




The University of New Mexico

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MEMORANDUM

TO: LAW FACULTY

FROM: ROBERT J. DESIDERIO, DEAN 

DATE: MARCH 15, 2002

SUBJECT: FACULTY MEETING

**Faculty Meeting Agenda
Tuesday, March 19, 2002**

**Room 2405
4:00 p.m.**

1. Approval of Minutes of February 5, 2002 Faculty Meeting
2. Dean's Report
3. Open Society Law School Consortium Project – Professor Antoinette Sedillo Lopez
4. Report on Library Financial Concerns – Professor Marsha Baum
5. JAG Interview Scheduling and Amelioration Speakers – Associate Dean Peter A. Winograd
6. Honor Code Proposal – Patrick Griebel
7. New Business

RJD:mb

March 19, 2002

Faculty Meeting Minutes
UNM School of Law
Room 2405, 4:00 p.m.

Present: Baum, Bay, Bergman, Bobroff, Browde, Burr, Cruz, Desiderio, Fort, Hall, Hughes, Land, Lopez, Martin, Mathewson, Occhialino, O'Leary, Rapaport, Romero, Schwartz, Taylor, Valencia-Weber, Winograd

Student Representatives Present: Adams, Gonzales

Absent: Blumenfeld, Canova, Ellis, Fritz, Gill, Gonzales, MacPherson, Martinez, Montoya, Montoya-Lewis, Moore, Norwood, Wolf

At 4:15 p.m., Dean Desiderio called the meeting to order. The first order of business was to adopt the minutes of the February 5, 2002 faculty meeting. A motion to approve the minutes as distributed was made by Professor Michael Browde and seconded by Associate Dean Peter A. Winograd. When voted on, the motion carried.

Dean's Report:

Dean Desiderio presented Professor Christine Zuni Cruz with her 5-yr. service pin from the University. He then presented Professor Denise Fort with her 10-yr. service pin.

Dean Desiderio introduced Pilar Gonzales, 1L, who was just elected as the 2L Student Representative to the Faculty Meetings for the 2002-03 academic year.

The report on Library Financial Concerns was postponed to a future faculty meeting.

Dean Desiderio reminded the faculty of the Malsa Fighting For Justice Banquet and Silent Auction on Saturday, April 13, at the Sheraton Old Town. He encouraged the faculty to attend and to leave their name with Margaret if they wish to sit at a designated faculty table.

Professor Kip Bobroff announced the NAPIL fundraising event "Monte Carlo on the Rio" Saturday, March 30, from 7:00 p.m. to midnight at the State Bar Center, and urged the faculty to attend and/or donate to sponsor a faculty gaming table.

Dean Desiderio reported that the Provost is in negotiations to hire our new dean and hopes to hear the decision by the end of the day Thursday, March 21.

Dean Desiderio reported that there still is no agreement on a budget for the State.

Work on the Frederick Hart addition is progressing. The move is now scheduled for after graduation on May 11, delayed because CIRT did not order the infrastructure (wiring, etc.) on time. The contract for the remodeling will be signed sometime next week.

Dean Desiderio reported that the National Moot Court Team of Sam Adams, Chris Collins, Arlyn Crow, and Stephanie Kane gave an outstanding performance at the ABA National Appellate Advocacy Competition in Houston on March 7-9. He also reported that the HNBA Moot Court Team of Rose Fragoso, Lorena Olmos, and Roman Romero, competing at the 2002 HNBA National Moot Court Competition in Chicago, Illinois, advanced all the way to the quarterfinals.

The Visiting Professor positions for the 2002-03 academic year are close to being filled—there are still three offers out and Dean Desiderio will inform everyone when they have been accepted.

The Curriculum Committee is close to finalizing the curriculum for next year. The Committee is having an open meeting on Tuesday, March 26, and invited all faculty, especially those teaching first-year classes, to attend.

There will be an ENRON Teach-In on Thursday, March 21 from 6:30 – 8:30 p.m. in the Forum.

Open Society Law School Consortium Project:

Professor Antoinette Sedillo Lopez reported that the UNM School of Law has applied for membership in the Open Society Consortium. If admitted, the Law School would receive technical and financial support to expand our mission and train our graduates who practice in small firms or solo practices to serve under-represented groups.

