THE UNIVERSITY OF NEW MEXICO  
Board of Regents’ Audit and Compliance Committee Meeting  
August 25, 2017 – Meeting Minutes

Members Present:  
Thomas Clifford, Chair, Alex O. Romero, Vice Chair, Lt. Gen. Bradley Hosmer (quorum).

Other Attendees:  
Chaouki Abdallah, Craig White, Liz Metzger, Chris Vallejos, Dorothy Anderson, Janice Ruggiero, Libby Washburn, Francie Cordova, Elsa Cole, Peggy Davis, Nicole Dopson, Carla Domenici, Che Shu-Nyamboli, Dianne Anderson, Cinnamon Blair, Pamina Deutsch, Ella Watt, Purvi Mody, Jeff Gassaway, Mallory Reviere, Tim Keller (State Auditor’s Office), Sanjay Bhakta (State Auditor’s Office), Lynette Kennard (State Auditor’s Office), Shannon Sanders (State Auditor’s Office), Steve Keene (Moss Adams), Lisa Todd (Moss Adams), John Kennedy (KPMG), Manu Patel, Chien-chih Yeh, Victor Griego, Lisa Wauneka, Amy O’Donnell.

Chairman Clifford called the meeting to order at 1:00 PM in ROBERTS ROOM, Scholes Hall, UNM. The Chairman stated the order of items heard during Executive Session will be modified to accommodate visitors first.

ACTION ITEMS:

- The Committee unanimously approved the current meeting agenda and the minutes from April 28, 2017. Regent Hosmer asked about information in the previous minutes about State Auditor Tim Keller asking if the Regents received a letter that went to the President. Chairman Clifford replied it is regarding the Permanent Fund issue and that it did go to him, but he would like it to be provided to the two new members along with any follow up. Regent Romero asked about Department of Justice information. Chairman Clifford stated that it will be provided in the Chief Compliance Officer’s status report in this meeting.

- The next meeting date of October 20, 2017 at 9:00 AM was approved. The previous due date in prior years for the external audit to be submitted to the State Auditor’s Office was November 15th and now it is moved to November 1st of each year, so this schedule is tight. There were no changes to the proposed meeting dates of February 15, 2018 and May 17, 2018.

INFORMATION ITEMS:

- Chairman Clifford asked for Advisor Comments. There were none.

- Libby Washburn, Chief Compliance Officer, provided her departmental report and updated the Committee regarding the status of the Department of Justice (DOJ) recommendations. Her office has updated the implementation plan. They submitted four status reports in the ten months that UNM has been under the DOJ agreement, with the fourth status report filed on June 30th. The fifth status report is due September 30th. It is fairly substantial and there are about nine different items they will be reporting on. They have also produced a six month progress report. They will be doing a one year progress report when it hits that anniversary date. They have made all of the deadlines, and continue to be in good shape for those that are upcoming.

Big things to highlight include the Herculean effort to train every student in person. They have created a training called “Grey Area Training.” A majority of UNM’s 27,000 students are
required to take it (unless they are part-time or do not have presence on the campus). That leaves approximately 23,000 who need to take the training. So far, approximately 15,000 have taken the training in more than 90 sessions. There are 88 sessions scheduled this fall. The training deadline is December 31, 2017. The DOJ is amazed at what they have done so far.

Regent Romero asked, since he is new, what prompted the DOJ review. Ms. Washburn replied it was several years in the making. Several complaints had been made to the Department of Education (DOE) and DOJ about things that were happening on campus. They came out and investigated about two years ago. Ten months ago, the DOJ said we have to enter into an agreement to make some changes. Instead of litigating with them, UNM voluntarily entered into the agreement. Chairman Clifford asked Ms. Washburn to provide previous background information from prior meetings to the new members.

Regent Hosmer stated UNM should be cautious about what is included in campus surveys. There is a lot of sample bias. Predicting whole body results from a thin sample is tricky. And, since it is DOJ prescribed, the questions being asked may not be all the questions we would like to ask. We should feel free to supplement since the vehicle is going out anyway. UNM should also keep alive the possibility of finding ways of increasing the balance and size of the samples. Surveys are really one of the best ways to get the results. Most of what we are reporting on are the efforts. What really matters are the consequences. We are hard put to point at specifics there until we have data in which we have sufficient confidence.

