how that will be addressed. She has been working with President Caldera. Provost Foster added that Associate Provost Uscher has two or three important items to address presently and there will be a search process started soon for her replacement.

### 5. FACULTY SENATE PRESIDENT'S REPORT

The Faculty Senate President reported on the following:

- Dr. Bill Tierney's visit was successful. Small group discussions were the most valuable. He met with the Operations Committee for an hour. He recommends the consideration of separate governance for the School of Medicine (SOM). He made concrete suggestions for improving communication through newsletters, listserves, etc. He explained that low faculty salaries at UNM are a big problem, and that merit pay only works if base pay is adequate. He also explained that all conflict is not necessarily bad and that it needs to be made productive.
- The initial analysis of the Faculty Survey results has begun. There were 505 respondents. So far, the top three issues are increase faculty salaries, address salary inequities, and strengthen faculty role in institutional decision-making. The nature of the frequency distribution needs to be examined. The results are generally consistent with this present year priorities. The survey needs fine tuning and another survey should occur next year.
- About 20 people, both students and faculty, participated in the first Review Week Forum. The dialogue was an example of productive conflict. It was a fruitful discussion. There will be one or two more. President Burris encouraged colleagues to participate and share concerns and support.
- President-Elect Ed DeSantis reported the status of the Dean's Review. It will occur after Spring break and will be sent out to all main campus deans except for the Dean of Graduate Studies. North campus dean reviews are still being discussed.

### 6. INCOMPLETE POLICY CHANGE

Admissions and Registration Committee Chair Charlie Steen (History) was unable to attend. In his absence, President Burris presented the proposed change in the current incomplete policy. The policy change passed on a unanimous voice vote of the

Faculty Senate. The change reads as follows:

According to academic policy, incomplete grades must be completed before a student is eligible to graduate from the University of New Mexico.

The grade of "I" is given only when circumstances beyond the student's control have prevented completion of the course work within the official dates of a session.

Students should not re-enroll or re-register (for credit) in a course for which an Incomplete has been received in order to resolve the Incomplete.

If an instructor requires the student to repeat the class in order to resolve the Incomplete, the student must register for the course on an audit basis.

**Incomplete grades must be resolved no later than one year (twelve months) from the published end day of the semester in which the grade was assigned.** Incomplete grades not resolved within the time frame stated in this policy will be converted automatically to an F (failure).

Students resolving Incompletes in their semester of graduation must have the process completed (including the reporting of the grade to the Records and Registration Office) by the deadline. Students are responsible for informing instructors that they are graduating and that the grade(s) must be reported by the appropriate deadline. Failure to complete the process as described could result in the postponement of graduation until the following semester.

The instructor of record will report the final grade for the course in which the Incomplete was assigned to the Records and Registration Office. Graduate students see the section on Graduate Programs related to this policy.

It would stand as the current policy does, that if an instructor initiated a Grade Change Form for removal of the incomplete and it is not submitted by the end of the published ending date (12 months later), then the "I" would revert to an "F", and "I/F" for graduate students.

### RESEARCH MISCONDUCT POLICY CHANGE

Research Policy Committee member Associate Professor Virginia Seiser (General Library) presented a change in the Research Misconduct Policy. The change was passed by the Faculty Senate on a unanimous voice vote. It passed as follows:

~~Strikethrough text~~ = deleted text April 2003 draft

~~Strikethrough Bold text~~ = deleted text Fall 2003 draft

**Bold italic text** = added text Fall 2003 draft

## THE UNIVERSITY OF NEW MEXICO RESEARCH MISCONDUCT POLICY

(Research Fraud Policy approved by UNM Faculty Senate, September 10, 1996; approved by the UNM Board of Regents, October 10, 1996; revised as "Research Misconduct Policy" approved by the UNM Faculty Senate, April 23, 2002; approved by the UNM Board of Regents, May 10, 2002) (Draft revisions approved by the Faculty Senate, April 22, 2003 and February 24, 2004)

### 1. INTRODUCTION AND SCOPE

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, research misconduct threatens both to erode the public trust and to cast doubt on the credibility of all researchers.

