

Chapman, Reva

From: Hughes, Scott
Sent: Monday, March 21, 2005 11:56 AM
To: Scarnecchia, Suellyn
Cc: Chapman, Reva
Subject: RE: Faculty Meeting Agenda, Tuesday, 3/22

If I could. I'd like to have 5 minutes to update the faculty on the Building Committee and the various subjects with which we are involved. This will not be for any discussion, but to invite their input at a later date. Thanks.

-s

Professor Scott H. Hughes
University of New Mexico
School of Law

505/277-3051
505/277-0068 FAX

-----Original Message-----

From: Scarnecchia, Suellyn
Sent: Monday, March 21, 2005 11:42 AM
To: Faculty; Senior Admin Staff
Cc: O'Reilly, Patrick; Bradley, Shelby; CarrilloCruz, Lynn; Chapman, Reva
Subject: Faculty Meeting Agenda, Tuesday, 3/22

Here is the agenda for the faculty meeting scheduled for tomorrow, Tuesday, March 22, 3-5 pm in Rm 2405. Refreshments will be served.

1. Approve Minutes
2. Reports by Dean and Associate Deans
3. Student Affairs Committee: Student Work Policy (Norman Bay)
4. Access to services for students with disabilities (Brendan O'Reilly, Bonnie Stepleton, Mr. Haug from Accessibility Services)
5. IPL Director Search

Please let me know if your committee has any business to bring to the faculty on Tuesday.

Suellyn Scarnecchia
Dean, Univ of New Mexico School of Law
505-277-4700
scarnecchia@law.unm.edu

email Nathalie -- time of Crespyutz on 3/23

Faculty Agenda
2/22/05

1. Approval of Minutes ✓
2. Announcements:
 - a. Susan and Becky – Recruitment Cards ✓
 - b. Assoc Deans – Jenny, Rob, Antoinette ✓
 - c. Dean ✓
3. Discussion items:
 - a. Hiring ✓
 - b. Solomon Amendment ✓
 - c. Admissions ✓
 - d. Budget ✓
 - e. Fundraising ✓
 - f. Legislature ✓
 - g. Students: rescheduling classes; parent students; substance abuse (CLE); ✓
accessibility issues (Brendan O'Reilly)
 - h. Academic Support

Faculty Meeting Minutes
March 22, 2005

Present: Scott Hughes, Rob Schwartz, Mike Norwood, Carol Suzuki, Peter Winograd, Elizabeth Rapaport, Suellyn Scarnecchia, Antoinette Sedillo Lopez, Carol Parker, Jennifer Moore, Sergio Pareja, Nathalie Martin, Em Hall, Norman Bay, Christian Fritz, John LaVelle, Barbara Bergman, April Land, Gloria Valencia-Weber

Students: Brendan O'Reilly, Shelby Bradley, Lynn Carillo Cruz

Guests: Bonnie Stepleton, Gary Haug

The meeting was called to order at 3:11 pm on Tuesday, March 22, 2005.

I. Approval of Minutes:

The minutes of the meeting of February 22, 2005 were approved.

II. Dean and Associate Deans' Reports:

A. Scarnecchia:

1. She has appeared in a Professionalism CLE for the State Bar video regarding alcohol and drug abuse. Students have been good about applying for permits to serve alcohol. Professors are encouraged to suggest healthier alternatives to relieve stress. She welcomes ideas and suggestions.
2. The academic support review done by Lori Zimet from Hastings has given Dean Scarnecchia a lot of feedback. A written report from the Dean is coming. The Law School shall be using a two-pronged approach: Bonnie Stepleton will be the main focus in helping identify students in need of support, will work to connect such with faculty members who may help or find other sources of support; and an academic support faculty committee will be appointed to refine the plan and program throughout the year.
3. Brian Foster has stepped down as Provost. Reed Dasenbrock will be the acting provost as of March 21, and will become Interim Provost as of July 1. Vera Norwood has stepped in as the Interim Dean of Arts and Sciences. A search committee will be appointed to find a new Provost.
4. The budget summit for UNM will occur on April 1. There are discussions about a possible tuition differential for the Law School. This possibility will be presented to the students on March 28.
5. President Caldera will come to do a luncheon with the faculty on April 14 at 1:00 pm. He will also introduce Governor Napolitano at the Law School Graduation.

6. A celebration of the Law School graduation will be held at the National Hispanic Cultural Center on May 13. The celebration will be free, with awards recognition and a reception being given at a tent on the Plaza.
 7. Cydni Sanchez, the SBA president, sent out a memo about the honor code to all faculty and staff to increase awareness of the code.
- B. Schwartz
1. The Faculty Lunch this Thursday will feature Joshua Dressler on a criminal law analysis of the battered family member defense.
- C. Parker
1. She and her staff are gearing up for this budget cycle, and looking at the legislative results. The Law Library is in the State Budget for various projects.
- D. Lopez
1. She encouraged nominations for the Teitelbaum fellowship.
 2. They are beginning a new search for SILC position, as the candidate chosen in the last round declined the offer.
 3. The summer DA adjunct interviews have been completed, and an offer should be made this week or next.
- E. Moore
1. The curriculum for 2005-2006 (for the regular faculty) has been finalized, with the possible exceptions of minor adjustments and more adjunct classes will be added as they are finalized.. Moore thanked everyone for their help and flexibility.
- III. Accessibility Services
- A. Gary Haug, Interim Director of Accessibility Services and Bonnie Stepleton handed out a brochure for students on accessibility services, and the policy from the University Policy Manual (attached).
- B. Stepleton spoke on how the Law School is working to improve accessibility:
1. Student Services has equipment to aid accessibility in Bratton Hall and the Library. The Copy Center is also available to make enlargements.
 2. Stepleton is hoping to inform students coming into Law School about accessibility services and how to receive services. If something comes up during their law school career, students can be referred to Accessibility Services to get help. The Registrar also has a direct relationship with Accessibility Services in helping students get extra time on exams.
 2. Instructors are encouraged to have their materials identified earlier to help in converting them to accessible formats.