Ms. Washburn noted that they conducted climate surveys. At the last progress report, they did not have results. Results have now come in but her office has not had a chance to thoroughly review them yet. She will provide an update at the next meeting of this Committee. There is a brief summary of highlights available now and Ms. Washburn provided handouts to the Committee. This is the second year in a row for the surveys, so this year’s total number of responses were not as good as last year. The response rate is at 10 percent this year. Branch campuses, however, are at 17 percent, which is high for branch campuses.

Ms. Washburn informed the committee that they have really ramped up effort in the area of minors on campus. They convened a task force and that task force has begun meeting. The Regents recently adopted a new policy on minors on campus and now the task force is moving in to the next phase. This summer, they created a new training with the Office of Equal Opportunity (OEO) to provide to camp counselors. The training focuses on boundaries, professionalism, touching, bathroom conduct, etc. In some instances the training will be required, and OEO will be able to provide it across campus.

President Abdallah asked 22 departments and units to certify they were in compliance with the policy. That had never been done previously. Because there is not a full, comprehensive listing of all camps and counselors on campus, they started a survey. One time camps may also pop up through grants, etc. that are not done every year. If they can get contact information, they can reach out and correspond with the different camps. This year they will also start working on creating a database, more formalized background check reviews, share information with Internal Audit, see if the policy needs any revisions, and implement new programs such as possible color-coding of shirts for different camps.
Chairman Clifford asked where UNM stands with its liability insurers. Are they concerned about this, and does the policy address this issue with regards to campus liability insurance and personal injury, etc.? How is UNM covered for kids coming to camps? Pamina Deutsch, UNM Policy and Administrative Planning Director stated that she believes that non-UNM sponsored camps are required to carry their own policies with one million dollars in federal liability insurance and UNM as an additional insured. Internal Audit Director Patel stated UNM-sponsored camps would be covered by the policies under UNM’s risk management. Chairman Clifford asked if the Compliance Office has received any Hotline complaints pertaining to camps. Ms. Washburn replied they have not.

As far as the Compliance Hotline is concerned, Ms. Washburn stated they are working on increased awareness. They had new marketing materials made and are putting out a newsletter. They have also added a “short form” to the hotline system. There were some complaints that the regular form took too long to fill out, so they are testing this option. The Compliance Office has also started managing the peer hearing process as a neutral body.

Chairman Clifford asked how many staff members are in the “Compliance Office.” Ms. Washburn responded one and a half. Chairman Clifford noted that Ms. Washburn is also assisting the President. He is concerned that it is stretched too thin. Are there unfilled positions? Ms. Washburn stated there are not; the office was always two people, and Eileen Sanchez recently retired. Peggy Davis, Administrative Officer, is filling in. She thinks they are doing fine currently. It is something that they do want to monitor.

Ms. Davis addressed the Committee regarding the latest incident report/benchmarking data. This report focused on the time period of January 1 through June 30 of this year. There is one exception that she will cover at the end. During that time, they received 110 hotline cases. These do not include OEO-related cases. The data includes Main Campus, the Health Sciences Center, the Hospital, UNM Medical Group, Sandoval Regional Medical Center (SRMC), and all branch campuses. Regent Hosmer asked if she included comparable periods for 2015 and 2016. Ms. Davis said she did not but could get that information. President Abdallah did state that it is a nine percent increase from last year.

A majority of the cases, 61 of the 110 – or 55 percent – are from UNM Main Campus. The Health Sciences Center portion makes up 19 cases, or 18 percent. SRMC has the lowest reporting percentage for this time period.

When cases come in, they are assigned an issue (category). For this time period, Human Resources was the leading category with 69 of the cases, or 36%. Academic Affairs was next with 10, and Accounting and Financial had nine (9). The rest were small numbers.

Hotline intake method data shows the web tool is the preferred method, followed by calling the hotline. There are still a few who use email; from there, a case is created. Few will call directly (not the hotline) or walk in, and those who assist these persons will create the case from there. The majority of cases continue to be anonymous, at 65 percent. Of those who self-identified, nearly 26 percent were UNM employees. Ms. Davis stated she does not currently have a breakdown of staff versus faculty numbers, but she will see if she can get that information. Regent Hosmer commented on anonymous reporting and the issues with getting follow up when it is anonymous. It is a handicap. Ms. Davis agreed that it can cause issues.
Investigators can go back in to a case and ask a question of the reporter, but often they do not respond. That can make it difficult to investigate the case. Hopefully, as her office gets more information out about the hotline, people will feel more comfortable and it will begin to change. Regent Hosmer stated it does not reflect confidence in the system. He asked if we know what the typical anonymous rate is in this reporting system, i.e. what an expectation might be. Ms. Davis replied she can contact the vendor to see if we can get that information.

