

DRAFT Guide to Managing Faculty Non-Compliance with COVID-19 Safe Practices and Mandates

Faculty play a crucial role in our continued commitment to fulfill the university's mission while ensuring the health and well-being of the campus community. Therefore, if faculty do not meet the expectations of The University of New Mexico's (UNM) The Pack is Back: A Safe Return to Campus, department chairs/directors must address non-compliance appropriately and consistently. This guide is to aid department chairs/directors in the consistent application of disciplinary procedures required under the [UA-UNM Unit 1/Unit 2 collective bargaining agreements](#) and [Faculty Handbook policies](#).

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Guidelines

Guiding Principles for Compliance with COVID-Safe Practices and Mandates

- Administration will take steps to ensure that faculty understand the requirements associated with COVID-Safe Practices (CSPs) and Mandates
- Administration will take steps to provide information on the exemption processes, when applicable
- Faculty will comply with COVID-Safe Practices and Mandates and communicate their intent to request exemptions, if applicable, in a timely manner.
- Administration expects that all faculty will comply with COVID-Safe Practices and Mandates.
- Administration expects issuance of disciplinary measures to be rare and reserved for intentional instances of non-compliance with COVID-Safe Practices and Mandates

Non-Compliance with Vaccine Mandate

Noncompliance for the purposes of these guidelines shall mean (1) faculty who have not uploaded proof of their Covid-19 vaccination by September 30, 2021; and/or, (2) faculty who have not been approved for an exemption by September 30, 2021.

Administration's Process for Managing Compliance with the Administrative Mandate on Required COVID-19 Vaccination:

1. Prior to September 30, 2021, Administration identifies faculty who have not submitted evidence of vaccination status or do not have an approved exemption.

2. Prior to September 30, 2021, Department Chair/Director will take steps to ensure understanding and gain compliance with the COVID Vaccine Mandate. Including, but not limited to:
 - a. The faculty member has a clear understanding of the expectations of the mandate
 - b. The department chair/director offers the faculty member an opportunity to seek clarification about the process and referral to appropriate support resources
 - c. The department chair/director determines if faculty member is willing to comply with vaccine mandate
3. On October 1, 2021, non-compliance with the Administrative Mandate includes:
 - a. Failure to provide proof of vaccination status, by upload to the UNM COVID-19 vaccine verification site (<https://lobocheckin.unm.edu/checkin/svpfa/240>) by September 30, 2021, or
 - b. Does not have an approved exemption.

Guide for Unit 1 Bargaining Members Non-Compliance of COVID Vaccine Mandate:

1. Department Chair/Director places the faculty member on administrative leave (paid) and provides faculty final opportunity to comply prior to initiating disciplinary action.
2. Department Chair/Director provides faculty member, who fails to comply, notice of predetermination meeting.
 - a. Predetermination meeting will occur in compliance with Article 16, Section B of the collective bargaining agreement.
3. The purpose of the predetermination meeting is to inform the faculty member of the violations of policy and provide the faculty member an opportunity to respond. Union representative may accompany a bargaining unit member during the predetermination meeting.
4. Based on the predetermination meeting, Department Chair/Director will consider faculty member's response and determine if failure to comply with the Administrative Mandate was intentional, knowing, willful, and/or in blatant disregard of the consequences of violating the expectations.
 - a. For intentional, knowing, willful, and/or blatant disregard of vaccine mandate: Faculty member's intentional, knowing, and/or willful, failure to comply with the Administrative Mandate creates an unsafe workspace environment for self and others. Pursuant to Article 16, Section D, given the significant safety threat created in these circumstances, faculty member's behavior is considered sufficiently severe to warrant deviation from progressive disciplinary steps. Intentional, knowing, and/or willful failure to comply with the Administrative Mandate will result in an unpaid suspension through remainder of Fall 2021 Semester. Pursuant to Article 17, a bargaining unit member suspended without pay may grieve the final decision. Faculty member will be required to return to work Spring 2022 semester and comply with the Administrative Mandate.

- b. For unintentional disregard and/or willingness to comply with vaccine mandate: Department Chair/Director will consider faculty member response and determine appropriate level of discipline, if any, based on the severity and prior disciplinary history of faculty member regarding non-compliance to policies or mandates.
5. Continued failure to comply with the Administrative Mandate Spring 2022 will result in additional progressive discipline, up to and including termination.