Because the University of New Mexico as well as the general public and government are affected by this issue, the faculty and administration have created a process to deal with research misconduct if it arises and to ensure the credibility and objectivity of research activities. In broad terms, this process is to:

- o Ensure that ethical standards for research at UNM are clearly stated and applied.
- o Promptly inquire into allegations of misconduct and, where appropriate, initiate formal investigations and advise

sponsors of action taken.

- o Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
- o Respect the principles of academic freedom.

The policy and procedures regarding research misconduct are intended to protect the integrity of the University's research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

This policy applies to all individuals who may be involved with a research project, including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the University's academic community.

## 2. DEFINITIONS

**2.1 "Complainant"** means a person who makes an allegation of research misconduct. There can be more than one complainant in any inquiry or investigation.

**2.2 "Fabrication"** is making up data or results and recording or reporting them.

**2.3 "Falsification"** is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

**2.4 "NSF"** means the National Science Foundation. The NSF has adopted rules establishing standards for institutional responses to allegations of research misconduct.

**2.5 "ORI"** means the Office of Research Integrity, an office within the U.S. Department of Health and Human Services that is responsible for overseeing the implementation of PHS policies and procedures on research misconduct.

**2.6 "PHS"** means the Public Health Service, a component of the U.S. Department of Health and Human Services. The PHS has adopted rules establishing standards for institutional responses to allegations of research misconduct.

**2.7 "Plagiarism"** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

**2.8 "Recklessly"** means that a person acts in such a manner that the individual consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that a reasonable individual would observe.

**2.9 "Research misconduct"** is defined as fabrication, falsification or plagiarism in proposing, conducting, reporting or reviewing sponsored or unsponsored research. The misconduct must have been committed intentionally, knowingly, or recklessly. Research misconduct is further defined to include gross carelessness in conducting research amounting to wanton disregard of truth or objectivity, or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research misconduct is more than a simple instance of an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, an error in planning or carrying out experiments, or a calculation mistake.

**2.10 "Respondent"** means the person against whom an allegation of research misconduct is directed or the person who is the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

## 3. GENERAL PRINCIPLES

**3.1** Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.

**3.2** For purposes of resolving allegations of research misconduct, the process established by this policy shall apply to allegations of fabrication, falsification, or plagiarism. All other allegations of research misconduct shall be resolved utilizing other applicable University policies and procedures.

**3.3** Charges of research misconduct shall be promptly reviewed and a copy of this policy shall be made available to the complainant. Allegations must be made in writing, and signed and dated by the complainant. If health or safety is involved, prompt remedial action shall be taken.

**3.4** Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who is the subject of the inquiry or investigation. A good faith allegation is made with the honest belief that research misconduct may have occurred. Persons making a good faith allegation shall be protected against

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retaliation. However, persons making allegations in bad faith will be subject to disciplinary action, up to and including termination or expulsion. An allegation is made in bad faith if the complainant knows that it is false or makes the allegation with reckless disregard for or willful ignorance of facts that would disprove it.

**3.5** All members of the University community are expected to cooperate with committees conducting inquiries or investigations.

## 3.6 Confidentiality

Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the safety and privacy of persons involved in the research under inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the maximum extent possible. Files involved in an inquiry or investigation shall be kept secure and not retrievable by personal identifiers, and applicable state and federal law shall be followed regarding confidentiality of personnel records.

## 3.7 Conflict of Interest

If the Provost, the Vice Provost for Research, or Vice President for Health Sciences, as appropriate, has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The President of the University shall appoint designates to act instead.

When a case continues to the Inquiry and Investigation stages (Sections 5.3 and 6.3), if the President of the Faculty Senate, has any actual or potential conflict of interest, the person shall recuse him/herself from the case and the Senate President-Elect shall appoint a designate to act instead.

If any member of the Faculty Senate Operations Committee, or the Chair of the Research Policy Committee, has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The Faculty Senate President, or designate as appropriate, shall appoint faculty members to act instead.

## 4. PRELIMINARY ASSESSMENT OF ALLEGATIONS

**4.1** An initial report of alleged research misconduct shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question, or to the dean of the researcher's college, or to the Vice Provost for Research (for allegations concerning a main campus researcher) or Vice President for Health Sciences (for allegations concerning a HSC researcher). The person receiving the initial report shall, in turn, make an immediate confidential report of the allegations to the Vice Provost for Research or Vice President for Health Sciences, as appropriate. The Vice Provost or Vice President shall inform the accused of the charges.