Substantiation data is also included in the materials. Ms. Davis reviewed the information with the Committee. Currently, the rate of unsubstantiated cases is 52 percent. Some are partially substantiated, and the rate of substantiated cases seems to be holding at 21 percent. This is the same rate as was reported to the Committee last November. In March of this year, it was at 20 percent, so it’s a pretty steady rate. However, it is interesting to note that Ethics Point data shows a system-wide average of 41 percent unsubstantiated, so we are running high. Regent Hosmer asked Ms. Davis to try to find out what portion of the unsubstantiated cases may be due to follow up difficulties from anonymous reports.

Actions taken on substantiated cases include 10 cases where there was discipline delivered, but the system does not outline what the discipline is. Investigators do not tend to share what the discipline details.

A major focus of this report, at the prior request of this Committee, is retaliation. Ms. Davis employed a two-pronged approach in this review. First, she pulled all cases with a primary or secondary concern of retaliation. She did a second pull of all cases that listed the word retaliation in any of the details. Then she backed out the first set so there was no double reporting. She went back to the beginning of the current hotline system. Of all 439 cases to date, there were 47 cases, or just over ten percent, that state retaliation. Twelve of those listed retaliation as a primary concern. Seven of the cases stated they had a secondary concern involving retaliation. The remaining 28 cases did not report that there was a retaliation concern happening, but were concerned they may be retaliated against for filing a report. The first half of 2017 appears to be running in line with 2016. Of the twelve cases where it was a primary concern, only one was found to be substantiated. Two were partially substantiated, six were unsubstantiated, and one resolved without a finding. Two are still in process. All seven of the secondary concerns were found to be unsubstantiated. Of the 28 fear and concern cases, 23 were found to be unsubstantiated. However, this statistic is concerning because it was not the primary issue, and the ones found to be unsubstantiated for the primary concern would also be unsubstantiated for this area. Since this report was pulled, there were more retaliation cases entered into this system that did not get captured because they came in after the report.

Regent Romero asked how long it actually takes to close a case. Ms. Davis replied she did a case comparison between this report, all of 2016, and the Ethics Point benchmarking data. Ethics Point reported that their system-wide average is 46 days. In 2016, our average time was 82 days. Right now, it is 96 days. There are some mitigating factors. Some cases are extremely complex. One complaint might include several areas, each of which has to do its own investigation. Chairman Clifford stated the median might be a better indicator to look at than the mean when there are outliers. President Abdallah asked if the Ethics Point average is for higher education or all industries. Ms. Washburn replied they do have higher education clients but the majority are corporate. The data reflects all industries because there is a hefty fee for
them to separate out and provide data just on this industry. Chairman Clifford noted he does not think it is apples to apples because corporations are different. Ms. Washburn stated her office could find out the costs of extracting higher education data, and the Regents could determine if it is worth the expense.

New data pulled from UNM’s Ethics Point home page shows that UNM is making a real concerted effort and investigators are doing a marvelous job. In April, May and June of this year, there were far more cases closed than new cases opened. Ms. Davis reported this is information that pops up every day and she gets very excited every time the results for that goal go up. Chairman Clifford asked who is doing all this work – is it just the two Compliance Office staff? Ms. Davis replied no; there are investigators all across the University in different units and departments such as Human Resources, Provost’s Office, Internal Audit, Heath Sciences Center, etc. Ms. Washburn added that the Compliance Office administers the hotline, but there are around 50 people working cases.

Regent Romero asked what UNM is learning in terms of the complaints that come in and how UNM yields best practices. Ms. Washburn replied that they do see trends. If she sees an uptick in complaints for a certain area, she might, for instance, reach out to Internal Audit or HR and ask if they have seen there is an increase in that area. Regent Romero stated feedback to those departments is critical. The goal is to fix things. Regent Hosner endorsed Regent Romero’s comment; he wants to encourage the feedback. It would be a welcome confirmation of the value of the system. Chairman Clifford added it seems to him it should be a performance metric for managers. Dorothy Anderson, Vice President for Human Resources provided an example. They noticed an influx of issues in an area, so they took a team of employees from Human Resources and met with individuals, eliminating the supervisors. They provided the employees with an opportunity to air their concerns. They developed a plan with the department that centered on training, opportunities and communication. They plan to reach back out to the employees and survey them to evaluate results.