JAG Interview Scheduling and Amelioration Speakers:

Associate Dean Peter A. Winograd announced that he plans to ask the recruiters from all the military services to conduct their interviews in the same week in order to make the amelioration process more effective and less burdensome for the student groups. This scheduling system has been done successfully at other law schools. Discussion followed as to whether it was fair to ask the services to recruit during a specific week when we do not request that of other on-campus recruiters. Amelioration is a requirement of the AALS, and faculty are requested to participate. Sam Adams reported that Captain Rogers, Air Force JAG recruiter, had stated that UNM's amelioration was one of the more mature and respectful he has experienced.

Dean Winograd will request that the services schedule their on-campus recruiting in the same week, but only if it is also convenient for them.

Honor Code Proposal:

Dean Desiderio brought the proposed changes in the Honor Code (attached) to the faculty and asked for a motion to approve. A motion was made by Professor Denise Fort and seconded by Professor Rob Schwartz to approve the proposal, effective immediately.

After discussing some of the wording of the proposal, it was recommended that the document be sent on to the Student Affairs Committee. The Committee will bring their recommendations to the faculty at an October 2002 faculty meeting.

When voted on, the motion to approve the proposal with the above condition carried.

The meeting adjourned at 4:55 p.m.

Respectfully submitted,

Handwritten signature of Margaret A. Banek in cursive script.

Margaret A. Banek

:mb

Attachment

Student Code of Conduct

(Adopted March 1983, Amended 2001)

The student body, like the practicing bar, governs itself in matters of professional conduct. A student-authored code of conduct outlines standards of conduct UNM law students are honor-bound to follow. The code's provisions cover all phases of law school life, including the taking of examinations without proctors, conforming to law school and law library rules and regulations, professional conduct in all matters, and correctness of applications, forms, and other papers submitted to the law school and University.

Elected student leaders constitute an honor board that reviews all charges of code infractions. When an investigation warrants it, the honor board conducts a hearing for the accused person or persons. Sanctions for code violations range in severity from verbal reprimands to permanent expulsion from the law school.

Preamble

We, the students of the University of New Mexico School of Law, recognize that integrity of the highest order is expected of each of us, and as members of a self-governing student body do hereby adopt the following document, which states the minimum standards of honesty to be followed by students in this institution.

I. Persons Subject to this Code

Any person enrolled in the University of New Mexico School of Law is subject to the provisions of this Code. When any person is accused of violating this code while a student, but has since disenrolled, transferred, taken a leave of absence, graduated or otherwise ceased to be enrolled as a student, the accuser shall notify the Dean of ~~the~~ this Law School. The Dean shall notify appropriate authorities for an appropriate investigation. This notification shall go to any school in which the person is enrolled, and any State Bar Association or other relevant professional licensing office or association in which the person is a member or is applying for membership.

II. Standard of Conduct

Every student shall be honest and candid with students, faculty, staff, and administrators, and shall conduct himself/herself in a professional manner.

III. Substantive Provisions

A. Examinations

1. Every student shall abide by the principle that each examination shall be the product of his/her own knowledge, unless the instructions explicitly and unequivocally provide that students may work co-operatively, in which case every student shall abide by the limitations, if any, on cooperative work which are set by the professor.

2. Every student assumes the burden of compliance with the provisions of this Code.

3. It shall be a violation of the Code for a student:

a. To obtain or use prior to an examination any information concerning the content of the examination, unless such information is authorized by the faculty member concerned.

b. To bring into the examination room books, papers, or other materials of any sort, unless explicitly authorized by the instructor, with which could be used ~~intent to use such materials to aid one's self or any other student in any way during the examination.~~

c. To refer to, or be in possession of unauthorized books, papers, or other materials during the course of the examination, whether inside or outside the examination room.

d. To communicate during the examination in any manner with another student concerning the examination.

e. To display one's examination paper with the intent to aid another student, or to look at the examination paper of any other student with intent to copy or use information from it.

f. To fail to turn in ~~the~~ all examination materials at the appointed time.

g. To take more time to complete an examination than is allowed.

h. To have an examination in one's possession unless at any time or place not authorized by a faculty member.

i. To discuss an examination already taken with another student who will take the examination at a later time.

j. To prepare, to encourage, to counsel or to combine with another to violate the above provisions.

