



HLC Accreditation Evidence Document

Title: UAPPM Policy 2720: Equal Opportunity, Non-Discrimination, and Affirmative Action

Office of Origin: University Administrative Policies and Procedures Manual

Description: The UAPPM Policy concerning Equal Opportunity and Non-Discrimination within the community and hiring practices of the university.



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Administrative Policies and Procedures Manual - Policy 2720: Equal Opportunity, Non- Discrimination, and Affirmative Action

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Subject to Change Without Notice



Authorized by UNM Regents' Policy 2.3 "Equal Opportunity and Affirmative Action for
Employees and Students"

Process Owner: Director, Office of Equal Opportunity

Note: This policy was formerly numbered UAP 3100.

1. General

The University of New Mexico is committed to creating and maintaining a community in which students and employees can learn and work together in an atmosphere that enhances productivity and draws on the diversity of its members, and is free from all forms of disrespectful conduct, intimidation, exploitation, and harassment. The purpose of this policy is to guide University officials to take whatever action may be needed to prevent, correct, and, when necessary, to discipline behavior which violates this policy. In fulfilling its dual tasks of educating and providing public service, the University can, and shall, demonstrate leadership in eliminating discrimination and providing equal opportunities in employment and education.

The University, as an equal opportunity/affirmative action employer, complies with all applicable federal and state laws regarding nondiscrimination and affirmative action, including Title VII of the Civil Rights Act of 1964; Title IX of the Educational Amendments of 1972; New Mexico Religious Freedom Restoration Act, Sections 28-22-1 to 28-22-5; NMSA 1978; and the New Mexico Human Rights Act, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14, NMSA 1978.

2. Differential Treatment and Harassment Prohibited

The University strives to assure equal treatment and access to all programs, facilities, and services. In keeping with this policy of equal opportunity, the University is committed to creating and maintaining an atmosphere free from all forms of discrimination and harassment. There are two typical types of discrimination: differential treatment, and harassment that creates a hostile environment.

2.1. Differential Treatment

Differential treatment occurs when people, whether an individual or a group, are treated differently because of their race, color, religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex (including sexual harassment), sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or any other characteristic protected under applicable law. The University expects all members of the University community, as well

as its visitors, to be treated equally, based on merit and other appropriate factors, in all aspects of its educational programs and activities, and in all aspects of employment.

Listed below are examples of conduct that can constitute discrimination based on differential treatment as described above. This list is not all-inclusive; 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 or grade, lower salary increase, negative performance evaluation) because of their protected characteristics
- Failing or refusing to hire or admit persons because of their protected characteristics
- Terminating persons from employment or an educational program based on their protected characteristics
- Denying raises, benefits, promotions, or leadership opportunities on the basis of a persons' protected characteristics
- Preventing persons from using University facilities or services because of their protected characteristics
- Denying persons access to educational programs based on their protected characteristics
- Failing to provide reasonable accommodations for qualified individuals with disabilities or for religious holidays or observances

2.2. Harassment

The University prohibits harassing behavior on its campuses and by any person while engaged in University business, whether on or off campus. Harassment is a form of discrimination. It is defined as unwelcome verbal or physical behavior, which is directed at persons because of their race, color, religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex, sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or other characteristic protected by applicable law, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with their educational experience, working conditions, or student housing by creating an intimidating, hostile, or offensive environment.

In some cases, a single incident may be so severe as to create a hostile environment. Such incidents may include injury to persons, or property, or conduct threatening injury to persons or property. In other instances, the behavior at issue is harassing, but not sufficiently severe, persistent, or pervasive as to constitute a hostile work or learning environment. In such cases, the University generally takes action to stop the offending behavior in an effort to promote a respectful environment and avoid the possibility that a hostile environment will develop.

Listed below are examples of behavior that can constitute such harassment. The list is not all-inclusive; in addition, each situation must be considered in light of the specific facts and circumstances to determine if harassment has occurred.

- Unwelcome jokes or comments about a protected characteristic (e.g., racial or ethnic jokes)
- Disparaging remarks to a person about a protected characteristic (e.g., negative or offensive remarks or jokes about a person's religion or religious garments)
- Displaying negative or offensive posters or pictures about a protected characteristic
- Electronic communications, such as e-mail, text messaging, and Internet use, that violate this policy

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other educational programs and activities. This policy is intended to protect students and employees from discrimination, not to regulate the content of speech.