- C. Haug spoke regarding students with learning disabilities.
 - 1. A learning disability is not necessarily obvious.
 - 2. In order for a student to be to be considered as having a learning disability, s/he must meet diagnostic standards set by colleges and universities in a series of tests, which must be conducted by a qualified professional. No single instrument makes the determination, and all test results are compared to a “norm.” The deviation must be significant to identify a specific learning disability, but a particular name for the disability is not important.
 - 3. Some accommodations are: extended time testing in a quiet environment; use of a tape recorder during lectures; and note taking on a student’s behalf.
 - 4. Certain questions can help identify students who could benefit from services in a classroom setting:
 - a. Do you like to read for pleasure?
 - b. What is your preferred learning method – reading instructions or verbal instruction?”
 - c. Do you have difficulty listening to a lecture and taking notes at the same time?
 - d. Are you the first one out in an exam, or one of the last?
 - e. Does it bother you to have other students getting up, dropping off exams and putting on coats, etc during an exam?
 - 5. Serious improvement can be found when students are accommodated as above in exams.
 - 6. Students frequently don’t want a learning disability known or feel that there is something wrong with them if they get assistance. The instructor is encouraged to refer the student, but should understand that they can’t force them to accept services.
- F. Brendan O’Reilly made a presentation on the technology he uses to deal with his learning disability, which is visual.

IV. Student Work Issues

- A. The Senior Administrators asked the Student Affairs Committee to evaluate whether the Law School should change its policy prohibiting 1L students from working during their first semester of Law School.
- B. There are three possibilities for discussion, detailed on a handout (attached):
 - 1. Maintain the policy in the current form.
 - 2. Change the current policy allowing a case-by-case exception by the Dean.
 - 3. Eliminate the policy altogether.

- C. Several arguments in favor of changing the policy:
 - 1. The students are adults and they should be treated as such.
 - 2. Current policy may result in financial hardship, maybe greatest impact along class lines.
 - 3. May discourage some individuals from applying to Law School.
 - 4. May recognize the reality that some students are working anyway.
 - D. Arguments against changing the policy:
 - 1. Rule is designed to protect all students and help them focus on their academics.
 - 2. At risk students are jeopardized the most by a change in the policy.
 - 3. May send the wrong message to students that they don't need to devote themselves to Law School full-time.
 - E. How would exceptions be defined if the policy is adjusted?
 - F. Conflict between values: libertarian v. paternalism.
 - G. A larger discussion about the part-time program may be relevant.
 - H. The committee will be soliciting information from other schools. Faculty are welcome to attend future Student Affairs Committee meetings. They are also thinking of surveying the current 1L's to see how many would work if the policy is changed.
 - I. Dean Scarnecchia opened the meeting for discussion of this issue.
 - J. The issue was tabled at this time and will be placed on the April agenda.
- V. IPL Director Search
- A. An open meeting was held on March 2, 2005 (notes attached).
 - B. Dean Scarnecchia opened the meeting to discussion regarding the link between IPL and the LS. Faculty were invited to provide feedback to the Dean, and to volunteer for the search committee.

The meeting was adjourned at 4:59 pm.

Respectfully submitted,

Reva M. Chapman
Administrative Assistant to Dean Suellyn Scarnecchia



University Business Policies and Procedures Manual

2310

ACADEMIC ADJUSTMENTS FOR STUDENTS WITH DISABILITIES

Effective Date: August 2, 2004
Subject to Change Without Notice

1. Policy

In keeping with the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990, the University is committed to providing equal access to educational opportunities for qualified students with disabilities. The University shall provide reasonable academic adjustments as defined in Section 3.3, herein, to qualified students with disabilities as necessary to ensure equality of access to the courses, programs, services, and facilities of the University. However, students with disabilities are still required to adhere to all University policies, including policies concerning conduct and performance.

The student is responsible for demonstrating the need for an academic adjustment by providing University Accessibility Services with complete and appropriate current documentation that establishes the disability, and the need for and appropriateness of the requested adjustment(s). The University is responsible for all costs of academic adjustments. The following sections provide procedures for students, faculty, and staff on academic adjustment requirements.

2. Procedures for Requesting and Determining Academic Adjustments

The first step in the process for a student who seeks academic adjustment because of a disability is to register with the Accessibility Services Office and submit documentation of the disability from a licensed or certified professional in order to become eligible for services. Applicants to, or students in, the UNM School of Medicine and the Colleges of Nursing and Pharmacy should contact the UNM School of Medicine Manager of Student Learning Support Services for information on requesting academic adjustment. Applicants to, or students in, the UNM Law School should notify the Law School Registrar as well as the Accessibility Services Office. Once a student establishes that he or she has a disability, the University will work with the student to determine what academic adjustments are appropriate and reasonable in accordance with Section 3.3, herein.

2.1. Student Responsibilities

It is the student's responsibility to demonstrate the need for an academic adjustment by providing Accessibility Services with complete and appropriate current documentation that establishes the disability, and the need for and appropriateness of the requested adjustment (s). Accessibility Services can provide information on the kind of documentation that is required. If the initial documentation is incomplete or inadequate, the student will be required to provide additional documentation at the student's expense.