B. Papers

1. Every student shall abide by the principle of academic honesty in all written work.

2. Plagiarism is a violation of the Honor Code. Plagiarism is ~~defined as~~ the knowing use of the ideas or words of another as your own without indicating such use fully and accurately.

3. It shall be a violation of the Code if a student intentionally fails:

- a. To cite fully and accurately the source of an idea taken from another;
- b. To place in quotations material used from a source and to cite fully and accurately such material; or
- c. To cite fully and accurately material paraphrased from a source.

C. Law Library

1. Every student shall respect the integrity of our library's collection and facilities and shall respect the rights of others in their use of the library.

2. It shall be a violation of the Code for a student:

- a. To intentionally damage or destroy library property (including, but not limited to: books, microforms, equipment or furniture).
- b. To hide or secrete library materials within the library.
- c. To violate library rules concerning checkout procedures for library materials with the knowledge that such violations may deprive others of those materials.

D. School Activities

1. Every student shall be honest in his/her every action with regard to all Law School-related activities. Such activities include, but are not limited to:

- a. Moot Court competitions;
- b. Client Counseling competitions;
- c. Clinical Law programs;
- d. Any Law Journal activity;
- e. All other academic activities or co-curricular or extra-curricular activities directly or indirectly related to the educational mission of this school of law.

2. It shall be a violation of the Code for a student to lie, cheat, steal, be dishonest, or otherwise act contrary to the provisions of this Code while participating in, or preparing for, the above-mentioned activities.

E. Property

1. Every student shall respect the property rights of every member of the faculty, staff, student body, and of the University and its employees.
2. It shall be a violation of the Code for a student:
 - a. To take University property with the intent to permanently deprive the University of the property.
 - b. To take property belonging to students, or to any member of the faculty or staff without the owner's permission with intent to temporarily or permanently deprive the owner of the property.
 - c. To intentionally deface, destroy or otherwise abuse University property or property belonging to a student, faculty or staff member at the University.

F. Honesty

1. Every student shall be honest and candid in his/her every action.
2. It shall be a violation of the Code for a student:
 - a. To lie.
 - b. To represent someone else's work as his/her own.
 - c. To use any unauthorized research materials.
 - d. To intentionally misrepresent material information in applying for financial aid, work-study, relief from academic suspension, or school-related programs, activities and benefits.

G. Compliance with Code Procedures

1. An effective code depends for its enforcement on the professional responsibility and individual integrity of those functioning under it.
2. It shall be a violation of the Code for a student:
 - a. To witness, ~~or know of,~~ or have a reasonable basis to believe that a person subject to this code has violated this code, ~~a Code violation~~ and not to report the ~~offense violation,~~ the names of the offender(s), and all relevant circumstances of the violation, as provided in section IV herein.

b. To refuse to appear when requested as a witness at an Honor Board hearing.

c. To disclose any fact concerning an Honor Board Hearing except as provided by this Code.

H. The specific provisions enumerated above do not preclude disciplinary action for other violations of the spirit of the Code.

IV. Confidentiality

All Honor Board proceedings, records, and actions shall be considered confidential in nature. No person other than the accused having knowledge of such proceedings or actions shall reveal anything concerning them except as provided in this Code, or as required by existing law.
[moved from end of Code to here]

V. Procedure for Reporting an Honor Violation

A. A student who sees or learns of an apparent violation is encouraged to confront the suspected person and ask for an explanation. If an explanation is given that clears up the matter, i.e., the witnessing student is *convinced* there was no violation, this should end the matter.

B. A student who sees or learns of an apparent violation who prefers not to confront the suspected person, or who has confronted the suspected person, or who has confronted him/her and been given no explanation or an inadequate explanation, shall report the incident to the SBA president. This report should be made within 48 hours of the incident or as soon as possible if good reason exists for a longer period of time. If the student prefers, ~~they~~ he/she may consult with a faculty member for advice prior to reporting to the SBA President. This faculty member shall not be in any way involved in the alleged violation nor in any resulting investigation or Honor Board hearing.

C. A faculty or staff member who sees or learns of an apparent violation normally should report the incident to the SBA president within 48 hours of the incident or upon gaining knowledge of the incident or as soon as possible.