Returning to the Compliance Office status report, Ms. Washburn informed the Committee that her office is starting to work with Francie Cordova, Director of OEO to focus more on ADA issues. They have reinstituted a prior task force.

The Policy Office finalized the new Whistleblower policy. That took about a year of work. Chairman Clifford asked if UNM is governed by the State’s Whistleblower Protection Act. Ms. Washburn affirmed. Chairman Clifford stated that whatever policy we come up with has to comply with that as well.

Ms. Washburn informed the Committee that the President convened a task force to focus on responsible employees and who will report if somebody comes to them to raise a concern about sexual assault. Currently, all employees are considered responsible employees. Some faculty members and others around campus are asking how UNM can provide more support and not require such a harsh line for reporting requirements. There is a group of about 80 individuals called Faculty Safe who have expressed concern with the current system. The task force is meeting weekly and are discussing how there could be a compromise. President Abdallah added that UNM is under the DOJ agreement right now where everyone is a responsible employee. That said, research has been done at the University of Oregon - that Faculty Safe is citing - that says it might encourage more people to come forward if there is a
place in between on this issue. Regent Hosmer stated that gets to the concern exactly. There is some evidence that the current regime has actually suppressed reports. Ms. Washburn replied that they are debating that weekly. Everyone needs to be at a comfort level because we don’t want it to go completely the other way. Regent Hosmer suggested monitoring of the confidentiality issue to see if there is basis to push back against the current regulations. He added that of course this is not just a UNM issue, but a nationwide university issue. Ms. Washburn stated that the University of Oregon is trying to modify policy and training to reflect the new research but have not implemented anything yet. The UNM Compliance Office will monitor any results they can gather from that university. Regent Hosmer added they should perhaps include other sources as well.

Ms. Washburn confirmed she will provide the Committee with campus climate survey results at the next meeting.

- Director Patel provided his Internal Audit Director’s Report. The Committee reviewed upcoming dates and there were no changes to the proposed meeting dates of February 15, 2018 and May 17, 2018. Director Patel reviewed the stages of the department’s projects. Internal audit closed fiscal year 2017 with $85,000 in reserves. Of that $85,000, the department is using $34,000 in this current year’s budget.

Director Patel reviewed the status of third party audits. These are basically external audits of grants and contracts such as the National Science Foundation, Dallas County Hospital and the Children, Youth and Family Department. There is also the RAC (Recovery Audit Contactor) audit for CMS (Center for Medicare and Medicaid Services). From January – June 2017, they requested about seven (7) records for approximately $260,000. There is no information back from them yet, but this is just the beginning of the RAC audit. Purvi Mody, UNMH Audit Director added that the seven records are a sample and they are really looking at coding. The contract started in January, and so far they have received the seven requests. In the past, over a three-year period they received about 2,500. The probability of recoupment by Medicare auditors is very small, and that has been the historical trend.

Regent Romero stated he was reviewing the upcoming meeting dates. There is so much material. Should there be such a long time between meetings? Director Patel replied that based on the Regents’ policy, this committee meets once per quarter. That does not prevent the Committee from calling for a special meeting. If there is a need for a special meeting to catch up, it can be done. Chairman Clifford agreed that the material is a large amount to digest at once. If you put things off, if there are any actions, it starts to get stale. He is open to special meetings.

Chairman Clifford inquired if this amount of external audit activity is typical, particularly for the RAC. Director Patel replied that for a period of time the government was in the process of contracting with somebody so there was no activity. Now it is going to ramp up. Chairman Clifford asked about the Human Resources and Services Administration and if that is a subset of Health and Human Services (HHS). Director Patel replied that is it. If they give a grant they will come review to see if UNM spent the money within the terms of that grant. Also, based on the Single Audit Act, grantees are supposed to be monitoring sub-recipients.
Chien-chih Yeh, Internal Audit Manager provided a status update on prior audit recommendations. The first group is the implemented recommendations that have been verified as complete by Internal Audit. The second group are pending recommendations that auditees are still working on, or are partially complete.

The pending recommendations are sorted in two ways: first by project, and also at the request of this Committee, by implementation date. This reporting cycle, there are a total of 42 recommendations and exactly half have been implemented.