Accessibility Services will determine a student's eligibility and, in consultation with the student, will determine effective and appropriate academic adjustments in accordance with

Section 3.3. herein. Accessibility Services may consult with other University departments, as necessary, in order to make a determination of eligibility and what academic adjustments are appropriate and reasonable. Accessibility Services will send a letter, per the student's request, to faculty, with a copy to cognizant department chairs, informing the faculty members of what adjustment(s) the student is to receive. Accessibility Services is responsible for costs relating to academic adjustments that are part of instructional courses at the Albuquerque campus. Branch campuses are generally responsible for costs relating to academic adjustments for their students.

Once the student has established his or her eligibility for academic adjustments, Accessibility Services will provide appropriate adjustments as expeditiously as possible. Generally, adjustments will be in place within fifteen (15) working days; however, some adjustments can require a longer period of time to arrange. Therefore, students are encouraged to pre-register with Accessibility Services before classes begin so that adjustments can be in place when needed at the start of the semester. If pre-registration is not possible, students should register at the start of the semester or as soon as the need for an adjustment becomes known, and Accessibility Services will make every effort to accommodate the student's needs as soon as possible. Requests received right at or after the start of a semester may result in the student being without the adjustment for part of the semester. Students should be aware that an academic adjustment does not apply retroactively, so that grades earned on exams, assignments, or other classroom activities before the adjustment takes effect will not be changed.

2.2. Faculty Responsibilities

Faculty members must provide students with the academic adjustments identified in the letter from Accessibility Services. If the faculty member has questions or concerns, or needs help with making the modifications called for, he or she should contact Accessibility Services. If a student discloses a disability to a faculty member and requests an academic adjustment but the student does not have a letter from Accessibility Services, the faculty member should direct the student to Accessibility Services. It is not the faculty member's responsibility to decide whether the student has a disability and what adjustments are appropriate. Faculty can help the University meet its obligations to provide students with academic adjustments in a timely manner by stating on their class syllabus that students should inform them of any special needs as soon as possible. Students who do so should be referred to Accessibility Services.

2.3. Appeal

In most instances the academic adjustment determination made by Accessibility Services will be acceptable to the student and faculty. However, if that is not the case, the determination is subject to appeal. In addition, the student can appeal a determination by an academic unit that an adjustment would result in a fundamental alteration of a course or program. The Provost/HSC Dean, or designee, will convene an ad hoc committee to consider the appeal. Members of the ad hoc committee will include representatives from relevant University departments as determined on a case-by-case basis. The ad hoc committee will follow the appeal procedures listed in Exhibit A. The ad hoc committee will make a recommendation to the Provost/HSC Dean, or designee, whose decision on the appeal is final for the University. Every effort should be made to arrive at a determination of the appeal as expeditiously as possible.

3. Criteria for Determining Academic Adjustments

The University shall make academic adjustments for the known physical or mental limitations of a qualified student with a disability, unless the University can show that providing an adjustment would result in:

- a fundamental alteration of the service, course, program, or activity;
- an undue financial, administrative, or academic burden, and/or;
- a direct threat to the health or safety of the student or others.

3.1. Individual with a Disability

An individual with a disability is a person who has, or has had a record of, or is regarded as having a physical or mental impairment that substantially limits a major life activity such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

3.2. Qualified Student with a Disability

A qualified student with a disability is a student with a disability who meets the academic and technical standards required for admission and participation in the programs and activities of the University of New Mexico.

3.3. Academic Adjustment

An academic adjustment is a modification or adjustment to instructional methods and/or to a course, program, service, or facility of the University that enables a qualified student with a disability to have equal access and opportunity to attain the same level of performance and to enjoy equal benefits and privileges as are available to similarly-situated students without a disability. Determining reasonable academic adjustments must be done on a case-by case basis and in consultation with the student. The University is not required to provide the specific adjustment requested, but the adjustment must be effective to enable a qualified student with a disability to enjoy equal opportunity and access. All offers of adjustments are subject to applicable University policies.

3.3.1. Course or Program Modifications

The University shall provide such modifications to courses, programs, or educational requirements as are necessary and appropriate to enable a qualified student with a disability to enjoy equal opportunity and access. However, the University is not required to fundamentally alter the essential nature of a course or academic program. Reasonable academic adjustments may include, but are not limited to, extended time on an examination or paper, and oral instead of written examinations, where appropriate.

3.3.2. Auxiliary Aids and Services

Reasonable academic adjustments in the form of auxiliary aids and services may include, but are not limited to: note-takers, readers, Braille or large print materials, and sign language interpreters. However, the University is not

required to provide devices or services of a personal nature such as personal attendants or personal devices utilized in activities of daily living.

4. Americans With Disabilities Act (ADA) Coordinator

The Americans With Disabilities Act (ADA) Coordinator for The University of New Mexico is the Director of the University Office of Equal Opportunity. Students who believe that they have been discriminated against on the basis of a disability may contact the Office of Equal Opportunity to file a complaint.

5. Attachments

Exhibit A. - Academic Adjustments for Students with Disabilities: Appeal Rights Procedures

Comments may be sent to UBPPM@UNM.edu
<http://www.unm.edu/~ubppm>

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ISSUE: Should the law school relax its policy that currently bars all 1Ls from working during the first semester?

OPTIONS

Maintain policy in current form.

Tweak current policy: strongly discourage working but allow Dean to make exceptions on case-by-case basis for up to 15 hours a week.

Eliminate policy.

Note: any change in policy can be done on pilot basis. We have no current sense for how many students would wish to work in the first semester.

PROS (FOR CHANGING CURRENT POLICY)

Treat students like adults. Our students are older; many have had careers and are raising families. Fosters their development as professionals.