D. The SBA president, with the reporting witness, shall write a brief report of the alleged violation. The report shall include the following:

1. The nature of the alleged violation;
2. The time and date of the alleged violation;
3. The name of the accused;
4. The name of the reporting witness;
5. The names of any other witnesses.

E. The SBA president shall deliver a copy of his report to the investigator to facilitate the investigation.

F. The accused shall be notified by the SBA President that allegations against the accused have been presented to the SBA President at the time that the SBA President completes the report described in paragraph D above. At this time, the SBA president shall provide the accused with a copy of the applicable Code of Conduct. The SBA President shall inform the accused that he/she must read the code prior to speaking to any one about the matter and also that the accused is not required to speak to the Investigating Officer if he/she does not wish.

VI. Investigation

A. An investigation will be conducted by the Third Year Faculty Representative, unless the Third Year Representative is not available, or is involved with or reasonably potentially involved with the allegation, or reasonably may be perceived to be biased or prejudiced in the matter, in which case she must decline to serve as Investigator. If the Third Year Faculty Representative is not available or must decline to serve, a Third Year class member shall be nominated to act as investigator by the SBA President and approved by a majority vote of the SBA Executive Committee.

The Third Year Faculty Representative may serve as Investigator in the Spring and Summer prior to beginning ~~their~~ his/her third year, once elected or appointed. The Investigator may ask the Executive Committee to be excused from duty, and any person under investigation may also ask the Executive Committee to excuse the Investigator from duty, and replace the Investigator. The Executive Committee may consider these requests, but is not required to follow them, ~~and must show~~ unless good cause for the change in investigator is shown.

B. The Investigator will evaluate the circumstances of a case to determine whether an incident the apparent violation should be considered by an Honor Board.

C. An investigation should not interfere with the accused's examinations. Measures, though, should be taken to insure a timely investigation.

D. The investigation will consist of the following:

1. The Investigator shall talk to the reporting witness, the accused (if the accused consents), any other witnesses, and all other persons, including faculty and staff, who may have relevant information. Written statements should be taken from all witnesses.

2. After all witnesses have been interviewed and the investigation is complete, the Investigator ~~will decide if an Honor Board hearing shall convene an Honor Board hearing, be convened~~ according to paragraph three if the investigator concludes that there is a reasonable probability that the accused has violated this code as charged by the reporting witness.

3. If the Investigator calls for an Honor Board hearing, she shall notify the SBA President, who shall then convene it in a timely

manner. If the Investigator calls for further investigation by another investigator, all records shall be turned over to that second investigator. If the Investigator calls for further investigation by a University or Police Authority, the Investigator shall make a report to that authority and preserve evidence for that investigation. If the Investigator does not call for further investigation nor for a Board hearing, the case will be dismissed and all records generated by the investigation will be destroyed immediately by the SBA President.

4. If the Investigator decides to convene an honor board hearing pursuant to paragraph 2 above, he/she shall write a detailed report consisting of the following that there is a probability of an Honor violation he/she shall write a detailed report of the investigation and its result. This report shall include the following:

- a. The nature of the alleged violation;
- b. The time and date of the alleged violation;
- c. The name of the accused;
- d. The name of the reporting witness;
- e. The names of any other witnesses;
- f. A summary of the information gained from the investigation;
- g. All written statements;
- h. A summary of all oral statements not recorded;
- i. The recommendation of the Investigator.

E. The Investigator shall deliver his report to the Senior Officer (see Paragraph VI (A)). The Senior Officer shall provide the accused with all of the information in the Investigator's report.

VII. Honor Board

A. The SBA president is the Senior Officer and shall act as an advisor to all parties to the hearing. He/she shall preside at the hearing and make all decisions that are necessary for its proper functioning.

B. The Honor Board shall consist of the SBA Executive Committee, plus one faculty member. The Senior Officer will not participate in the deliberations of guilt or innocence or sanction, and will not cast a vote. The Executive Committee shall select the faculty member from a list of three recommended by the Dean. If a member of the Honor Board is excused by the Senior Officer from serving for any reason, the Executive Committee of the SBA shall approve by majority vote a replacement nominated by the Senior Officer and who shall be selected from the excused party's academic class.

