THE UNIVERSITY OF
NEW MEXICO

2020

Internal Protocol Manual

University of New Mexico

Compliance Office

UNM MAIN CAMPUS COMPLIANCE OFFICE - INTERNAL PROTOCOLS

The University of New Mexico is committed to the highest standards of integrity, controls, risk management and ethics in pursuit of its mission of engaging students, faculty and staff in its comprehensive educational, research and service programs. The UNM Main Campus Compliance Office strives to ensure institutional compliance with applicable laws, regulations and policies; to promote ethical behavior and integrity; and to provide the tools and guidance needed to meet all necessary oversight requirements.

The Main Campus Compliance Office has developed strategies to ensure that UNM is promoting a compliant and ethical environment. Inquiries, allegations and complaints reach the Main Campus Compliance Office through many channels, including walk-ins, letters, emails and the EthicsPoint hotline.

All complaints received through the Compliance Hotline are reviewed to determine: 1) the significance/urgency of the matter; and 2) the most appropriate office or person to address the situation in the report. People reporting through the Compliance Hotline have the option to maintain their anonymity and the Compliance Hotline handles the information in a confidential manner to the extent allowed by law and policy.

After a matter is reported through the Compliance Hotline, the appropriate assigned investigative staff member will process the complaint. All inquiries, complaints and allegations must be evaluated and documented regardless of the source and before any action is taken. Proper evaluation is necessary, although many issues will not require a full investigation. The purpose of investigations is to evaluate information provided by the source. Information gathered through review of materials and interviews (as necessary) is evaluated to determine whether there is sufficient evidence to support a conclusion regarding the allegation. If an allegation is substantiated by the investigative department, it is forwarded to the appropriate department or unit for disposition. If it is determined there is not sufficient information or evidence to support an allegation, the case is documented and closed until further information is available. The UNM Compliance Hotline has the capability to inform the reporter that a case has been closed and the result of the case, even if the reporter submitted the inquiry or allegation in a confidential manner. However, the reporter is not provided with specific information regarding the ultimate outcome of the investigation.

UNM COMPLIANCE HOTLINE REPORTING EXAMPLES:

Conflict of Interest: Financial, Research or other COI matters

Discrimination Issues: Any form or discrimination

Financial: Accounting or internal control issues, fraud, theft or other financial issues.

Human Resources: Code of Conduct Concerns, Harassment, or threats.

Information Systems: Data privacy, confidentiality, or other waste or abuse of resources or information.

Medical and Health: Patient confidentiality, billing/coding issues, misleading/inaccurate medical documentation or accreditation issues.

Safety: Unsafe conditions, environmental issues or other safety matters.

These internal protocols detail the process that the UNM Main Campus Compliance Office uses to research allegations of wrongdoing raised through inquiries and complaints. Every investigation will have unique issues and circumstances, challenges and outcomes. Following these protocols ensures that our reviews and investigations are conducted in a professionally, consistent manner across departments and units.

REPORTING CONCERNS

University of New Mexico Main Campus Compliance Office
609 Buena Vista Dr. NE
MSC05 3150
Albuquerque, NM 87131-0001
Phone: 505-277-0169
Fax: 505-277-1190
Email: compliance@unm.edu
Web: http://compliance.unm.edu/

UNM Compliance Hotline
EthicsPoint Incident Management System
Toll-Free Phone: 1-888-899-6092
Web: https://unm.ethicspoint.com
(Toll free phone number or through the web intake form)

INTERNAL PROTOCOL STEPS

1) **Receipt of an Inquiry, Allegation or Complaint**
   a. Inquiries, allegations and complaints may be received or submitted as a phone call, walk-in, letter, fax or email. Other submissions can be input directly into the UNM Compliance Hotline by the Reporter.
   b. Inquiries, allegations and complaints may be forwarded from various University offices, management, the Board of Regents, state and local government agencies, etc.
   c. All inquiries, allegations and complaints shall be entered in the UNM Compliance Hotline EthicsPoint Incident Management System. This allows for better internal benchmarking and trend-spotting, as well as improved recordkeeping and better organization of cases.