May cause harsh results and result in financial hardship (loss of health benefits reported). Rule may cause greatest impact on class lines.

May discourage some individuals from applying to law school.

May decrease stress for some students and help them do better in law school.

May recognize the reality that some students are working anyway.

CONS

Rule is designed to protect all students and to help them focus on academics.

At risk students jeopardized the most by change in rule.

Sends the wrong message: that a student can work and make it through the first semester. Keeps focus on academics.

If policy is tweaked, how to apply and define criteria?

LIBERTARIANISM v. PATERNALISM?

PART OF LARGER DISCUSSION ON PART-TIME PROGRAM?

NEXT STEPS

Information on policy at other schools.

Further committee meetings.

Survey of current 1Ls to see how many would work?



ACADEMICS

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CENTERS, PROJECTS
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COMMENTARY

February 02, 2005

A Message from Dean Harold Hongju Koh Regarding Military Recruitment

As you know, the Defense Department has lately interpreted the Solomon Amendment to require denial of federal funds to institutions of higher education that withhold assistance from military recruiters who will not pledge to refrain from discrimination in recruiting. Last year, groups of Yale Law School faculty and students filed suit in the federal district court in Bridgeport challenging the legality of the Defense Department's interpretation of the Solomon Amendment. On December 9, 2004, Judge Janet C. Hall (D.Conn.) heard argument on motions for summary judgment in these cases. A few weeks earlier, in the FAIR litigation, the Third Circuit directed entry of a preliminary injunction against enforcement of the Solomon Amendment, stating that "[t]he Solomon Amendment requires law schools to express a message that is incompatible with their educational objectives, and no compelling governmental interest has been shown to deny this freedom. ... In this context, the Solomon Amendment cannot condition federal funding on law schools' compliance with it."

Yesterday, Judge Hall granted summary judgment in favor of the faculty plaintiffs. Judge Hall's opinion confirmed that the Solomon Amendment has been unconstitutionally applied to Yale Law School and permanently enjoined the Defense Department "from enforcing it against Yale University based upon Yale Law School's Non-Discrimination Policy." Judge Hall's opinion declared: "The Solomon Amendment violates the [faculty] plaintiffs' First Amendment right to freedom of speech. . . ." Yale Law School, "acting through the Faculty, has been unconstitutionally coerced into foregoing its own message [of nondiscrimination] and into assisting DoD in the dissemination of DoD's message of its "Don't Ask, Don't Tell policy...." "In addition, DoD offers no evidence to support a finding that the Solomon Amendment, and the suspension of the N[on-]D [iscrimination] P[olicy] for the past two years at YLS that it caused, has advanced its goal of raising an army through effective recruiting." ... "[T]he Solomon Amendment is not narrowly tailored to advance a compelling government interest, and thus unjustifiably

burdens the Faculty Members' First Amendment right of expressive association."

I am gratified by Judge Hall's judgment, which seems to me clearly correct. I believe that her ruling brings us closer to the day when all members of our community have an equal opportunity to serve in our Nation's armed forces. This Thursday, February 3, 2005, the Spring 2005 Interviewing Program will begin. In light of the District Court's opinion and injunction which parallel the Third Circuit's ruling, I am notifying military recruiters that the Yale Law School will enforce its nondiscrimination policy during the Spring 2005 Interviewing Program without exception.

Harold Hongju Koh
Dean, Yale Law School

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Frequently Asked Questions About the Third Circuit's Decision in the Solomon Amendment Case (*FAIR v. Rumsfeld*)

The following does not constitute legal advice and should not be relied on as such; rather it is intended simply to provide information regarding this lawsuit. In considering potential changes in policy toward military recruiters, law schools, faculties, career service personnel and other decision-makers should consult with their own legal counsel.

Q. What did the Third Circuit Court of Appeals decide in *FAIR v. Rumsfeld*?

A. In the simplest terms, the Court of Appeals decided that, on the basis of the preliminary injunction record before it, the Solomon Amendment violates the First Amendment. The Court held that it was unconstitutional for Congress to command that schools affirmatively assist military recruiters, or even to require schools to allow recruiters on campus to recruit. The Court held that the Solomon Amendment violates both a school's right of expressive association and its right to be free from compelled speech. The Court further held that the penalty—loss of all federal money across the board—is analyzed, for First Amendment purposes, as if it were a command.

Q. Since this was a preliminary injunction proceeding, can the result be changed after a full trial?

A. Theoretically, but the prospect is highly unlikely in this case. The Forum for Academic and Institutional Rights (FAIR), the Society of American Law Teachers (SALT), and the other plaintiffs had moved for a preliminary injunction (a temporary suspension of the law) before the New Jersey District Court, which denied our motion. As a technical matter, all the Third Circuit held was that the District Court should have granted the motion because we were "likely to prevail" on our First Amendment challenge. But the Court applied strict scrutiny, which, as the Court pointed out, is a very difficult hurdle to overcome. The Court did note that the Government failed to produce any evidence at all that the Solomon Amendment was *necessary* to achieve the military's recruiting objectives. But it also expressed skepticism that the Government could ever prove that, in light of the military's financial resources, and it criticized the Solomon Amendment as far more sweeping than necessary. In light of the Court's analysis, it is extremely unlikely that the Government will be able to win at trial.

Q. Does that mean the Solomon Amendment is no longer in effect?

A. For now, the law is still in effect. The District Court denied our motion for a preliminary injunction. While we appealed, the Solomon Amendment remained in effect.

The Court of Appeals has now found that the District Court should have issued the injunction because the statute violates the First Amendment. The Court of Appeals did not issue an injunction itself; rather, as is customary, it directed the District Court to issue the injunction.