3. Reasonable Accommodations

The University makes reasonable accommodations for students, employees, or prospective employees 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 can constitute discrimination in some instances. Anyone seeking information on reasonable accommodations may also contact the University's Office of Equal Opportunity ([OEO](#)).

3.1 Reasonable Accommodations for Religious Observances and Practices

The University makes reasonable accommodations for the religious observances and practices of students, employees, and prospective employees. These accommodations are made for students unless such accommodations have the end result of altering educational requirements of a course or program, excessively burdening faculty, or placing an undue hardship on the operations of the University. These accommodations are made for staff unless such accommodations have the end result of disrupting the efficiency or effectiveness of the workplace, 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.

3.2 Reasonable Accommodations for Individuals with Disabilities

The University makes reasonable accommodations for the physical and mental disabilities of a student unless an accommodation has the end result of fundamentally altering the nature of the course or program, excessively burdens faculty, or places an undue hardship on the operation of the University. The University makes reasonable accommodations for the physical or mental disabilities of an employee or prospective employee unless such accommodations have the end result of fundamentally altering the essential functions of a job or place an undue hardship on the operation of the University.

Failure to accommodate can constitute discrimination on the basis of 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 should refer to [UAP 3110](#) ("[Reasonable Accommodation for Employees with Disabilities](#)") for guidance on requesting accommodations and initiating an interactive dialogue with their immediate supervisor or manager.

4. Reporting Procedures

It is the policy of the University to prevent and eliminate forms of unlawful harassment in employment and educational settings. The University prohibits harassment on the basis of race, color, religion, national origin, ancestry, physical or mental disability, pregnancy, age, sex (including sexual harassment), sexual preference, gender identity, spousal affiliation, veteran status, genetic information, or any other characteristic protected under applicable law. Persons who believe they have been discriminated against on the basis of a protected status are encouraged to contact:

- OEO
- Dean of Students

- Human Resources
- Ombudsperson (The Ombudsperson serves as a resource for discussing concerns and University processes; reports to the Ombudsperson are confidential and are not shared with University officials or other departments)
- their supervisors or managers
- director, chair, or dean of a department, school, or college
- Internal Audit
- UNM Compliance Hotline (call may be anonymous, but doing so may limit a person's protection from retaliation and the University's ability to conduct a full investigation)

The University encourages persons who believe that they have experienced or witnessed discrimination or harassment as prohibited by this policy to come forward promptly with their inquiries, reports, or complaints and to seek assistance within the University. Individuals also have the right to pursue a legal remedy for discrimination or harassment that is prohibited by law, in addition to or instead of proceeding under this policy.

The University will handle discrimination complaints under this policy to ensure prompt and equitable resolution of such complaints. The matter may proceed to a formal investigation or other forms of effective and fair review. The investigation or review may be performed by OEO, or jointly with another office, as determined by OEO.

Discrimination Claim Procedures are in place for addressing allegations of discriminatory treatment of employees or students. These procedures can be reviewed on OEO's [website](#). Anyone in the University community may contact [OEO](#) for more information. Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated; (2) a finding that the allegations are substantiated and constitute discrimination or inappropriate behavior; and, if so, (3) referral to the appropriate administrative authority for corrective action.

4.1 Reporting Responsibility

When University faculty, administrators, and supervisors witness or receive a written or oral report or complaint of discrimination or harassment, they are required to engage in appropriate measures to prevent violations of this policy and promptly notify OEO, including notification of any actions taken to achieve informal resolution of the complaint. The University relies on its employees to notify the University's OEO office of all disclosures of discrimination and harassment as defined in this policy.

Further, if supervisors fail to take action 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. The University encourages reporting of all known or suspected discriminatory conduct.

This section of the policy does not obligate persons who are required by professional or University responsibilities to keep certain communications confidential (e.g., licensed healthcare professional) to report confidential communications received while performing those University responsibilities.