Guide For Unit 2 Bargaining Members Non-Compliance of COVID Vaccine Mandate:

1. Department Chair/Director places the faculty member on administrative leave (paid) and provides faculty final opportunity to comply prior to initiating disciplinary action.
2. Department Chair/Director provides faculty member notice of a predetermination meeting.
 - a. The predetermination meeting will occur in compliance with Article 10, Section B of the collective bargaining agreement.
3. The purpose of the predetermination meeting is to inform the faculty member of the violations of policy and provide the faculty member an opportunity to respond. A Union representative may accompany a bargaining unit member during the predetermination meeting.
4. Based on the predetermination meeting, Department Chair/Director will consider faculty member response and determine if failure to comply with the Administrative Mandate was intentional, knowing, willful, and/or in blatant disregard of the consequences of violating the expectations.
 - a. For intentional, knowing, willful, and/or blatant disregard of the Administrative Mandate: Faculty member's intentional, knowing, and/or willful, failure to comply with the Administrative Mandate creates an unsafe workspace environment for self and others. Pursuant to Article 10, Section D, given the significant safety threat created in these circumstances, faculty member's behavior is considered sufficiently severe to warrant deviation from progressive disciplinary steps. Intentional, knowing, and/or willful, failure to comply with the Administrative Mandate will result in an unpaid suspension for a bargaining unit member on a one-year term contract and termination for a bargaining unit member contracted only for the Fall semester. Pursuant to Article 11, a bargaining unit member suspended without pay or terminated may grieve the final decision.
 - a. For unintentional disregard and/or willingness to comply with the Administrative Mandate: Department Chair/Director will consider faculty member response and determine appropriate level of discipline, if any, based on the severity and prior disciplinary history of faculty member regarding non-compliance to policies or mandates.
 - i. Continued failure to comply with the Administrative Mandate Spring 2022 will result in additional progressive discipline, up to and including termination.

- ii. The faculty member may petition the applicable dean, subject to approval by Provost, to have the disciplinary action for non-compliance with COVID Vaccine Mandate removed from the official personnel file after 12 months of demonstrated successful performance.

Guide For Non-Bargaining Members (HSC faculty, visiting faculty, working retirees, main and branch campus administrators) Non-Compliance of the Administrative Mandate:

Non-bargaining faculty who do not comply with the requirement to provide proof of vaccination or approved exemption will be subject to the Faculty Handbook (FHB) progressive discipline as detailed in the Faculty Handbook (FHB) Policy C07: Faculty Disciplinary Policy.

1. Dean or next higher academic authority issues notice of emergency suspension order as violating the Administrative Mandate creates a risk of imminent harm to the faculty member and others. The emergency suspension order will provide faculty final opportunity to comply prior to initiating disciplinary action.
2. Department Chair/Director next provides faculty member, who fails to comply, written notice explaining the nature and specific content of the alleged violation, together with a copy of this policy, and shall discuss the alleged violation with the faculty member in accordance with FHB C07.
3. Based on the meeting and information presented by the faculty member pursuant to the procedures given in FHB C07, Department Chair/Director will consider faculty member response and determine if failure to comply with the Administrative Mandate was intentional, knowing, willful, and/or in blatant disregard of the consequences of violating the expectations.
 - a. For intentional, knowing, willful, and/or blatant disregard of vaccine mandate: Faculty member's intentional, knowing, and/or willful, failure to comply with the Administrative Mandate creates an unsafe workspace environment for self and others. Pursuant to FHB C07 given the significant safety threat created in these circumstances, faculty member's behavior is considered sufficiently severe to warrant deviation from progressive disciplinary steps. Intentional, knowing, and/or willful, failure to comply with the Administrative Mandate will result in an unpaid suspension through remainder of Fall 2021 Semester. Faculty member will be required to return to work Spring 2022 semester and comply with the vaccine mandate.
 - b. For unintentional disregard and/or willingness to comply with vaccine mandate: Department Chair/Director will consider faculty member response and determine appropriate level of discipline, if any, based on the severity and prior disciplinary history of faculty member.
4. Continued failure to comply with the Administrative Mandate will result in additional progressive discipline, up to and including termination pursuant to FHB sections B.5.3, B.6.4.3, and B.5.4.