**4.2** An initial report of research misconduct might arise as part of an administrative review. Such a report will be acted upon in accordance with this policy. The report should be brought confidentially to the Vice Provost for Research or Vice President for Health Sciences, as appropriate.

**4.3** Upon receipt of an initial report of alleged research misconduct, the Vice Provost for Research or Vice President for Health Sciences, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation falls within the definition of research misconduct and whether there is sufficient evidence to warrant an inquiry. If both conditions are met, the inquiry process shall be initiated. If the allegation is vague, an effort should be made to obtain more information before deciding whether there is sufficient evidence to warrant an inquiry. If the preliminary assessment finds insufficient information to allow specific follow-up or the allegation falls outside the definition of research misconduct, the matter will not proceed to an inquiry, and the Vice Provost for Research or Vice President for Health Sciences shall so inform the respondent and complainant in writing. The allegation may be referred for review under another University policy, as appropriate.

## INQUIRY

### 5.1 Purpose and Initiation

If the preliminary assessment reveals that the allegation falls within the definition of research misconduct and there is sufficient information to allow specific follow-up, the inquiry process shall be initiated by the Vice Provost for Research or Vice President for Health Sciences, as appropriate. The initiating official will clearly identify the original allegation and any related issues that should be evaluated in the inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred. The findings of the inquiry shall be set forth in an inquiry report.

### 5.2 Securing Research Records

After determining that an inquiry will occur, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, will direct the process whereby all original research records (or copies if originals cannot be located) and materials which may be relevant to the allegation are must be immediately secured. Prompt securing of records is in the best interests of both the respondent and UNM. Immediately upon ensuring that the research records are secure, the respondent shall be notified that an inquiry is being initiated and an inventory of the secured records shall be provided him/her. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested. **The respondent shall be notified of the charges and the procedures to be followed.**

### 5.3 Inquiry Committee

The inquiry shall be carried out by a committee of three persons appointed by ~~the Vice Provost for Research or Vice President for Health Sciences, as appropriate~~ **Faculty Senate Operations Committee. the Vice Provost for Research or Vice President for Health Sciences, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate.** At least two Inquiry Committee members shall be tenured faculty. One of the tenured faculty members shall chair the committee. Committee members should be selected on the basis of relevant research background and experience. Faculty members from other universities may be named to the Inquiry Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no ~~real or apparent actual or potential~~ **real or apparent actual or potential** conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the inquiry.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. ~~The Vice Provost for Research or Vice President for Health Sciences, as appropriate, The Faculty Senate Operations Committee~~ **The Vice Provost for Research or Vice President for Health Sciences, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate, will consider the objection and if it has merit shall make appropriate substitution(s). In the case of disagreement regarding appointments made by the Faculty Senate Operations Committee, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall decide the challenge. That decision [as to whether the challenge has merit] shall be final.**

**If the committee so requests,** the Vice Provost for Research or Vice President for Health Sciences, as appropriate, ~~may~~ **shall** designate an official to assist the committee in conducting the inquiry. The committee shall receive a written charge ~~from the Vice Provost for Research or Vice President for Health Sciences, as appropriate,~~ **the Vice Provost for Research or Vice President for Health Sciences, as appropriate,** defining the subject matter of its inquiry prior to beginning its work.

### 5.4 Inquiry Process

The respondent and complainant shall be given an opportunity to interview with the Inquiry Committee. The committee may interview others and examine relevant research records, as necessary, to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. University legal counsel shall be available to the committee for consultation.

The length of the inquiry shall not exceed sixty (60) days unless prior written approval for a longer period is obtained from the Associate Vice Provost for Research or Vice President for Health Sciences **as appropriate.** If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

### 5.5 Inquiry Report

The Inquiry Committee shall prepare a report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) (a) a summary of the evidence reviewed;
- (6) (b) a summary of any relevant interviews;

(7) and (c) the conclusions of the inquiry as to whether an investigation is recommended; and

(8) whether any other action should be taken if an investigation is not recommended.

The respondent shall be given fourteen (14) days an opportunity to review the report and to add his or her comments, which will become part of the final inquiry report and record. Based upon the respondent's comments, the Inquiry Committee inquiry committee may revise its report.