2) Review of Inquiries, Allegations and Concerns

a. Once a matter is received, the Main Campus Compliance Office will review for sensitivity and determine if individual access needs to be restricted from the case to maintain the integrity of the process or determine if the case should be reclassified to a different tier. If neither is an issue, there will be no action taken by the Main Campus Compliance Office, as the EthicsPoint system will automatically assign the case.

b. If the designated reviewing office does not agree that they are the appropriate reviewing office, they can either change to the appropriate department and will notify the Main Campus Compliance Office.

c. If Main Campus determines that the reviewing office has a potential conflict based on the allegations, it shall assign the complaint to a neutral reviewing office.

d. Many complaints implicate more than one subject area or department/division. In such cases, the complaint will be assigned based on the primary issue. If more than one primary issue is identified, the complaint may be assigned to more than one area at the same time in order to conduct joint or simultaneous investigations (i.e. HR and civil rights issues may be simultaneously investigated by HR and OEO).

3) Determine the Significance, Immediacy or Urgency of the Matter

a. The Main Campus Compliance Office will review the allegations and mark the report as needing immediate expedited attention or if it can be dealt within the normal course of action. The EthicsPoint systems will be marked as red (urgent) or green (regular).

4) Determine the Most Appropriate Office to Address and Assess the Inquiry, Allegation or Complaint

a. The Main Campus Compliance Office will assign the matter to one of the following internal offices for review, if the case was not correctly labeled by the reporting party:

i. Human Resources
ii. Internal Audit Department
iii. Office of Equal Opportunity
iv. Safety and Risk
v. Research Compliance
vi. IT
vii. Office of the Provost
viii. Health Sciences Center
ix. UNM Hospital
x. Sandoval Regional Medical Center
xi. UNM Medical Group
xii. Office of University Counsel
xiii. UNM Police Department
xiv. Other

5) **Once a Matter is Assigned, the Reviewing Office Will Determine the Following:**
   a. All matters shall receive an initial review and change the case status to "In-Process". Each reviewing office will make a threshold determination if further examination or formal investigation is necessary.
   b. If there is not sufficient information, the reviewing office will request additional information from the reporter.
   c. If no response is received from the reporter within 10 business days and there is not enough information available, the reviewing office shall close the case and notate that the reporter has not responded to the request for additional information and the case is being closed due to "Insufficient Information." If the case is closed, the reviewing office shall notify the reporter of the action.
   d. The reviewing office will determine if the matter has been resolved in a different manner. For example, has an internal office policy been changed to correct the reported issue?

6) **A Full Investigation shall be conducted if:**
   a. The inquiry, allegation or complaint alleges a violation of laws, regulations or policies.
   b. The inquiry, allegation or complaint alleges a violation of established employment practices.
   c. Related or similar issues have been received in the past.
   d. The inquiry, allegation or complaint involves individuals or departments that have been the subject of similar complaints.
   e. The matter is related to or similar to past or ongoing governmental investigations.
   f. There is potential of criminal wrongdoing.
   g. It alleges a violation of health and safety rules.
   h. There is a potential of significant loss of revenue or resources.
   i. The inquiry, allegation or complaint raises potential systemic issues.
   j. An investigation has been requested by management, the Board of Regents, a federal or state agency, etc.
   k. Investigation is required to forestall potential litigation or in anticipation of litigation. (Please consider contacting the Office of University Council as an alert).
   l. The inquiry, allegation or complaint exposes UNM to publicity that could potentially damage its reputation.
   m. There is a potential to implicate the conduct of key employees, management, or important business interest and policies.
   n. It raises issues involving potential self-reporting obligations or cooperation with governmental agencies.

   [The presence of any one of these factors can signal the need for an investigation and will be dependent upon each investigating office's internal protocols or established processes.]

7) **The Matter Can Be Resolved Through Avenues Other Than Investigation if:**
   a. The issue can be resolved informally. The reviewing office can refer it to the appropriate individual to take corrective action.

b. If the issue can be resolved through mediation or dispute resolution. If so, UNM's Ombuds Services for Staff or Ombuds Services for Faculty can be a resource for the matter. Note that both parties to a complaint must voluntarily wish to mediate the case.
c. The reporter can elect to withdraw their complaint at any time. However, the Main Campus Compliance Office or other reviewing offices reserve the right to continue an investigation into the concerns.
d. Should any of the above actions take place, the action will be documented in the synopsis section of the case.

8) If an Investigation Is Required, Next Steps Include:

a. Ensuring that the investigation includes a prompt and expeditious examination and analysis of the factual information.
b. If the investigating body already has internal investigative protocols in place, investigators should follow those internal processes.
c. If the investigating body does not have protocols, the Main Campus Compliance Office Suggested Investigation Guidance should be followed. *See Guidance at page 9*. All investigations conducted by the Main Campus Compliance Office will use the Investigation Guidance.
d. The Main Campus Compliance Office is available to help the reviewing office develop an investigation plan and work with the office before and during the process.
e. If an investigation may lead to a violation of policy determination, the subject of the investigation (Respondent) will be notified and provided sufficient facts to allow them to respond to the allegations.