5. Confidentiality

The University recognizes that individuals have a right to privacy; however, the University also has an obligation to address concerns and inquiries, as well as to investigate and resolve civil rights claims. Therefore, the University cannot guarantee anonymity to persons raising concerns. The University may not be able to fully address allegations

received from anonymous sources or those requesting anonymity, unless sufficient information is furnished to enable the University to conduct a meaningful and fair investigation. All complaints will be handled in a confidential manner to the extent possible and consistent with principles of due process. Information will only be shared among University employees or external parties on a need-to-know basis and as permitted under University policy and applicable federal and state law.

All participants involved with an internal discrimination or harassment investigation have a strict duty to keep investigation information confidential. Any attempt by any participant to influence the outcome of an investigation by divulging information to others (who have no legitimate "need to know") may be grounds for disciplinary action.

Persons may request anonymity when reporting discrimination, and the University will evaluate the anonymity request in the context of the University's responsibility to provide a safe and nondiscriminatory work and learning environment. Anonymous claims may limit a person's protection from retaliation and the University's ability to conduct a full investigation. While not routinely done, the University reserves the right to disclose a person's identity when absolutely necessary to fulfill its obligations under anti-discrimination laws and regulations or when legally required to do so.

6. Retaliation

It is the policy of the University of New Mexico to foster an environment where faculty, staff, and students 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 person 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 as a witness in an investigation related to an allegation of discrimination or harassment.

Allegations of retaliation may be reported to OEO, Internal Audit, chairs, deans, directors, supervisors, the Division of Human Resources, and the Dean of Students. Retaliation is grounds for a subsequent complaint and may result in disciplinary action against the persons committing the retaliatory acts.

7. 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. 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 substantiate the allegation.

Notwithstanding this provision, the University may discipline employees or students when it is determined that they brought an accusation of discrimination or harassment in bad faith or with reckless disregard of the truth or falsity of the claim. Additionally, anyone participating in an investigation who intentionally misdirects an investigation, whether by falsehood or omission, will be subject to disciplinary action.

8. Affirmative Action

The University recognizes its responsibility to extend equal employment and educational opportunities to all qualified individuals. The University has a responsibility to its students and to the citizens of the state to actively recruit, hire, and retain the best-qualified persons possible, and to do so in the context of our commitment to affirmative action principles.

Further, the University commits itself to a program of affirmative action to increase access by, and participation of,

traditionally underrepresented groups. OEO provides guidance and assistance to the University leadership in identifying effective recruitment and retention strategies to meet its affirmative action responsibilities. This includes monitoring or auditing all employment activity for staff and faculty at the University.

8.1. Responsibility for Affirmative Action Plan

The University President has overall responsibility for the Affirmative Action Plan. All senior and mid-level administrators (vice presidents, deans, directors, department heads) are accountable for their performance in the accomplishment of affirmative action goals and objectives.

The Director of OEO has been designated as the Affirmative Action Coordinator. This official is responsible for monitoring or auditing all of the University's equal employment opportunity and affirmative action activities, reporting annually on the effectiveness of the University's affirmative action programs, and developing recommendations for necessary action to assure attainment of the University's stated objectives. Any questions related to the Affirmative Action Plan should be directed to [OEO](#).

9. Related Policies and Resources

9.1. Policies

[Regents Policy 2.3 \("Equal Opportunity and Affirmative Action for Employees and Students"\)](#)

[Regents Policy 2.5 \("Sexual Harassment"\)](#)

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

[UAP 2310 \("Academic Adjustments for Student with Disabilities"\)](#)

[UAP 2730 \("Sexual Harassment"\)](#)

[UAP 3110 \("Reasonable Accommodation for Employees with Disabilities"\)](#)

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

9.2. Resources

[Accessibility Resource Center](#)

[Office of Equal Opportunity](#)

[Discrimination Claim Procedures](#)

[Dean of Students](#)

[Campus Police](#)

[Center for Academic Program Support](#)

[Counseling, Assistance, and Referral Service](#)

[Ombuds/Dispute Resolution Services for Faculty](#)

[Ombuds/Dispute Resolution Services for Staff](#)

[Student, Health, and Counseling](#)

[Women's Resource Center](#)

[Rape Crisis Center of New Mexico](#)

[New Mexico Coalition Against Domestic Violence](#)

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