

NORTHERN New Mexico College



NORTHERN NEW MEXICO COLLEGE BOARD OF REGENTS SPECIAL METING OCTOBER 12, 2021

I. CALL TO ORDER

A Special Meeting of the Board of Regents of northern New Mexico College was held on Friday, October 12, 2021, Via Zoom. Regents Present Michael A. Martin, Erica Velarde, Porter Swentzell, Ruben Archuleta, Evelyn Juarez.

Northern New Mexico College Staff Present: President Richard J. Bailey, Jr., Ph.D.; Ricky Bejarano, Vice President – Finance & Administration; Vince Lithgow - Comptroller; Chris Trujillo, Lead IT Specialist, James McKeough, Distance Education Coordinator, Sally Martinez, Executive Assistant to the Provost & Vice President for Academic Affairs, Sandy Krolick, Creative Director, Communications & Marketing, David Lindblom, Assistant Professor, FDMA/Creative Director of Canal Seis, Arin McKenna, Staff Writer/Reporter Communications & Marketing, Michael Rivera, Veterans Resource Center, Don Apparius, PhD, Assistant Provost of Student Affairs, Frank Loera, NNMC Branch Trades, Chair, Janice Baca, Associate Registrar, Kathy Levine, Financial Aid Director, Anjel Romero, Library Access Services and Operations Manager, Deborah Trujillo, IT Manager/Web Administrator, Kenneth Lucero, Director of Human Resources, Sara McCormick, Recruiter/Admissions, Rosina Chaparro, Financial Aid Officer/Scholarship Specialist, Analise Lopez, IT, Robert Palko, Registrar, Juan Gallegos, Windows Systems/Information Security Administered, Ken Dvorak, PhD, Director, Center for Distance Education and Amy Pena, Executive Office Director.

Faculty Present: Melanie Colgan, Betty Espinoza, Gloriadell Gonzales, Ellen Trabka,

Others Present: Dina Holcomb, Geno Zamora, Tim Crone, Jessica Terraza, Victor Farias, Jolyn McTeague, Alejandra Jaramillo

FINAL AGENDA

I. CALL TO ORDER

Board President Martin called the meeting to order at 8:00AM

II. APPROVAL OF AGENDA

Board President Martin entertained a motion to approve the agenda.

Regent Velarde moved to approve the agenda. Second – Regent Swentzell. A roll call vote was taken. Board President Martin – yes, Regent Velarde – yes, Regent Swentzell – yes, Regent Archuleta – yes, Regent Juarez – yes. Motion passed unanimously.

III. PUBLIC INPUT

Board President Martin stated he would like to thank our counsel, Geno Zamora. He suggested we move the public input up so we could have people's opinions before we move on items that are on the agenda. That will be the way we proceed from now on. Board President Martin asked if Ms. Peña has the list of Public Input. Ms. Peña stated the first person to speak is Julianna Barbee.

Ms. Barbee thanked the Board of Regents for allowing her to have some input today. She would like to start by saying Martin Luther King, Jr. once said the ultimate measure of a man is not where he stands in moments of convenience and comfort but where he stands at times of challenge and controversy. It is easy to do the right thing and say the right words when times are good but it is a lot harder when you are navigating in a first-time crisis like the COVID-19 pandemic. I hope that Team Northern and our Board of Regents can put aside any differences, anything that continues, so that we can continue to support President Bailey and our leadership team in their guidance and their decisions in how we are going to move forward to survive this pandemic. They have had the students and safety at the center and Ms. Barbee has valued the community caring focus that they have shown so far. From the beginning of COVID, she has been so impressed with the quick courageous decisions and the fast proactive adoption of new ways of doing things but with health and safety in mind first for all of us.