9) When analyzing the facts, the investigator will base their conclusions on the balance of probability. This is the *Preponderance of the Evidence* civil standard of proof that an incident is more likely to have occurred than not.

10) Final Report

a. A final report is created at the conclusion of an investigation and shall contain a summary of the facts gathered from the investigation.
b. All case outcomes shall be properly documented in the UNM Main Campus Compliance Hotline EthicsPoint Incident Management System. All investigative reports shall be uploaded to the EthicsPoint Incident Management System.
c. The report should contain:
    i. The nature of the report
    ii. The summary of the facts gathered
    iii. The people interviewed and documents reviewed
    iv. Specific conclusion(s) reached on each key issue
    v. Whether a breakdown of internal controls contributed to the problem or allegations
d. The report should clearly state the findings:
    i. Substantiated (allegations have been proven by a preponderance of the evidence)

ii. Partially Substantiated (some of the allegations have been proven, but not all)
iii. Unsubstantiated (allegations have not been proven by a preponderance of the evidence)
iv. Insufficient Information (there is insufficient information from the complaint submitted via EthicsPoint)
v. Not in Jurisdiction (the incident does not fall within the areas covered by a UNM policy)
vi. No Legal/Policy/Ethics Violations (upon review, it is found there are no legal, policy or ethics violations that have been alleged)
vii. Duplicate Case (this case has been reported by another reporting party and should be linked in EthicsPoint)
viii. Inquiry Resolved (the issue was resolved; for example, alleged wrongdoer retired)
ix. Reported to Outside Entity (issue was reported to outside agency, like state auditor, EEOC or other state agency)
x. Allegation Resolved (something occurred to conclude that the situation has been resolved)
xi. Case Withdrawn by Reporter (reporting party opts not to continue case, but informs the investigator of this in writing)
xii. Executive Resolution (such as training or other mitigating action taken to resolve the case)
xiii. No Response to Follow-Up (Reporting party failed to answer follow-up questions and facts as alleged are insufficient)

11) When Concluding the Investigation, the Investigating Office Should Determine:
a. Did the evidence of the investigation fully support the allegation or not?
b. Was the subject aware of the rule or policy violated?
c. Are there any mitigating or aggravating circumstances that should be taken into consideration?
d. Who needs to be apprised of the results of the investigation?
e. Does the matter need to be referred to a particular department or office for corrective action (i.e., discipline, re-assignment, termination, etc.)?
f. After a violation of policy has been detected, ensure that UNM will take all reasonable steps to respond appropriately and prevent further similar violations from occurring.
g. The Main Campus Compliance Office will also refer to other appropriate offices as necessary (Dean of Students Office, Office of Equal Opportunity, Internal Audit, etc.).

12) The Sanctioning Office should determine if:
a. If there was a finding of wrongdoing, how severe was the violation or action?
b. Were others disciplined for this type of violation in the past? If so, what was their punishment:
c. Do employees need training on the issues in the investigation?
d. Do any departmental or institutional policies or procedures need to be modified or implemented?

13) **The Investigator Will Note the Action Taken with the Case in The UNM Main Campus Compliance Hotline EthicsPoint Incident Management System. The investigator will document the reasons a specific action was taken.**
    a. No Action Taken
    b. No Action Necessary
    c. Correction of Policy Violation
    d. Ombuds Faculty
    e. Ombuds Staff
    f. Policy/Process Review
    g. Training
    h. Discipline
    i. Termination
    j. Executive Resolution (This may include a person voluntarily leaving or action not described above)

14) **In the Case Where the findings support a Violation of a Federal or State Law or Regulation**
    a. The Main Campus Compliance Office or reviewing office will coordinate with the Office of University Counsel on next steps.
    b. The Office of University Counsel will determine if a referral is needed to a duly authorized law enforcement or regulatory agency.

15) **Follow Up with Reporter**
    a. The case shall be closed out by the investigator through the UNM Main Campus Hotline EthicsPoint Incident Management System, including a note to the reporter informing them that the case has been closed and the deposition of the case.

16) **Timing**
    a. All cases shall be managed and closed in a timely manner. The goal for resolution of all matters is 60 days. If the resolution takes longer, the EthicsPoint system shall be updated and the Reporter notified. Communication with the reporting party is necessary once every three weeks. If cases exceed 60 days, the investigative unit will list a reason for delay (i.e. complexity of case etc.)

