

**UNLV Faculty Senate**  
**Academic Freedom and Ethics Committee**  
**Annual Report**  
**2022 – 2023 Academic Year**  
**May 12<sup>th</sup>, 2023**

The UNLV Faculty Senate Academic Freedom and Ethics Committee had a productive 2022-2023 academic year. The committee held well-attended monthly meetings. This year the committee completed a charge given by Shannon Sumpter, Faculty Senate Chair (2021-2022) and Rhonda Montgomery, Faculty Senate Chair (2022-2023) requested we continue working on this charge. No complaints, issues, or violations of academic freedom were brought to the attention of the Academic Freedom and Ethics Committee. The Faculty Senate Academic Freedom and Ethics Committee 2021-2022 report is included beneath this 2022-2023 report, as they are both related to the same change.

## Committee Membership

As of this writing, pursuant to applicable Senate bylaws, the membership of this Committee is to consist of the following:

- 1 Tenured academic faculty from each degree granting college and school
- 1 Tenured Librarian
- 1 Professional staff member
- 1 Administrative representative
- 1 Alternate Administrative representative

## Committee Membership in 2022-2023

The committee included a faculty member from each college and a tenured librarian. However, it didn't include a professional staff member, an administrative representative, or an alternate administrative representative. Also, no faculty member from the School of Law participated in the activities of the committee. The faculty senate office was notified of this lack of participation in Fall 2022.

Area of Representation	Name of Individual	Term Expiration
College of Hospitality	Chair Christine Bergman	July 1, 2024
Administrative	Vacant	No Expiration
School of Business	Nadia Pomirleanu	July 1, 2023
College of Education	Travis Olson	July 1, 2024
College of Engineering	Harold Berghel	July 1, 2023
College of Fine Arts	Barbara Hull	July 1, 2023
Integrated Health Sciences	Jason Ciccotelli	July 1, 2023
School of Law	Vacant	No Expiration
College of Liberal Arts	Abigail Aguilar	July 1, 2024

University Libraries	Andrea Wirth	July 1, 2024
College of Sciences	Satish Bhatnagar	July 1, 2024
College of Urban Affairs	Darwin Morgan	July 1, 2023

## Committee Work

The Faculty Senate Academic Freedom and Ethics committee was charged with investigating and reporting back to the Faculty Senate on the processed and protections afforded to faculty members accused or grieved by a student or others by Shannon Sumpter, Faculty Senate Chair (2021-2022).

During the first year of this charge, the committee learned that some administrators might keep documents generated from complaints against faculty that are never investigated or determined to be unfounded. As these documents aren't official university documents, we have come to call them "shadow documents." The complaints could include the following: teaching methods, class management, inappropriate mentoring advice, grades, unethical research, plagiarism, nepotism, inappropriate relationships, discrimination, and harassment.

In Fall 2022 we added the following questions to our charge – What are state records? Are shadow documents? What Bylaws or policies related to the management of these documents exist? We emailed and interviewed several university employees and performed internet research to address our charge and to answer the additional questions we found to be related.

## Committee Findings

### Office of Student Conduct – Phil Burns

Extensive records management program used. It is designed based on professional standards for Student Conduct Offices. Others at the university seeking to improve their unit's records management policies and procedures may wish to investigate similarly relevant professional standards for their offices.

Do chairs/deans ask Phil if they see a pattern of student complaints against particular faculty members? No

Do they notify chairs/deans when students complain about professors? No but they do tell student about how to file a complaint, with the specifics depending on the nature of the complaint.

### University Registrar and Records Retention Office – Sam Fugazzotto

There are no records training provided by his office. He is planning to create a training for employees in general, but not for chairs/deans/unit directors/ provosts in particular.

Sam noted that he hasn't worked on a personnel file yet.

If an anonymous call came in about a professor engaging in XXXXXX, the anonymous comment could be part of a Freedom of Information request (FOIA) and thus it could wind up being reported to the public, but due to the anonymous nature of the caller, it legally shouldn't be in the personnel

file. How would the professor be notified of the information and that it had been reported as a Freedom of Information request? Thus, there are conflicts that would need to be resolved.

The job of Records Retention Officer is currently held by the same person that is the Registrar. As a result, it seems the work of records retention receives less attention than is needed.