### 5.6 Inquiry Determination

The Inquiry Committee inquiry committee final report will be sent to the Vice Provost for Research or Vice President for Health Sciences, as appropriate, who will determine make the determination of whether findings from the results of the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation or whether the matter will not be pursued further. The respondent and complainant shall be notified in writing of the decision. ~~The inquiry report will also be sent to the sponsoring agency and/or ORI, as required by federal regulation.~~

## 6. INVESTIGATION

### 6.1 Purpose and Initiation

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether research misconduct has been committed, by whom, and to what extent. ~~The investigation will also determine whether there are additional instances of possible misconduct that would justify altering the scope of the investigation.~~ **If [any additional] instances of possible misconduct involving a different respondent are uncovered, the matter should be sent to the Vice Provost for Research or Vice President for Health Sciences, as appropriate, to determine whether to initiate a preliminary assessment. [or address the issue as part of the existing investigation.]**

The Investigation Committee will be appointed and the process initiated within thirty (30) days after the conclusion of the inquiry. If required by sponsoring agency regulations, ~~the University~~ **the office of the Vice Provost for Research or Vice President for Health Sciences, as appropriate,** shall notify the agency of its decision to commence an investigation on or before the date the investigation begins.

### 6.2 Securing Research Records

Any additional pertinent research records that were not previously sequestered during the inquiry will be immediately sequestered when the decision is made to conduct an investigation. The Vice Provost for Research or Vice President for Health Sciences, as appropriate, will direct this process. This sequestration should occur before or at the time the respondent is notified that an investigation will begin. The need for additional sequestration of records may occur for any number of reasons, including a decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. **As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested.**

### 6.3 Investigation Committee

The investigation shall be conducted by a committee of five tenured faculty members persons appointed by the ~~Vice Provost for Research or Vice President for Health Sciences, as appropriate~~ **Faculty Senate Operations Committee, in consultation with the Chair of the Research Policy Committee or his/her designate.** Committee members should be selected on the basis of relevant research background and experience. All persons appointed from UNM shall be tenured faculty. Tenured faculty members from other universities or senior researchers from research institutions may be named to the inquiry Investigation Committee investigation committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no ~~real or apparent actual or potential~~ **real or apparent actual or potential** conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the investigation. No person shall be appointed to the investigation committee who served on the inquiry committee No more than two members of the Inquiry Committee inquiry committee may be appointed to serve on the Investigation Committee investigation committee.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole does, does not meet the criteria stated above. ~~The Vice Provost for Research or Vice President for Health Sciences, as appropriate, The Faculty Senate Operations Committee~~ **The Vice Provost for Research or Vice President for Health Sciences, as appropriate, in consultation with the Chair of the Research Policy Committee or his/her designate. In the case of disagreement regarding appointments made by the Faculty Senate Operations Committee, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, shall decide the challenge. That decision [as to whether the challenge has merit] shall be final.**

If the committee so requests, the Vice Provost for Research or Vice President for Health Sciences ~~(may)~~ shall designate an official to assist the committee in conducting the investigation. The committee shall receive a written charge from the Provost for Research or Vice President for Health Sciences, as appropriate, defining the subject matter of its investigation prior to beginning its work.

6.4 Investigation Process

The investigation will normally involve examination of all relevant documentation.

~~Whenever possible,~~ The committee ~~should~~ shall make diligent efforts to interview the complainant, the respondent and other individuals who might have information regarding aspects of the allegations. The interviews will be recorded using a recording device provided by the office of the Vice Provost for Research or Vice President for Health Sciences, as appropriate. A verbatim written record shall be made of all interviews. A transcript of ~~the~~ his/her interview shall be provided to each witness for review and correction of errors, which shall be returned and become part of the investigation. ~~The committee may decide to have the complainant and the respondent present at the same meeting.~~ University legal counsel shall be available to the committee for consultation.

6.5 Investigation Report

The Investigation Committee investigation committee shall prepare a draft of the final report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) findings and basis for each finding;
- (8) conclusion(s) as to whether research misconduct occurred; and
- (9) recommendations for institutional action.

Copies of all significant documentary evidence that is referenced in the report should be appended to the report.