Q. What needs to happen before the injunction takes effect?

A. The Court of Appeals must formally send the case back to the District Court. The Court of Appeals accomplishes this by issuing a “mandate,” which is simply a formal order telling the District Court to do what the Court of Appeals said. Once the mandate is issued, the case will return to the District Court where the judge will enter the preliminary injunction.

Q. When will the Court of Appeals issue the mandate?

A. Because the Government is a party, the mandate will not issue for at least 52 days (7 days after expiration of the time to file a petition for rehearing) from the date the opinion is published. However, the mandate could be delayed if the Government decides to seek further review of the Court of Appeals’s decision.

Q. What will the Government do next?

A. We do not know what the Government plans to do. Ordinarily, it could petition the Court of Appeals for rehearing by the three-judge panel that heard the appeal and/or all of the active judges on Third Circuit (“en banc” rehearing). However, the Court has informed us that a majority of its judges are not eligible to rehear the case, and under the Third Circuit’s rules, this precludes en banc review. Another option would be for the Government to file a petition asking the United States Supreme Court to hear an appeal from the Court of Appeals’s decision. A final option for the Government would be to wait until the case returns to the District Court, and then try to submit evidence that there is a compelling legal reason to uphold the Solomon Amendment.

Q. What happens if the Government seeks further review?

A. If the Government seeks rehearing in the Court of Appeals (rehearing by the three-judge panel that heard the appeal is still available), the mandate will be automatically held until the Court decides whether to grant the petition. If the Government wishes to consider seeking review in the Supreme Court, the Court of Appeals will not automatically stay the mandate, but the Government could ask for a stay for up to 90 days—the time limit for filing a petition for Supreme Court review—and if it files such a petition, for a further stay until the Supreme Court decides whether to hear the case.

Q. What is the likelihood that the Supreme Court will agree to hear an appeal from the Court of Appeals?

A. There are many factors that the Supreme Court considers when it makes these types of decisions, and it is impossible to predict with any certainty what it will do. Some factors weighing against Supreme Court review of this case are that other Courts of Appeals have not yet had the opportunity to consider the constitutionality of the Solomon Amendment, and that the case is at a very preliminary procedural stage (on a review of a grant of preliminary injunction and before any evidence has been heard by the district court). On the other hand, the Supreme Court may decide to hear this case because courts only infrequently declare laws unconstitutional for violating the First Amendment and because the case involves issues of importance to the Government.

Q. Should schools continue to abide by the Solomon Amendment until an injunction is entered?

A. Until the District Court actually orders a preliminary injunction, the Solomon Amendment remains technically in effect. In addition, until the injunction is ordered we will not know for certain exactly what its scope will be, i.e., which schools are or are not covered and what types of military recruiting can or cannot take place on campuses. The District Court will have some discretion in crafting the scope of the injunction, although if its terms are too narrow, we will be able to file another appeal to the Court of Appeals. We urge schools to seek independent legal advice before deciding how to proceed.

Q. When an injunction is issued, will it cover only schools within the Third Circuit's jurisdiction (New Jersey, Pennsylvania, Delaware, and the Virgin Islands)?

A. No. Once the District Court has the proverbial ball back in its court, it will decide the scope of the injunction. The scope, however, will not be limited by the geographic boundaries of the Circuit. Rather, the scope of an injunction depends upon the identities of the parties properly before the Court. Because the District Court will be required to provide relief to every Plaintiff, and the Plaintiffs are not all located within the Third Circuit, the injunction will not be geographically limited.

Q. Will an injunction be national in scope?

A. We believe strongly that the injunction will be national in scope, i.e., that it will protect every law school in the United States. The District Court has already found that both FAIR (an association of 25 law schools and law faculties across the nation) and SALT (an association of 900 law professors in almost every law school) have standing to challenge the Solomon Amendment on behalf of their members. The only way to give full relief to these Plaintiffs is to issue a nationwide injunction. The District Court, however, will be the ultimate decision-maker.

Q. Is there any danger in restricting military recruiting once a preliminary injunction is in place, if the ruling instituting the injunction is later reversed or the injunction is later lifted?

A. We believe not, at least insofar as your school is protected by the injunction. In addition, the Solomon Amendment requires the Government to warn a school—and give it a chance to cure any violation—before pulling its funding. If and when an injunction would be lifted, any school that relied on the injunction would have the opportunity to amend its policies in relatively short order to come into compliance with the Amendment. It is worth noting that in the numerous skirmishes over military recruiting over the past three years, the Government threatened many schools, but never pulled funding from a school that ultimately relented. But, again, we urge schools to seek independent legal advice before deciding how to proceed.

Q. Should my school or faculty sue, too?

A. We would be happy to discuss the ramifications of additional lawsuits privately. Keep in mind that if the injunction is as broad as we expect, there will be no reason to sue. It is also possible that a decision to sue will affect whether your school will receive the protection of the injunction once it is in place.

Q. Can my school or faculty still join FAIR?

A. Of course. FAIR membership is open to all law schools, law-school faculties, and other academic institutions in the United States that uphold nondiscrimination as a principle to be taught and practiced. The more schools that join FAIR, the stronger message it sends that schools cannot be forced to discriminate against their students or assist employers who wish to do so. It is too soon to tell whether schools that join FAIR after the Court of Appeals issued its opinion would necessarily be included in the scope of an injunction, but membership in FAIR would certainly increase a school's chances of being included. For more information on joining FAIR, please contact Kent Greenfield, President of FAIR, at kent.greenfield@bc.edu, or log on to www.solomonresponse.org.