**Associate General Counsel:** Susan O'Brien

Since the AFEC was unable to provide specific situations involving shadow files, we were unable to discuss the topic meaningfully with the AGC and we did not gain additional information related to how chairs/deans manage "shadow" documents.

**Vice President for Human Resources & Chief People Office:** Ericka Smith

When was the last time faculty related records have been audited? Only spot checking is done no official audits are performed.

We also learned that Human Resources keeps a record of unfounded complaints, but keeps these separate from the personnel file of the accused faculty member.

No comments made on required processes related to how chairs/deans manage "shadows" documents.

**UNLV Records Related Trainings:** NSHE Understanding Public Records Training – Mandatory. Employees will be automatically enrolled and required to complete the training within 30 days Administered by the Public Affairs Office.

Two professors on our committee had difficulty accessing the materials and maneuvering through the training and quiz. The link that contained information in support of the training was broken. It was challenging to find out who is responsible for these trainings and who can fix related IT problems.

This training is mandatory but not useful. We have all taken this training and mostly scored 100%. It provided no information related to our questions regarding the management of records concerning complaints against faculty members that may be kept in their administrative units.

## **Findings Summary**

Procedures related to faculty members accused by a student or others that aren't EEO or Title XI related seem to be clear to the people the AFE committee interviewed over the past two years. In fact, with each person we asked about the management of "shadow files" (i.e., unofficial) each one discussed the policies related to EEO and Title XI complaints. None had any information related to the management of complaints brought to unit administrators that weren't EEO or Title XI related.

**Thus, there appear to be no university level policies related to the management of records that contain complaints (NOT EEO/Title XI related) against faculty members made informally to unit administrators.**

These records of complaints may be personal notes of varying levels of organization, and they may include references to complaints that were found to be baseless. These files could be handed over from administrator to administrator. Administrators are not currently given training on how

such information should be managed. Nor is there a place on the UNLV webpage that addresses all aspects of records retention policies. This means that there could be information held by the university that could be false, to which a faculty member may or may not have had an opportunity to respond to, and that could influence decisions made about the faculty member's career.

A reading of the UNLV Bylaws indicates that "shadow" documents are considered to be a part of person's official master personnel file which personnel decisions are based upon. The related Bylaws sections is provided below.

*The University shall maintain an official master personnel file for each member of the faculty, which shall be the exclusive file for personnel decisions. All other files, information, notes, and records maintained in the department, unit, university administrative office, or supervisor's office shall be considered part of the master personnel file. All provisions regarding files noted herein shall apply to all information that is maintained. (UNLV Bylaws Section 9, Faculty Personnel Files)*

## Recommendations

1. **Created a UNLV Records Webpage** – Proposed topics provided below.

### Records

The University of Nevada, Las Vegas, maintains a firm commitment to the principles of integrity and transparency. The University has developed internal policies and procedures consistent with state and federal regulations to ensure that employees do not engage in activities related to records that conflict with their official responsibilities and any other interests or obligations.

- **Nevada System Records Procedures**
  - **Higher Education Procedures and Guidelines Manual Chapter 15: Records Retention and Disposition Schedule**
  - [Document Retention Schedule](#)
  - [NSHE Records Retention FAQs](#)
- **[UNLV Bylaws](#)** – Records Chapter III – Section 9 – Faculty Personal Files
- **UNLV Policies**
  - [University Policies](#)
  - College/Department/Center Policies
  - Policy Archive
  - Policy Creation Process
  - [University Policy Committee](#) – Indicate how people become members of this committee and their terms.
  - [Public Records](#)

2. **Creation of New Records Related Policies**

**Policy Title:** Unit (i.e., College, Department, Center, Human Resources) Records Retention Policy

**Policy Topics:**

- Definition of performance versus conduct.
- Record categories (i.e., those sent to HR, sent to Title IX office, and kept in Unit).
- Responsibility for maintaining a unit's records.
- How long to store records prior to destruction or archiving records including those containing accusations against faculty found to be unfounded or not investigated.
- Process for turning over records from one to another unit administrators.
- Ramifications for not managing records according to policy, including disposing of "shadow" records.