A finding of research misconduct requires that four conditions be met:

- (1) the conduct at issue falls within this policy's definition of research misconduct;
- (2) the misconduct be committed intentionally, or knowingly, or recklessly;
- (3) there be a significant departure from accepted practices of the relevant research community; and
- (4) the allegation be proven by a preponderance of the evidence. This means that the evidence shows that it is more likely than not that the respondent committed research misconduct.

The respondent will be provided with a copy of the draft investigation report for review and comment. The respondent will be allowed fourteen (14) days for review and any comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all of the other evidence. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The respondent will have fourteen (14) days to review and submit any comments to the Investigation Committee. The report may be modified, as appropriate, based on the complainant's comments.

If the Investigation Committee puts forward a final report with a finding of research misconduct, the respondent will have 14 days to elect a hearing before the Provost or Vice President for Health Sciences, as appropriate. The hearing will allow for argument, rebuttal, cross-examinations, and a written record of the proceedings.

6.6 Institutional Review and Determination

The Investigation Committee investigation committee final report will be forwarded to the Vice Provost for Research or Vice President for Health Sciences, as appropriate. The Vice Provost for Research will transmit the report to the Provost or Vice President for Health Sciences, as appropriate. The Vice Provost for Research will be the deciding official for cases where the respondent is not a Health Sciences Center employee. The Vice President for Health Sciences is the deciding official for cases where the respondent is a Health Sciences Center employee. The deciding official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions.

If the respondent has elected a hearing, the deciding official will conduct the hearing following the University hearing procedure, available from the University Counsel's office. The Investigation Committee presents the case consistent with its report. The respondent presents the rebuttal. The respondent may have an advisor present.

The deciding official's decision should be consistent with the definition of research misconduct, the University's policies, and the evidence reviewed and analyzed by the Investigation Committee. The deciding official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. The deciding official's final determination will be sent to the respondent and complainant. If the deciding official's decision varies from that of the Investigation Committee, the basis for rendering a different decision will be explained in the report to ORI and other agencies as appropriate.

Respondent may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/ or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

The investigation shall be completed within 180 days of the first meeting of the Investigation Committee. However, if PHS sponsored the research, the investigation shall be completed, with the final investigation report and final determination submitted to ORI, within 120 days of the first meeting of the Investigation Committee, unless ORI grants an extension.

7. ACTIONS FOLLOWING INVESTIGATION

7.1 Finding of Research Misconduct

If the final determination is that research misconduct occurred, UNM shall take appropriate action, which may include but is not limited to:

- (1) notifying the sponsoring agency;
- (2) withdrawal or correction of all pending or published abstracts and papers emanating from the research;
- (3) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, rank reduction or termination of employment in accordance with UNM policies and procedures. In cases involving faculty, implementation must be consistent with the Policy on Academic Freedom and Tenure;
- (4) determining whether law enforcement agencies, professional societies, professional licensing boards, collaborators of the respondent, or other relevant parties should be notified; and
- (5) any other steps deemed appropriate to accomplish justice and preserve the integrity of UNM and the credibility of the sponsor's program.

7.2 Restoration of Respondent's Reputation

If the final determination is that no research misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the respondent, the sponsor and others who were involved in the investigation or deleteriously affected thereby. Depending on the circumstances, consideration should be given to notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, expunging all reference to the research misconduct allegation from the respondent's personnel files, or reviewing negative decisions related to tenure or advancement to candidacy that occurred during the investigation. Any institutional actions to restore the respondent's reputation must first be approved by the Vice Provost for Research or Vice President for Health Sciences, as appropriate.

7.3 Protection of the Complainant and Others

Regardless of whether UNM determines that research misconduct occurred, reasonable efforts will be undertaken to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. The Vice Provost for Research and Vice President for Health Sciences, or designee, will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant. If a complainant believes that retaliation was threatened, attempted, or occurred, he or she may file a complaint with the UNM Audit Department.

7.4 Allegations Made in Bad Faith

If relevant, the Vice Provost for Research or Vice President for Health Sciences will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was made in bad faith, appropriate disciplinary action will be taken in accordance with UNM policies and procedures. If the complainant is not associated with UNM, appropriate organizations or authorities may be notified and administrative or legal action considered.