17) **Documentation**
    a. All final reports shall be provided to the responsible administrator/department/vice president.
    b. A copy of the investigative report shall be uploaded to the EthicsPoint system. This includes all relevant materials related to the investigation, findings and recommendations for corrective action.
    c. The reviewing office should make certain it has a secure location for record keeping and control access to the file and its location, both physically (if applicable) and electronically (via the UNM Compliance Hotline).

18) Ensure Fair Treatment

a. Any person filing an inquiry, complaint, allegation or assisting in an investigation is protected against retaliation in accordance with University Administrative Policy 2200. Retaliation policies should be stressed to all parties involved in an investigation.
b. All reports of compliance issues shall be handled in a manner that protects privacy to the greatest extent practicable with consideration of personnel, FERPA and other privacy laws.
c. There is no assumption of wrongdoing; rather the investigation will be a fact-finding mission in order to determine appropriate follow up measures.

18) Complaints alleging civil rights discrimination or sexual misconduct

a. All complaints that allege discrimination based on a protected status, sexual misconduct including sexual assault, intimate partner violence, domestic violence and stalking shall be immediately referred to the Office of Equal Opportunity.

19) The Main Campus Compliance Office EthicsPoint Administrator(s) will do the following to assist investigative units:

- Assist in training investigators how to utilize the EthicsPoint System
- Set up user access to the EthicsPoint System
- Remove access to users that have left the university or are in other jobs at UNM where access is no longer valid
- Monitor/Renew all User Agreements for EthicsPoint Users
- Act as the administrative body interfacing with Navex Global for administrative actions including payment, contract renewal, technical assistance, etc.
- Remind investigative unit point of contact at the end of each week of any cases in their area that are listed as unreviewed.
- Remind each investigative unit point of contact of cases that are more than 6 months old.

20) The point of contact/tier admin for each investigative unit will:

- Delegate cases to the proper investigator within their unit
- Add and change assignments, as needed, to the proper investigators within their unit
- Assist in tracking cases, so they do not become stale within their unit. At the conclusion of the case, If cases exceed 60 days, the investigative unit will list a reason for delay (i.e. complexity of case etc.)
- Notify the EthicsPoint Administrator(s) of new individuals to be added or deleted to the EthicsPoint System

UNM MAIN CAMPUS COMPLIANCE OFFICE
SUGGESTED INVESTIGATION GUIDANCE

While some offices, such as the Internal Audit Department, have their own investigation guidance and standards, it is understood that not everyone who is asked to do an investigation has such training. This document is not intended to be a how-to for managers or supervisors who are being asked to conduct investigations, but rather to provide information and practical advice.

1) **Before the Interview**
   a. Identify the preliminary issues that require an investigation.
   b. Identify relevant laws, regulations or University policies or procedures that may be applicable for the investigation.
   c. Identify the witnesses or other relevant parties who will need to cooperate in the investigation and identify the individual(s) whose conduct is a potential focus of the investigation.
   d. Identify the documents and data that will require review.
   e. Develop a chronology of events.
   f. Set forth the protocols to maintain confidentiality and minimize the potential of a retaliation claim.
   g. Identify the individuals who should be kept advised of the progress of the investigation and the results.
   h. Evaluate whether there is a need to coordinate with any other pending investigation (internal or external).
   i. Determine that the personnel who conduct the investigation will be viewed as objective, above reproach and immune from influence.
   j. Determine other resources that may be required to supplement or coordinate with the investigation, such as IT personnel, or the Office of Internal Audit.
   k. Identify previous investigations related to this matter or similar issues.
   l. Interviews should be conducted as promptly as possible, while memories are fresh.

2) **Fact Finding**
   a. Determine if the allegation can be substantiated.
   b. Determine how the violation was committed.
   c. Identify the person(s) committing the act.
   d. Determine the extent of the violation or loss.
   e. Document the facts.