C. In the event that there is a change in personnel among the SBA Board due to election, and a possible violation has been reported to the SBA President, the Honor Board convened to adjudicate that allegation, including the faculty member, shall have the duty and the authority to adjudicate that allegation through to its completion notwithstanding the termination of that SBA Board's tenure due to election, except that for good cause shown and with the approval of the Dean, this provision need not apply. Furthermore, an SBA Board so effected shall be bound by the confidentiality provisions herein from informing any member of a board-elect of the proceeding, unless that member would otherwise be properly made aware of the proceeding.

D. The accused has a right to voir dire all Honor Board members and challenge any of them for cause.

E. The Honor Board itself will make all decisions on the accused's challenge(s) for cause. Removal as a result of a challenge for cause shall be by a majority vote of the Honor Board, excluding the vote of the person being challenged. The Senior Officer has a vote for these purposes. In the event of a tie vote, the person challenged shall be removed.

F. In the event the SBA president cannot participate as Senior Officer he/she shall be replaced by the next highest ranking SBA officer. That person shall then be the acting Senior Officer.

G. The Honor Board shall convene elsewhere than on the campus of the University of New Mexico School of Law.

H. The Honor Board hearing shall be closed to all persons except the Senior Officer, the Honor Board members, the accused, the accused's counsel, the reporting witness, all any other witnesses called, a hearing reporter and the Investigator.

I. The Honor Board hearing shall never be held during a Law School examination period.

J. The Senior Officer shall notify the Honor Board members, the Dean, and all parties and witnesses of the date, time, and place of the Honor Board hearing no later than six days prior to the hearing.

K. The Senior Officer shall require all members of the Honor Board to give him/her their assurance that each member supports this Code of Professional Conduct.

L. The Senior Officer shall keep the Dean informed of the general nature of the Honor Board proceedings. The names of the reporting witness and accused will not be revealed unless and until there has been a determination of guilt and then ^{from} on if such revelation is necessary for the imposition of the sanction.

M. The accused and the person reporting the alleged honor violation and all witnesses called by the accused, the reporting witness, or the Honor Board shall appear at the Honor Board hearing.

N. Prior to the Honor Board hearing, the Senior Officer shall deliver to the accused a copy of the initial Honor Violation report described in V (D)(4) which

shall include the time, date, and place of the Honor hearing. The accused shall be instructed in writing, of his/her rights, which are in Section VII of this Code.

O. The accused may petition the Senior Officer for any documents needed in his/her defense. Once such requests are received in writing by the Senior Officer, the Senior Officer may direct the production of documents or tangible things that the Senior Officer deems relevant or necessary to the accused's defense, and which are not privileged.

P. Pre-hearing interviews by the defense of any witness shall not normally be allowed.

VIII. Honor Board Hearing

A. The Senior Officer shall read the nature of the alleged violation, the time and date of the alleged violation, the names of the accused and reporting witness, and the conclusion of the Investigator. The Senior Officer shall also explain to all parties the procedures to be followed in the hearing.

B. A record of the proceeding shall be kept for the purpose of facilitating proper review by the Dean should such review be requested by the accused. The record may be taken by a court reporter or it may be in the form of a tape-recording of the entire hearing. If a taped record is created, the Senior Officer will ensure prior to the hearing that the equipment is functioning properly and that all parties will be able to be clearly heard on the tape-recording.

C. The Investigator shall present the case against accused.

D. The procedure followed for the hearing shall consist of the following:

1. The Investigator shall make an opening statement.

2. The accused shall have an opportunity to make an opening statement.

3. The Investigator shall present all witnesses, testimony, and other information and evidence relevant to the investigation of the accused. Formal rules of evidence shall not apply to the Honor Board hearing; however, hearsay shall normally not be admitted as evidence in the proceeding.

4. F. The accused may cross-examine all witnesses against him/her. The investigating officer may cross-examine all witnesses presented by the accused.

5. G. The accused shall have the opportunity to refute the testimony against him/her or to explain the circumstances which led to the charge. The accused shall have full opportunity to present witnesses in his/her behalf. The accused shall not be required to testify. The accused has the right to confront the reporting witness and other witnesses. The accused may be represented by counsel or faculty member.