President Bailey and our NNMC leadership team have been doing an outstanding job in moving our college forward. We see it every day in the news and in the media and if you just talk to people around the State, they are talking about Northern in a very positive way. They have succeeded in so many areas in regards to our college and continue to do so even during a crisis like this. I fully support the trust and the decisions and the leadership of President Bailey and I will continue to stand behind him as the SBDC and unite to put efforts they put forward. I strongly believe that our NNMC Board of regents should support this leadership. If the board should decide to overturn any decision, I really feel this will create division. Now more than ever is the time to be united not divided. The Board needs to trust the decisions and be supportive in order to move safely past this pandemic. During the most challenging time in our lifetime, President Bailey has been very successful in not only protecting but pivoting while focusing on the needs of the students at all times. While President Bailey and his leadership continues to demonstrate a force for public change and the meaningful transformation of our college while keeping our students needs at the center of decisions. This current leadership of Northern has been the best since I have been here for about 22 years. I have never seen so many positive success stories on the local, the State and the national platform. Northern is highly respected by other colleges and organizations and Ms. Barbee knows because she is hearing it all the time. SBDC's are located across our colleges, across our State, across our nation and she is always hearing your college cares about you. That is the message and the reputation that we have. Ms. Barbee stated she would like to follow up by also saying every day it is important to notice on the economic side how people have changed their habits and they have changed everything they are doing. Economic disruptions and limit economic recovery has caused so many deaths but one of the number one reasons that people are really worried about this is because the safety practices. She truly believes that the vaccines are lifesaving tools from our experts and she feels that we all have a responsibility to help our community through this. Ms. Barbee stated she is doing her part to help her friends, her co-workers and just to help our businesses stay open by taking the vaccines and the boosters and she supports fully this leadership and what every decision they are making and thank you for the time you have allowed her.

Board President Martin asked Ms. Peña who was next on the list for Public Input. Ms. Peña stated Ellen Trabka.

Ms. Trabka thanked the Board of Regents and President Bailey for the opportunity to speak to them today about the President's Vaccine Mandate. Ms. Trabka stated she has been the Chair of Nursing & Health Sciences at Northern for almost 20 years. She has been a nurse for over 35 years working in a variety of clinical settings. At Northern she teaches community and global health in the Baccalaureate Nursing Program. Ms. Trabka stated she speaks to the Board of Regents as a Nurse, as a Northern employee, and as a member of the Espanola Community. Ms. Trabka stated she strongly supports President Bailey's mandate for students, staff and faculty who are on campus or in clinical practicum experiences off campus. This policy is based on science and the desire to protect the health, safety and welfare of our entire college community. The COVID-19 vaccine is safe and effective in preventing serious disease, hospitalization and death as a result of contracting COVID-19. The overwhelming percentage of patients hospitalized and dying from COVID are those that are unvaccinated at this point. Nurses and hospital staff are exhausted and frustrated because the majority of these hospitalizations and deaths are preventable with the vaccine. Each person's decision to vaccinate or not to vaccinate has an effect on the entire community at large. An individual's decision not to get vaccinated can negatively affect another person's health. Therefore, we must act out of concern for the health of the public. This global pandemic is bigger than one single individual and the only way out is to get people vaccinated. The Centers for Disease Control and Prevention in 1988 defined public health as what we as a society do collectively to assure the condition in which people can be healthy. This can be accomplished by the actions of groups, both public and private, by individuals and by the government. One of the core functions of public health is to provide leadership in developing policies that support the health of populations using scientific knowledge and this is exactly what President Bailey has done when mandating that faculty, staff and students be vaccinated. I realize that this policy poses a moral or ethical dilemma for some people. In nursing, when faced with such dilemmas, we turn to our codes of ethics to guide decision making. A cornerstone of the nursing code of ethics is beneficence to do good and nonmaleficence, the duty to do no harm. During this global pandemic many in nursing and medical community have been forced to operate under what is called crisis standards of care which dictates the duty to care for individuals transitions to saving the greatest number of lives. Utilitarianism is an ethical framework that speaks to doing the greatest amount of good for the greatest number of people. As the College President, it is Dr. Bailey's duty to protect the health and welfare of the entire college community. By instituting the vaccine mandate, Dr. Bailey is acting according to accepted professional ethics, standards and values and he is in alignment with scientific principles. He is providing responsible leadership in a time of crisis that protects the greatest number of people which aligns with core public health policies. Ms. Trabka stated she urges the Board of Regents to support him in this decision.

Board President thanked Ms. Trabka and asked Ms. Peña who was next. Ms. Peña stated Melanie Colgan.