To: Dean Scarnecchia

From: First Year Students

CC: Faculty Committee

Date: 2/21/2005

Re: Cancellation and rescheduling of classes

This petition is to inform you of student's concerns regarding the cancellation and rescheduling of classes. During the course of the spring semester professors have taken the liberty of rescheduling classes to meet their individual needs. The students understand the importance of the information being presented in class; however, when classes are rescheduled we are not always able to attend. When course schedules are assigned at the beginning of the semester many students make other commitments around that schedule, for some that is work and for others it is children, and for many it is simply taking an elective class. Giving professors the flexibility to reschedule their classes conflicts with these other commitments. Additionally, it puts the student in the position to either miss important class material or negate other responsibilities. We respectfully ask that professors are not longer allowed to reschedule classes to other times and days than what are specified in the syllabus. If a professor is unable to conduct class we ask that they cancel class as opposed to rescheduling. We appreciate your support in this matter and will give concrete examples if necessary.

To: Dean Scarnecchia

From: Lynn Carrillo Cruz, Vidalia Chavez-Encinias

RE: Meeting With Law Student-Parents

February 17, 2005

UNM SOL students who are parents of school age and younger children met on February 10, 2005, and shared mutual concerns about the law school experience. There were many points of agreement about proposed changes in the law school schedule of classes, vacation schedule, orientation information and law school rules. The following concerns are submitted to you for your consideration, with the hope that you will address these concerns in a second meeting of law school-parents.

1. Class Schedule

This was the area of most concern to most students. Everyone expressed the desire for an 8-hour block with all classes scheduled within that block. The 9:00am start time is appreciated, but late afternoon classes are not. Some students thought that breaks of only 1-2 hours between classes are not long enough for study breaks, but too long for conversing with fellow students, and therefore a waste of time. One of the concerns mentioned was that even when the schedule is made in advance and published, there are last minute schedule changes that can undo carefully made child-care plans. Many students asked why UNM SOL has no part-time program. Some of the scheduling concerns were also brought up in terms of inability to participate in extra-curricular activities, as described below.

While the participants in this meeting ranged from single mothers to dads with stay-at-home wives, all agreed that the scheduling issue wasn't just based on child care issues, but on the desire to spend at least some time every day with their children.

2. Computer Lab Rules

Parents are currently prohibited from bringing their children into either computer lab. Even parents of infants described being told to leave their babies outside before entering the lab. This rule against children in the lab seems to be more stringently enforced than the rule requiring quiet in the computer lab, and parents feel singled out by this rigid enforcement. No parent proposed that children be allowed to use the computers, only that they be allowed to sit quietly next to the parent. The parents

agreed that no one would take their children to the lab when they needed to write a whole paper; instead, the situation arises when parents need to print something they have been working on at home, or when they want to check their email. Therefore, it was proposed that this rule be abolished, or at least modified to allow children to be in the lab with their parents for up to 15 minutes, with the parent responsible for keeping the child quiet. Alternatively, a suggestion was made to create a smaller family-friendly computer lab, with a couple of computers and some empty desks for children to sit and do homework or color, etc.

3. Vacation Schedule

The common concern here was that the law school's spring break is always the week before or the week after the spring break for Albuquerque Public Schools. This means that parents of school age children get no vacation time at spring break and miss a valuable opportunity to spend a week off with their children. It also means that during the APS spring break there are many children in law school classes, or many parents absent from class. A similar concern was raised about the law school schedule not recognizing most of the APS holidays, such as President's Day, Veteran's Day, etc. Student-parents agreed they would rather have a shorter winter break in order to observe those standard state holidays. Additionally, it was suggested that the law class scheduler should take into consideration the fact that many APS schools have only a half-day on Wednesdays, and therefore afternoon classes should be especially avoided on Wednesdays.

In a related concern, students described the devastating impact a child's illness could have on attendance at law school classes, and the fact that many law school professors require daily sign in to class and use attendance as one part of the grading system. While many students described positive experiences with individual faculty members who gave the student-parent excused absences, there were also very negative experiences with certain members of the law school administration when approached about attendance problems due to illnesses of children. The suggestion was made that a more comprehensive policy regarding absences be created rather than relying on the kindness of individual faculty members.

4. Information on Parent Services

Student-parents, particularly those new to Albuquerque, expressed a desire for information for parents as part of the admissions packet. Several students stated that the lack of any information regarding parent services created the early impression that UNM SOL is not a welcoming place for student - parents. Participants pointed out that

there are several reputable organizations that provide child care referrals, and such information would be very helpful for those planning a move here from out-of-town.

5. Extracurricular Activities

One of the most disturbing conclusions of the student-parent meeting is that most students who are parents do not participate in any extracurricular activities. There was general laughter and head shaking when participants were asked if they participate in moot court, law review or any another law journal. Similarly, students described their inability to participate in certain classes such as ETP or Advanced Legal Research because of evening meeting requirements. More student-parents indicated that they participate in UNM SOL organizations, which obviously offer opportunities for participation during the day.

While some students indicated that they eliminated themselves from extracurricular activities because of their personal priority of spending more time with their children, most participants indicated that they felt excluded by the structure of extracurricular activities. For example, the Law Review try-out requires that the packet be completed within a certain number of hours over a couple of days – for many parents, they felt that it was impossible to put in that number of hours within the deadline. (This issue has also been raised in terms of take-home final exams!) Moot court teams practice in the evenings, when lawyers who are coaching the teams are available. One of the suggestions mentioned was to restructure the law school day so that class schedules were more compacted, and extracurricular activities took up the afternoons, so that parents would have a better opportunity to participate.