6. H. The Honor Board may call witnesses and hear further evidence relevant to the to explain the circumstances under investigation. The Board may question any witnesses and review any evidence.

7. I. The Senior Officer has the discretion to grant recesses and to stay the proceedings if the circumstances require it.

8. J. The accused shall have an opportunity to make a closing statement.

9. K. The Investigator shall make a closing statement.

E. L. At any point prior to or during the hearing the accused may plead "guilty" or "nolo contendere" and waive the right to a hearing as to guilt/innocence. At that point, the Senior Officer shall convene a hearing as above except that such a hearing shall include only such evidence and witnesses that are necessary to explain to the board the factual circumstances of the allegation or are relevant to the imposition of sanction.

M. At the conclusion of the presentation of evidence the Honor Board shall retire to deliberate.

IX. Determination of Honor Code Violation

A. Prior to its deliberations the Senior Officer shall instruct the Honor Board that:

1. Determination of guilt or innocence of the accused shall be without consideration of any sanction under this Code; and

2. The accused shall not be found guilty unless members of the Honor Board unanimously agree that there is clear and convincing proof that the accused is guilty of the charge, or the accused pleads guilty or nolo contendere.

B. If the accused is found to be not guilty, all records of the hearing shall be destroyed immediately by the Senior Officer.

C. If the Honor Board finds the accused guilty, it shall then consider the sanction to be imposed.

X. Sanctions

A. The sanction shall be determined by a majority vote of the this Honor Board.

B. The sanctions which may be imposed by the Honor Board include, but are not limited to, the following:

1. verbal reprimand;

2. written reprimand;

3. written reprimand to individual with copy to remain in individual's file until graduation;

4. written reprimand to individual with copy to remain permanently in individual's file;

5. recommendation to professor for grade change;

6. removal from related activity, e.g., Moot Court competition;

7. suspension from school;
8. permanent expulsion from school;
9. any combination of the above.

~~C. The Dean may not increase the severity of the sanction imposed by the Honor Board, but may reduce it for good cause. {moves to X (E) }~~

XI. Imposition of Sanction

A. When After the Honor Board has decided upon a sanction, it shall, in the presence of the accused and the Senior Officer, announce its decision, informing the accused of his/her sanction.

B. If the sanction includes a verbal reprimand it shall be immediately given by the Senior Officer. All other sanctions will be given administered within 72 hours or as soon as possible.

C. Within ~~72~~ 24 hours of its decision the Honor Board shall express its decision in a written statement to the Senior Officer. This statement shall be written by the First Vice President, or ranking member of the Honor Board other than the Senior Officer or faculty member. The Senior Officer shall deliver copies of the decision to:

1. The accused, and
2. The Dean. ~~{ The names of the accused and/or the reporting witness will be excised prior to delivery to the Dean unless the First Vice President deems that such information is necessary for the imposition of any sanction. }~~ Included with the copy of this written statement to the Dean, the Honor Board shall also include the original record of the proceeding.

~~D. After a majority of the Board has determined a sanction, the accused may appeal only the sanction to the Dean. The accused must inform the Dean of such an appeal by writing a statement petitioning such a sanction appeal, and briefly stating the reasons therefor. The statement must be received by both the Dean and the Senior Officer within 72 hours of the publication of the Board's written decision statement described in paragraph C above. All records generated, but not destroyed pursuant to this code, shall be sealed and kept in the School vault for three years. After three years have passed, all records shall be destroyed by the Dean.~~

E. Upon receiving the accused's sanction appeal, the Dean normally shall announce a sanction appeal decision in writing within 72 hours. The Dean's decision shall be based only upon the documents viewed by the Honor Board during the hearing and the taped or written transcript of the proceeding. The Dean may not increase the severity of the sanction imposed by the Honor Board, but may reduce it for good cause. {moved from previous section}

XII. Administrative and Judicial Review

This Code in no way limits the availability of existing administrative and judicial review.

XII. Confidentiality *[Proposed change would move this section up to §IV rather than leaving it tucked at the end].*

All Honor Board proceedings, records, and actions shall be considered confidential in nature. No person other than the accused having knowledge of such proceedings or actions shall reveal anything concerning them except as provided in this Code.