Ms. Colgan stated she would like to thank the Board of Regents and President Bailey for the opportunity to speak today about the President's vaccine mandate. Ms. Colgan stated she has been a nursing professor at Northern for over two years now and she has been a nurse for over 20 years working in a variety of clinical settings, most importantly in the ICUs and Emergency Rooms. During this pandemic she has served as a member of the New Mexico Medical Reserve Corp and in this role she has proudly administered COVID tests and vaccines to community members in both Espanola and Los Alamos. Today, she is here to speak to the Board of Regents

as a nurse, as a Northern New Mexico College Employee and as the President of the Los Alamos School Board. In Los Alamos, just like in the rest of our State and our nation, school children ages 3-18 are physically back in school. Los Alamos has been able to successfully implement in person schooling due to a 97% vaccination rate among our teachers, staff and employees and 76% vaccination rate among our 12-18-year old's who are eligible for the vaccine. This was all working well until this past week when we had 30 positive cases reported in our district. The vast majority of these cases were among the unvaccinated. 24 of these cases were unvaccinated elementary school students, ages 5-11 all at one single school. The school is closed this week, all of its students will be in quarantine in an effort to stop the spread of COVID. Currently, children under the age of 12 are unable to receive this vaccine. The Los Alamos school district has been protecting these vulnerable students by surrounding them by very high numbers of vaccinated adults and by requiring everyone in a school building to wear a mask. This past week showed that even the implementation of these precautions is not enough to prevent the spread of COVID to the unvaccinated. We need to have every eligible person vaccinated to slow the spread of COVID. If Northern New Mexico College opens up its campus to non-vaccinated faculty, staff and students, it is inevitable that there will be a repeat of what is happening this week in Los Alamos and what has been happening all over our State and our nation. Schools closing temporarily with every COVID outbreak. At this moment in time, the opening and closing of elementary schools can't be helped. Our youngest students are not eligible for this vaccine but the potential closing of Northern's campus can be prevented. The majority of everyone here on campus is eligible for this vaccine. Hundreds of colleges and universities have instituted vaccine mandates and studies have shown that the vast majorities of college students and staff are complying with these new requirements. These institutions are now well protected against COVID. Ms. Colgan would like Northern to be well protected against COVID and that is why she strongly supports President Bailey's vaccine mandate for students, staff and faculty who are on campus. It is based on science and the desire to protect the health, safety and welfare of our college community. Ms. Colgan urged all the Board of Regents to support the vaccine mandate. Ms. Colgan thanked the Board of Regents.

Board President Martin thanked Ms. Colgan and asked Ms. Peña who was next. Ms. Peña stated Lauren Reichelt. Ms. Peña stated she does not believe Ms. Reichelt was able to join the meeting. Board President Martin stated he would like to give anyone else an opportunity who would like to submit some public input to do so at this point and asked if anyone else who would like to speak. Board President Martin asked if there was anyone else. Ms. Peña stated there are a couple of people who rose their hands. The first being Dr. Don Appiarus.

Dr. Appiarus stated he appreciated what was said for the past few minutes, especially from the medical side and he thinks he is kind of doing this on the spur of the moment. He wants to come from another side and that is personal impact. As some of you may know, Dr. Appiarus was born with cystic fibrosis, he had a double lung transplant in 2003 and he knows of at least three other staff members since the onset of COVID who are in similar high, high-risk categories. He would just implore the Board, two things, number one, everything that we know about pandemics shows that the cycle is speeding up, meaning this is not the last pandemic we will have. Just in the last 20 years you can count off a whole bunch of things, SARS, H1N1, that we have had to experience as a nation and a global community. Thankfully, they didn't have the transmissibility and impact of COVID, the Coronavirus we have had these past few years. That was kind of more luck than any intentional planning that we did as a global society and the take away is that this will happen again. Dr. Appiarus stated he wants to implore the Board to think carefully about do we want the President to be able to act adroitly in a crisis, even an existential crisis and secondly, if the Board