Conclusion and Next Steps

While UNM SOL students who are parents are aware that the entire law school schedule and structure cannot be geared completely toward their needs, they do generally believe that the changes mentioned above would not detract from the law school experience of more traditional students, and would enable the student-parents to fully participate in the law school environment in a way that actually utilizes the “diversity” the law school promotes. The students also recognized that other issues not mentioned above, such as a child care coop during exams or sharing of information on babysitters, are issues that they can organize themselves to solve together. Thus, the Women’s Law Caucus has proposed starting a Parent Support Group as one of their projects, and several of the student-parents were committed to becoming mentors for incoming student-parents to share their own experiences and advice.

The student-parents would like the next steps to include a meeting with you to hear your responses to the concerns raised above. We would be happy to organize the next meeting at your convenience.

Thank you very much for your attention to the law school experience for all UNM SOL students. These student-parents are hopeful that even small changes in the law school culture will ultimately lead to changes in law firm culture, resulting in a better work environment for everybody, including parents.

Spring 2006

50 mins	50 mins Monday	75 mins	75 mins Tuesday	50 mins	50 mins Wednesday	50 mins	50 mins Thursday	75 mins	75 mins Friday
8:30-9:20	Contract Design (1L'S Only)-FH, RD, TO Indian Law-JL Remedies-RD Taxation of Business Enterprises-Spa	8:15-9:30	Conflicts of Law-TO Intro. To Alternative Dispute Resolution-SH Labor Law-RG	8:30-9:20	Indian Law-JL Remedies-RD Taxation of Business Enterprises-Spa	8:30-9:20	Contract Design (1L'S Only)-FH, RD, TO Indian Law-JL Remedies-RD Taxation of Business Enterprises-SPa	8:15-9:30	Conflicts of Law-TO Intro. To Alternative Dispute Resolution-SH Labor Law-RG
9:30-10:20	Advocacy-0, BBI Advocacy-1, SH Advocacy-4, DM Criminal Procedure II (Bail to Jail)-LR Immigration Law-GVW Wills & Trusts-SB	9:45-11:00	Business Associations II-AM Criminal Procedure I (4th, 5th, 6th Amend.)-ER Water Law-EH D.A. Clinic (9:45-12:30)-LT, WMc	9:30-10:20	Advocacy-0, BBI Advocacy-1, SH Advocacy-4, DM Criminal Procedure II (Bail to Jail)-LR Immigration Law-GVW Wills & Trusts-SB	9:30-10:20	Advocacy-0, BBI Advocacy-1, SH Advocacy-4, DM Criminal Procedure II (Bail to Jail)-LR Immigration Law-GVW Wills & Trusts-SB	9:45-11:00	Business Associations II-AM Criminal Procedure I (4th, 5th, 6th Amend.)-ER Water Law-EH D.A. Clinic (9:45-12:30)-LT, WMc
10:30-11:45 (75 mins)	Property I-CF Property I-SW Ad. Evidence & Trial Practice-BBg Constitutional Rights-JE Intellectual Property-MB All Clinics-MN, CZ, ASL, TBA, LT, WMc, TP	11:15-12:30	Intro. Constitutional Law-NB Intro. Constitutional Law-MBr Ad. Evidence & Trial Practice-BBg Evidence-RG All Clinics-MN, CZ, ASL, TBA, LT, WMc, TP	10:30-11:45 (75 mins)	Property I-CF Property I-SW Constitutional Rights-JE Evidence-RG All Clinics-MN, CZ, ASL, TBA, LT, WMc, TP	10:30-11:45 (75 mins)	Property I-CF Property I-SW Constitutional Rights-JE Intellectual Property-MBa All Clinics-MN, CZ, ASL, TBA, LT, WMc, TP	11:15-12:30	Intro. Constitutional Law-NB Intro. Constitutional Law-MBr Evidence-RG All Clinics-MN, CZ, ASL, TBA, LT, WMc, TP
12:00-12:50	LUNCH	12:30-1:30	LUNCH	12:00-12:50	LUNCH	12:00-12:50	LUNCH	12:30-1:30	LUNCH
1:00-1:50	Advocacy-2, SH Advocacy-3, DM Bankruptcy-KL Conflicts of Indian Law-JL	1:30-2:45	Civil Procedure I-TO Civil Procedure I-LG Antitrust Law-AM Federal Jurisdiction-RK Health Law-RS	1:00-1:50	Advocacy-2, SH Advocacy-3, DM Bankruptcy-KL Conflicts of Indian Law-JL	1:00-1:50	Advocacy-2, SH Advocacy-3, DM Bankruptcy-KL Conflicts of Indian Law-JL	1:30-2:45	Civil Procedure I-LG Civil Procedure I-TO Antitrust Law-AM Federal Jurisdiction-RK Health Law-RS
2:00-2:50	Commercial Trans IIE-sales-MBa Entertainment Law-SB Federal Estate & Gift Tax-Spa	3:00-5:00	Int'l Business Transactions-(3:00-4:15)SPI Comp. Con Law: Religious Plurism-(4:00-6:00)RK Faculty Meeting	2:00-2:50	Commercial Trans IIE-sales-MBa Entertainment Law-SB Federal Estate & Gift Tax-Spa	2:00-2:50	Commercial Trans IIE-sales-MBa Entertainment Law-SB Federal Estate & Gift Tax-Spa	3:00-5:00	
3:00-5:00	Int'l Legal Problems (1L's only) (3:00-3:50)-NB, JM Ad. Criminal Procedure-BBg White Collar Crime-LR	5:00-7:00	Ad. Bankruptcy-KL Ad. Evidence & Trial Practice-BBg Comp. Con Law: Religious Plurism-(4:00-6:00)RK Mental Disability in Criminal Law-JE Theory of Conflict-SH	3:00-5:00	Int'l Legal Problems (1L's only) (3:00-3:50)-NB, JM Children's Law-SS Law & Film-(3:00-6:00)-SW Native American Rights-GVW	3:00-5:00	Int'l Business Transactions-(3:00-4:15) SPI Refugee & Asylum Law-JM State Constitutional Law & History-MBr, CF	5:00-7:00	Advanced Mediation-MBe weekends-FS, dates TBA Basic Mediation-JF weekends-FSS, dates TBA Family Mediation-NN weekends-FSS, dates TBA
5:00-7:00	Ad. Evidence & Trial Practice-BBg Elder Law-CP			5:00-7:00	Ad. Topics in Natural Resources-EH Clemency Law-ER Law & Film (3:00-6:00)-SW	5:00-7:00	Ad. Commercial & Consumer Law-NM		