Chairman Clifford asked for recommendations to be numbered so it is easier to refer to them. The Chairman also inquired if it would be possible to assign some kind of risk – to do a risk assessment on them. Mr. Yeh noted that most of the recommendations on this report are inherently of a fairly high risk or they would likely be addressed by management during the audit process instead of resulting in findings that go on to this report.

Regent Hosmer asked Mr. Yeh for additional information on any of the pending recommendations that are high risk. Mr. Yeh informed the Committee that Internal Audit is working with management on these recommendations. Most of them have upcoming implementation dates and should be resolved soon. Internal Audit has received information on two or three more recommendations that the department is in the process of reviewing to see if they can be closed and moved to the implemented report. For instance, there is a Safety and Risk finding where management has noted that the chemical is no longer in existence in the lab. Internal Audit needs to schedule personnel to go and verify that is the case. There is a need for more time to develop a centralized chemical receiving area noted in another recommendation. Chairman Clifford stated if Internal Audit feels that there are issues working with management, even that they do not have the resources to timely implement recommendations, it should be flagged. Let the Committee know if dates are really slipping.

Mr. Yeh noted there was an older recommendation from the Brain Safe audit that was able to be closed in this reporting cycle. There is still an open IT-related finding that was assigned to an associate provost who is no longer with the University, so this recommendation is an issue that is difficult to resolve.

Regent Romero asked who determines what ends up on this report. Mr. Yeh responded that these are recommendations pulled directly from findings in the Internal Audit reports presented to this Committee. The audit does not stop until the recommendations in the audit are completed and verified. Regent Romero asked how many findings are in a typical audit. Mr. Yeh replied there is no standard number, it varies in each audit. Regent Romero stated that what is of interest is how quickly they get resolved; for instance, there is one from 2013. Chairman Clifford replied he thinks that is a valid question. Is the compliance consistent with the timeline that was originally established, or were there substantial delays? The Chairman asked if the report could show the original due date as well as the current due date. Mr. Yeh replied that Internal Audit does have that information, so it could be provided to the Committee.

Chairman Clifford inquired about items still in process regarding the PPD Remodel project and Two Bears Construction. Victor Griego, Internal Auditor 3, and Chris Vallejos, Vice President for Institutional Support Services (ISS) addressed the Committee regarding these recommendations. One finding is regarding an additional $42,000 in costs UNM incurred to
pay a contractor to complete a stairwell project that was not completed within the original contractor’s scope of work. UNM is working with the University Counsel to try to recover these costs. Mr. Vallejos stated that ISS is currently awaiting the legal advice on breach of contract and how to pursue recovery. Regent Romero asked if in some cases we write things off. President Abdallah replied that is true in some cases. Chairman Clifford asked about training. Mr. Griego replied that there is also a recommendation in progress regarding refresher training for project managers. Approximately a third of the employees who need to take the training have completed it. The target completion date for training is November 30th. Chairman Clifford wants a separate follow up report just on this audit at the next meeting.

By unanimous consent, the meeting went into Executive Session at 2:12 PM for the reasons stated in the agenda.

a. FY17 External Audit Status Report pursuant to exceptions at Section 10-15-1H NMSA (1978) and Section 12-6-5 NMSA (1978) (State Auditor’s Office, Moss Adams, and KPMG);
b. Discussion of draft Internal Audit Reports, and discussions of information subject to attorney-client privilege pursuant RPM 1.2;
c. Discussion of limited personnel matters pursuant to exception at Section 10-15-1.H(2) NMSA (1978);
d. Schedule of Audits in Process and FY18 Audit Work plan, pursuant to RPM 1.2;
e. Vote to re-open the meeting.

The meeting returned to open session at 4:34 PM, with certification that only those matters described above were discussed in Executive Session.

The Committee unanimously approved the following UNM Hospital audits:

- UNMH Patient Accounts Receivables, Report 2017-01
- SRMC Patient Accounts Receivables 2017-01
- UNM Medical Group Scorecard Audit, Report 2017-01
- UNMH Patient Financial Services, Report 2017-02
- SRMC Patient Financial Services, Report 2017-02
- UNM Cancer Center, Report 2017-03
- UNM Behavioral Health Operations, Report 2017-04

The meeting adjourned at 4:35 PM.

Approved:

[Signature]

Audit and Compliance Committee Chairman