does believe that this promulgation is outside of a President's authority as both the CEO but also the COO in a very real sense and in charge of all operations on the campus, he would implore the Board that they adopt similar practices as put forward by Dr. Bailey and the Administration simply because as already noted it is based on the best science and it is something that as educators, Dr. Appiarius feels strongly we should be doing. We are an educational institution, that means that we respect foundational knowledge, or it should mean that, and more importantly he would submit it also means that we are as a public entity an institution that has a need to honor the safety and long-term well-being of our immediate community as well as the community in which we live and operate. Dr. Appiarius would strongly urge the Board to consider first that this does indeed fall within the purview but secondly, more importantly, that even if the Board determines that this is not within that purview that they adopt those practices because there have been dozens of people who have been trying to research how best to move forward as Northern in its Northern way and he believes Dr. Bailey and the Administration are spot on. From a very very personal point of view knowing that this presents an existential threat to Dr. Bailey and a number of others, at no harm to the community except in the most rarest of case, that we do this for the benefit of the campus community and as good partners with Espanola. Dr. Appiarius thanked the Board for their time and wished them the best in their deliberations. Board President Martin thanked Dr. Appiarius and asked who is next for public input. Ms. Pena stated Bruno Guedes.

Mr. Guedes stated (inaudible) stated he is going to (inaudible). Mr. Guedes lost connection during his public input and will speak at a later time.

Board President Martin asked if we lost Mr. Guedes. Ms. Pena stated we did lose him. Board President Martin asked if there is anyone else who would like to give input. Ms. Pena stated David Lindblom.

David Lindblom thanked the Board of Regents for allowing him to say a few things. Mr. Lindblom stated the Board has some decisions to make but the staff and faculty are the ones on the front line. We are the ones that will bear the brunt of this and he considers it a life and death matter. He also thinks that the Board, yes, they have a lot of fiduciary responsibilities having to do with our assets and the biggest asset the Board has to take care of is the people that work here. It is not just the people that work here, it is the people that we are going to be in contact with. As a faculty person, Mr. Lindblom stated he is under enormous pressure to teach and one way or the other face to face or online and online is very tricky in our circumstances because bandwidth in the region is terrible and it is very very difficult for teachers to teach online but there is pressure to do so for lots of reason. Therefore, there is a lot of pressure to teach face to face. When Mr. Lindblom thinks he will just do it face to face he is risking his life to do that and the Board of Regents has to do everything they possibly can to make it safe and he thinks that the Board of Regents needs to let Dr. Bailey operate this place the way he has been operating it and he is keeping us safe and finally he wants to say that his mom was a very strong anti-vaxer at the beginning of the polio epidemic and she had to relent and allow Mr. Lindblom to get vaccinated so he could go to school and so he is here and not living his life out in an iron lung. Mr. Lindblom stated he thinks what turned her, she didn't trust medical establishment but what turned her was probably the idea that if she didn't allow me to get vaccinated maybe he would end up infecting other people because she was a very compassionate person, empathetic person and ultimately would think about the welfare of everybody not just her fear of medical science. Mr. Lindblom fully supports Dr. Bailey's responsibility to operate this place and keep us all safe. Mr. Lindblom thanked the Board of Regents. Board President Martin thanked Mr. Lindblom and asked if Mr. Guedes is back. Ms. Pena stated he is back.

Mr. Guedes apologized for what happened, he was going through a dead spot since he is going to Espanola right now, going through the campus. He apologizes for not having his camera on because as he explained he is in the car and he also suffered a concussion last Friday during practice so he cannot stand light and his phone yet. Mr. Guedes stated we heard about the science side and the faculty side and he would like to talk a little bit about the student side. As Student Senate President, he thinks he represents all the students and himself as well. Since we had the College closing in March 2020, he went back home, he went back to Brazil and he stayed there, they had online classes and they have been having online classes this whole time. Mr. Guedes stated as Mr. Lindblom stated, online classes and online learning is tricky because first of all he thinks the learning experience is not the same. Since people are at home and students are home, they tend to not pay attention as they would as they are in the classroom. Not only that, the motivation, Mr. Guedes found himself unmotivated a lot of times because he was at home, he didn't want to go to class, he didn't want to login to Zoom, he didn't want to do his classwork through Blackboard and it is really really tough and hard especially for people who do not have good internet connection, they face a lot of challenges. He thinks having a mandate on people to vaccinate speeds up the process of coming back to campus and this is one of the things he feels like we need to have because he feels like the learning experience is not the same. Not only that but the more emotional part and experiences, he feels like this past year as he has been at home, he lost of a lot of experiences on campus that he would love to have and of course it wasn't safe to be back on campus. He feels like right now with all the vaccine available for most of the people it is safe and we hear about science and he touching on the emotional part. He will graduate next May and he hopes he can step in the classroom again, see his teachers, staff, the faculty, the administrators back on campus, see people on campus. He wishes a lot of people that graduated last spring and last fall had the same opportunity but they didn't so it is one of the things to consider as well is that part. Mr. Guedes thanked the Board of Regents for letting him speak and hopefully we could take a good decision out of this. Board President Martin thanked Mr. Guedes and stated he would like to thank everyone that contributed to the public input. The public input on our Agenda is the avenue that the Board has for people to reach out to us to tell us what their concerns are about the College and their concerns about the agenda. Board President Martin stated he would encourage people to sign up for Public Input on future meetings because we really appreciate your input.