8. OTHER CONSIDERATIONS

## 8.1 Requirements for Reporting to ORI When Funding From PHS is Involved

**8.1.1** The decision to initiate an investigation must be reported in writing to the Director, ORI, on or before the date the investigation begins. The notification must include at a minimum the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved.

**8.1.2** If UNM plans to terminate an inquiry or investigation without completing all relevant requirements of the PHS regulations, a report of such planned termination shall be made to ORI, including a description of the reasons for the proposed termination.

**8.1.3** If UNM determines that it will not be able to complete the investigation within 120 days, a written request for an extension shall be submitted to ORI that explains the delay, reports on the progress to date, estimates the date of completion and describes other necessary steps to be taken. If the request is granted, UNM must file periodic progress reports as requested by ORI.

**8.1.4** UNM will keep ORI apprised of any developments during the course of an investigation that may affect current or potential Department of Health and Human Services funding for the individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

**8.1.5** ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) there is an immediate health hazard involved;
- (2) there is an immediate need to protect federal funds or equipment;
- (3) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
- (4) it is probable that the alleged incident is going to be reported publicly;
- (5) the allegation involves a public health sensitive issue (e.g. a clinical trial); or
- (6) there is reasonable indication of possible criminal violation in which case UNM must inform ORI within 24 hours of obtaining that information.

## 8.2 Requirements for Reporting When NSF Funding is Involved

**8.2.1** The decision to initiate an investigation must be reported immediately in writing to NSF.

**8.2.2** NSF shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) public health or safety is at risk;
- (2) NSF's resources, reputation, or other interests need protecting;
- (3) there is reasonable indication of possible violations of civil or criminal law;
- (4) research activities should be suspended;
- (5) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
- (6) the scientific community or the public should be informed.

**8.2.3** NSF shall be provided with a copy of the final investigation report.

**8.2.4** The inquiry shall be completed within 90 days and the investigation completed within 180 days of its initiation. If completion of an inquiry or investigation will be delayed, NSF shall be notified and may require submission of periodic status reports.

## 8.3 Interim Administrative Action

UNM officials will take interim administrative actions, as appropriate, to protect federal funds and insure that the purposes

the federal financial assistance are carried out.

## 8.4 Termination of UNM Employment

The termination of the respondent's UNM employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent refuses to participate in the process after termination of employment, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

## 8.5 Record Retention

All documentation of an inquiry that does not lead to an investigation shall be maintained in University Counsel Office files for at least three (3) years after the conclusion of the inquiry. All documentation of an investigation shall be maintained in University Counsel Office files for five (5) years after the end of the investigation. Documentation shall be provided to the sponsoring agency and ORI upon request or if required by the agency's regulations. Documentation shall be treated as confidential personnel information to the extent provided for by law.

## 8.6 Reimbursement

If requested, the Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the respondent and/or the complainant for legal fees in cases of unusual hardship.

## 8.7 Federal Regulatory Changes

If PHS, ORI, NSF, or any other federal agency amends its requirements on research misconduct, those amendments shall govern where applicable and shall be incorporated into this policy by reference herein. Such changes in federal requirements shall supersede all relevant portions of this policy.

## 8.8 Revision

**The Faculty Senate is authorized to make minor technical and implementing modifications to the detailed Research Misconduct Policy subject to approval of the President of the University.**

## LIBRARY STRATEGIC PLAN

General Library Dean Camila Alire presented the 2003-2006 Library Strategic Plan as an information item. She explained that the General Library does well given its constraints, but it is already very lean. A Senator asked what the General Library's budget is and Dr. Alire replied \$10 Million. A Senator commented that the branch campuses rely heavily on the distance services provided by the General Library and was pleased that electronic books online is the library's primary goal.

## THE FACULTY SENATE MET IN CLOSED SESSION FOR THE FOLLOWING AGENDA ITEM.

### HONORARY DEGREE NOMINATIONS

### NEW BUSINESS AND OPEN DISCUSSION

Senator Fred Hashimoto (Internal Medicine) asked why research money from a grant cannot be used to augment salary. He stated that three of four divisions within the School of Medicine (SOM) are able to use grant funds to augment salaries. He explained that the SOM went through all the necessary channels. He feels it is something that main campus should consider and research.

### ADJOURNMENT

The meeting was adjourned at 4:55 p.m.

Respectfully submitted,

John Holmes  
Vice of the Secretary