**Creation Participants:** Policy committee members, faculty senate representative, OIT representative, and General Council representative. Include a representative from the Office of Student Conduct. They seem to have superior records retention policies and procedures in comparison to the other units we have heard from.

3. **Creation and Delivery of Records Training**

**Training Participants:** Chairs/Directors/Deans/Provost and others that handle records related to faculty performance or conduct.

**Training Creation:** Provosts Office representative, Records Officer, Faculty Senate representative, and General Council representative.

**Training Frequency:** Upon taking a new position and annually thereafter.

**Training Delivery:** Use REBELearn to deliver and track these trainings.

Records policies training should include the following topics and be guided by the NSHE Records Management Program and Records Retention Schedule, UNLV Bylaws and policies, and related laws.

- Describe records, non-records, and transient records.
- Identify the types of records that are created or received by chairs/directors/provost's office related to faculty performance or conduct.
- Retention periods, confidentiality levels, and legal obligations for records.
- How to store records securely and accessibly, using accepted formats, media, and backup processes.
- How to protect records from unauthorized access, modification, or deletion.
- How to dispose of the records when they are no longer required, using approved methods of destruction.
- How to document the disposal process and keep a record of it for future reference.
- Maintain an inventory of unit records and their locations.
- Document transfers of custody of the records.

4. **Code Office** – UNLV needs a code officer to interpret current Bylaws and policies and assist units with writing new ones and modifying existing ones.

#### Administrative Code Officer

Function: Explains and interprets the NSHE and UNLV codes for faculty and administrators. Should be an attorney, but the position should be independent of the Office of General Counsel. We had one (Marc Cardinali sp?) until about 2005. He was indispensable in providing guidance to faculty and administrative staff on interpreting the NSHE and UNLV administrative codes including, but not limited to:

- Rules applicable to faculty meetings.
- Rules relating to staff hires.
- Rules relating to faculty access to UNLV contracts with vendors (e.g., Google).
- Potential conflicts of interest – e.g., employing family members (this came up last year).
- To what extent “shadow documents” may be retained in faculty personnel files.
- To what extent faculty and staff may have access to records that refer to them.
- To what extent administrative records may/must be audited for consistency and completeness.
- Rules relating to selecting administrators and administrative searches.

**Records Retention Officer** – Separate these duties from those of the Registrar.

No one appears to be in charge of managing and auditing records to evaluate if they match with the retention policies. This is a critical service in any organization, to wit consider that the records retention issue was at the heart of the collapse of both Enron and Arthur Andersen.

5. **UNLV Bylaws Section 9. Faculty Personnel Files** – This section needs to be modified. The term “master file” is outdated. There is no master file. “Files” (collections of records) are kept electronically in Workday and by HR, Title XI office, Provost Office, and each faculty member’s unit. An auditing process should be included.

The recommendation related to “shadow files” is that all documents related to complaints against faculty members be transmitted to the faculty member. If the complaint is found to be unsubstantiated or not investigated, it should be deleted from their master file, unless legal requirements require otherwise.

A hold harmless clause needs to be included. If “shadow” (i.e., unofficial) documents are found that shouldn’t have been maintained they can’t be used against a faculty member.

6. **Law School Dean** – Faculty Senate Chair should reach out to the Law School Dean. The AFE committee needs to have a representative from their unit that participates in the committee’s functions.

7. **Faculty Senate Office** – The Academic Freedom and Ethics Committees needs the following additional members: professional staff member, Administrative representative, and alternate administrative representative.
8. **Filing Complaints/Grievances** – A UNLV webpage section is needed that is dedicated to where and how faculty, students and others can file complaints and grievances.
9. **General Council** – Request that they define the type of public record “shadow” records are considered to be. For example, official records, transitory records, non-records or personal records.
10. **Human Resources** – Further details are needed about the following: The keeping of records containing complaints against faculty that are unfounded. If they are kept aren't they part of the faculty member's master file, even though they are kept separate from the HR personnel file of the accused faculty member?

This report is respectfully submitted to Rhonda Montgomery, the outgoing Faculty Senate Chair and Bill Robinson the incoming Faculty Senate Chair.

Christine Bergman  
Chair, Faculty Senate Academic Freedom and Ethics Committee