IV. POSSIBLE ACTION REGARDING ADMINISTRATIVE VACCINATION MANDATE FOR FACULTY, STAFF AND STUDENTS FOR THE 2021-22 SCHOOL YEAR

Board President Martin stated we will go on to the next item on the agenda which is the possible action on the vaccination mandate. Board President Martin stated he would like to proceed with this as we are going to have a brief synopsis given to us by our legal counsel, Geno Zamora and then he would like to give each member of the Board an opportunity to speak to this issue. Board President Martin asked the Board if this is alright with them. Regent Velarde stated it is. Regent Swentzell stated it is. Regent Archuleta stated it sounds good also. Regent Juarez stated yes, absolutely. Board President Martin called on Mr. Zamora.

Mr. Zamora thanked the Board of Regents for giving him the opportunity to address some of the issues or to provide background to the Board to address this issue on their agenda. This item appears on the special meeting agenda because it was requested at the last Board meeting to have a more thorough discussion and there were questions asked regarding the President's authority with regard to the vaccination mandate and the Regents authority with regard to the vaccination

mandate. Since the Board's regular meeting, his firm has done extensive research on these matters to provide the Board with full answers. Mr. Zamora stated he has on the Zoom with him Jessica Terrazas who did that work on the firm's behalf and can fill in any blanks if there are blanks that Mr. Zamora failed to cover. First and foremost, where we find the authority is in the Colleges Board of Regents Policies and Procedures which were revised as recently as January 13, 2021. These policies in essence restate the authority granted to the President and the Regents both in the New Mexico Constitution at Article XII, Section 13 as well as in Statute which is in Chapter 21 of the New Mexico Statutes Annotated. Rather than going into the constitution and into the statutes, Mr. Zamora stated he would just go into the summaries that are within the policies. In Regents Policies and Procedures at page 3 it has a section titled Institutional Governance and the first item is titled Source of Authority which states that the control and management of Northern is vested in the Board of Regents pursuant to New Mexico Constitutional Article XII, Section 13 and Section 21-4-1 of the New Mexico Statutes. Secondly it says the governance structure is that the Board of Regents controls and manages Northern through direct exercise of its authority and through delegation of authority to the President. If you move down further to page 7 in which it articulates the role of the President. The paragraph number 3 under the President is entitled Delegation of Authority and in that paragraph, it states that the Board hereby delegates to the President the responsibility and authority to operate and manage the institution pursuant to and consistent with the policies of the Board and with law and with recognition that the Board maintains the ultimate responsibility for all institutional activities. If you go to page 8 of the Board's Policies and Procedures, it articulates the duties and responsibility of the President in Section 6. Section 6-e states that the duties and responsibilities of the President pursuant to the Board's delegation of authority shall include but not be limited to completely administer the instruction, student services and business affairs of the College. That is 6-3. In paragraph 6-1 it says manage and control College property. Now, with those specifically articulated duties it is important to remember that the Board in its policies does retain ultimate authority, meaning, the Board has the opportunity to allow the President to run the daily operations but step in where it feels necessary either to affirm the operations of the President, to disaffirm and overrule the operations of the President or to take no action and allow the President's practices to remain in place. With regard specifically to COVID vaccination mandates and the ability to issue such a mandate at a public university, the Seventh Circuit Court of Appeals heard exactly this issue in a case entitled Clauson versus Trustees of Indiana University. In that decision at the Seventh Circuit Court of Appeals, the Court upheld Indiana University's mandate for vaccinations and the US Supreme Court declined to hear it leaving this decision in place. The Clauson Court stated, made a couple of notable statements in its decision to allow the mandate to remain in place. One is, its statement that vaccination requirements like other public measures have been common in this nation and it continues to state in its opinion, each university may decide what is necessary to keep other students safe in a congregate setting. Health exams and vaccinations against other diseases, measles, mumps, rubella, diphtheria, tetanus, pertussis, varicella, meningitis, influenza and more are common requirements of higher education. As has been stated in public comment and Mr. Zamora is going to quote again in the court, it says, vaccination protects not only the vaccinated persons but also those who come in close contact with them and at a university close contact is inevitable. Now, with that, the Court did recognize exceptions for both medical and religious purposes. That is the summary of the policies and the state of the law. Mr. Zamora stood for any questions if any Board members have questions. Board President Martin asked if there were questions for Mr. Zamora.