Fall 2005

75 mins	75 mins Monday	50 mins	50 mins Tuesday	50 mins	50 mins Wednesday	75 mins	75 mins Thursday	50 mins	50 mins Friday
8:15-9:30	Contracts-FH Contracts-SPa Contracts-AM Ethics-ER	8:30-9:20	CHLP-CF CHLP-KB Civil Procedure II-TO Natural Resources: Indian Country-JL	8:30-9:20	Civil Procedure II-TO Natural Resources: Indian Country-JL	8:15-9:30	Contracts-FH Contracts-SPa Contracts-AM Civil Procedure II-TO (8:15-9:05) Ethics-ER	8:30-9:20	CHLP-CF CHLP-KB Civil Procedure II-TO Natural Resources: Indian Country-JL
9:45-11:00	Business Asso. I-SPI International Law-SB Oil & Gas Law-GC D.A. Clinic-LT (9:45-12:30)	9:30-10:20	Indian Law-GVW	9:30-10:20	Indian Law-GVW	9:45-11:00	Business Asso. I-SPI International Law-SB Oil & Gas Law-GC D.A. Clinic-LT (9:45-12:30)	9:30-10:20	Indian Law-GVW
11:15-12:30	Criminal Law-NB Criminal Law-JE Criminal Law-ER Federal Public Lands-EH All Clinics-MN,CZ,JM,TBA	10:30-11:45 (75 mins)	LRRW-1,BBI (10:30-11:20) LRRW-2,SH (10:30-11:20) LRRW-5,DM (10:30-11:20) Intro. Constitutional Law-JE Intro. Constitutional Law-NB All Clinics-MN,CZ,JM,TBA,LT	10:30-11:45 (75 mins)	LRRW-1,BBI (10:30-11:20) LRRW-2,SH (10:30-11:20) LRRW-5,DM (10:30-11:20) Intro. Constitutional Law-JE Intro. Constitutional Law-NB All Clinics-MN,CZ,JM,TBA,LT	11:15-12:30	Criminal Law-NB Criminal Law-JE Criminal Law-ER Federal Public Lands-EH All Clinics-MN,CZ,JM,TBA,LT	10:30-11:45 (75 mins)	LRRW-1,BBI (10:30-11:20) LRRW-2,SH (10:30-11:20) LRRW-5,DM (10:30-11:20) All Clinics-MN,CZ,JM,TBA,LT
12:30-1:30	LUNCH	12:00-12:50	LUNCH	12:00-12:50	LUNCH	12:30-1:30	LUNCH	12:00-12:50	LUNCH
1:30-2:45	Community Property-SW Contract Design-FH,TO,RD Evidence & Trial Practice-BBg Int'l Petroleum Transactions-GC	1:00-1:50	Torts-TO Torts-RS Torts-JL Evidence & Trial Practice-BBg	1:00-1:50	Torts-TO Torts-RS Torts-JL Evidence & Trial Practice-BBg	1:30-2:45	Community Property-SW Contract Design-FH,TO,RD Evidence & Trial Practice-BBg Int'l Petroleum Transactions-GC	1:00-1:50	Torts-TO Torts-RS Torts-JL Evidence & Trial Practice-BBg
3:00-5:00	Federal Income Tax-SPa (3:00-4:15) Mexican Americans & Law-LG Sexuality & the Law-JA	2:00-2:50	LRRW-3,SH LRRW-4,DM Ad. Legal Research-BL Family Law-ASL Property II-CF	2:00-2:50	LRRW-3,SH LRRW-4,DM Family Law-ASL Property II-CF	3:00-5:00	Access to Justice-SS Com. Trans I-secured-SPI (3:00-4:15) Federal Income Tax-SPa (3:00-4:15) Law of Indigenous People-CZC State & Local Tax-RD,JE (3:00-4:15)	2:00-2:50	LRRW-3,SH LRRW-4,DM Family Law-ASL Property II-CF
5:00-7:00	Educational Equity Law & Policy-KB Evidence & Trial Practice-BBg	3:00-5:00	Com. Trans I-secured-SPI (3:00-4:15) First Amendment Rights-KF State & Local Tax-RD,JE (3:00-4:15) Faculty Meeting-2405	3:00-5:00	Practicum (3:00-3:50) NB,JE,FH,JL,AM,TO,SP,ER,RS Animal Welfare-SW Art Law -SB NRJ I(Ad. Write Nat. Res.)-EH	5:00-7:00	Evidence & Trial Practice-BBg Int'l Business Ethics-AM,TP	3:00-5:00	
		5:00-7:00	Evidence & Trial Practice-BBg	5:00-7:00	Evidence & Trial Practice-BBg			5:00-7:00	Basic Mediation-JF weekends FSS-TBA