3) **Prepare for the Interview**
   a. Prepare interview questions.
      i. Keep questions simple.
      ii. Ask questions that require narrative answers.
      iii. Avoid negative questions (e.g. "Why didn't you…").
      iv. Refrain from leading questions (e.g., "Isn't it true that …"); rather, ask open-ended questions that do not suggest an answer (e.g., "Can you tell me what was said during that conversation?").
   b. Prepare a strategy for each interview and identify the scope of information to be

obtained:

   i. Will advance notice of the interview be provided?
   ii. Where will the interview be conducted?
   iii. Will there be any safety concerns during or immediately after any interview? If yes, contact the UNM Police Department.
   iv. Will signed statements be secured from any witnesses?
   v. Determine whether a union represents the employee. If yes, contact the Office of University Counsel for guidance on how to proceed.
   vi. Determine under what circumstances, if any, the interview will be terminated.
      1. Request for representation
      2. Refusal to cooperate
      3. Other
   vii. Determine the sequencing of the interviews.
   viii. Determine who will be present for each interview.
      1. Interviewer and note taker
      2. Interviewer and witness
      3. University Counsel
      4. Witness representatives

4) Review All Case Information Prior to Interview

   a. The initial complaint and any supplements.
   b. Applicable law, regulations and policies.
   c. Personnel files (only if necessary, for the investigation).
   d. Managerial files (only if necessary, for the investigation).
   e. Prior or similar complaints and investigation materials.
   f. Prior witness statements.
   g. Determine if there are prior comparable cases or similarly situated personnel that should be considered here.
   h. Provide sufficient notice to the Respondent (target) of the investigation so they can provide an informed response.

5) Conduct the Interview

   a. Provide appropriate notices and warnings.
   b. Anticipate questions that will be raised and prepare the responses.

6) Guidance for Interviews

   a. At the beginning of the interview, explain the context of the interview and that the interview is for fact gathering.
   b. Be non-judgmental, impartial and open to dialogue.
   c. The interview should be not be rushed. Allow the person to take their time to tell you what occurred, in their own words.
   d. Get background information to establish facts. Ask:
      i. Who was involved?
      ii. When and where did event occur?
      iii. Is this an isolated event or part of a pattern?

iv. Do you have specific examples?
v. Did the person keep a journal, diary or records of the events? If so, ask for a copy.
vi. Are there any witnesses or other relevant parties? If so, ask for names and contact information.
vii. Did you tell anyone else your concern?
viii. Do you have any documentation relating to your complaint? If so, ask for a copy.
ix. Are there any other people that have the same or similar concern?
x. Once questioning is complete, summarize the main points to ensure accuracy.
xi. Remind them that they can add to their statement in the future if they remember any additional information.

7) Conclude Each Interview with the Following:

a. Confidentiality of the investigation.
b. Duty to not retaliate.
c. Tell the interviewee to not discuss the matter with other employees.
d. Expected timeframe for conclusion.
e. Provide your contact information to the individual, should they have any follow-up information for you.

8) Compile Post-Interview Notes in a Timely Manner

a. Document all relevant information obtained.
b. Notes should be typed up as soon as possible after the interview.
c. Document any notices or warning given during the interviews.
d. Document the time, place and who was present during the interviews.
e. Document the concluding instructions provided.
f. Identify if an additional investigation is required as a result of the interviews.
g. The interview notes should be factual and not contain your opinions.

9) Revise the Investigation Plan as Dictated by Events

a. Additional documents and data to be obtained.
b. Additional witnesses to be interviewed.
c. Identify follow up that may be necessary.
d. Have new issues been raised?
e. Draft and review the investigative report to ensure everything was addressed during the investigation.
f. Go over all witness statements and identify any that were unclear or inconsistent that would warrant a re-interview to clarify facts.
g. Review all documentary evidence to ensure nothing is missing.
h. Review any evidence the subject provided in defense and make sure it is included in the investigation.
i. Assess the balance of material supporting and disputing the allegation.

10) Final Report

a. A final report is created at the conclusion of an investigation and should contain a summary of the facts gathered from the investigation.
b. All case outcomes should be properly documented in the UNM Main Campus Compliance Hotline EthicsPoint Incident Management System.
c. The report should contain:
    i. The nature of the report
    ii. The summary of the facts gathered
    iii. The people interviewed and documents reviewed
    iv. Specific conclusion(s) reached on each key issues
    v. Whether a breakdown of internal contributed to the problem or allegations
d. The report should clearly state the findings:
    i. Substantiated
    ii. Partially Substantiated
    iii. Unsubstantiated
    iv. Insufficient Information
    v. Not in Jurisdiction
    vi. Not Legal/Policy/Ethics Violations
    vii. Duplicate Case
    viii. Inquiry Resolved
    ix. Reported to Outside Entity
    x. Allegation Resolved
    xi. Case Withdrawn by Reporter
    xii. Executive Resolution (This may include a person voluntarily leaving or action not described above)
    xiii. No Response to Follow-Up