Board President Martin stated he would get the ball rolling. Board President Martin stated he feels like the safety of our students, faculty and staff is paramount and he agrees with the Presidents policy. This is going to run through the end of the school year, hopefully, by the end of the school year situations will change and we will reevaluate the policy at that point. Board President Martin called on Regent Velarde.

Regent Velarde stated right now we are just assessing our role in this. We are not voting to approve his policy or his mandate. She asked if she was correct? We are talking whether the Board has a role in this and has the ability to, as Geno said, to either support the President's policy, change it a little or make it null and void and she thinks that is what we are discussing here. For Regent Velarde, she stated, her issue is just the policy itself. We need to as a Board be taking care of policy. When it was short term, as we were doing it in sort of, as President Bailey once said, building the plane as we were flying it in the very beginning, he had full authority and we were letting him lead the way because it was sort of short term. We didn't know if this was going to be long term or not, we didn't know if this was going to end in six months or a year. Now that we are at this point, Regent Velarde stated she just feels we are at a point where it is not short term anymore, it is long term. It is coming to a point where it is even being called termed policy and anything long-term, she knows is the responsibility of the Board. It is not that she doesn't agree with Dr. Bailey's policy, it is simply that we are not always going to have Dr. Bailey as our President. As much as Regent Velarde would love to maybe clone him and make sure we always have Dr. Bailey as President, we are not and we are not always going to be the Board. If we set precedence in allowing the President to create a long-term policy, that's just where Regent Velarde worry and she just thinks that as a Board, just like UNM did. UNM number one had the President and Board basically issue the policy. Regent Velarde thinks it is stronger if we do it together as a President and as a Board and be able to do it in a concerted effort. Regent Velarde reached out to the President of the Board of Regents at UNM and asked him just simply why they had decided to go that route. He said they just felt it was stronger if they did it together. So, this is where Regent Velarde is coming from, is that she wants to make sure we are doing the best for our college long term. Not just in this moment for Dr. Bailey flying the plane. She wants to make sure that we are not creating any issues in the future that create precedence that another President could say oh this is health and safety policy and it is my purview and we have done it in the past and the Board allowed it in the past. Regent Velarde is not sure it would ever happen and she is not sure that it wouldn't. Her issue and her ask here is just that we come together as a Board and decide what to create as our policy. Regent Velarde does not mind having Dr. Bailey's policy be that sort of lead or template for us. Board President Martin thanked Regent Velarde and called on Regent Swentzell.

Regent Swentzell stated he really appreciates all the public input and everyone that showed up at this meeting at 8:00AM and it is good to see so many people on this Zoom call and appreciates all of the thoughts and comments people made. He things it is important, regardless of what the topic is, todays topic is vaccines or vaccine mandate he should say, not vaccines but the mandate at Northern New Mexico College. As Geno Zamora pointed out the Board has a specific role in the oversight of the College and that Board's need to remember what our agency is within that right and at what point to, we hand over that role of governance to that person at a President or whatever that title is at a particular college, right. We have President Bailey as the person who runs things, the operator of the college and our key job was to have selected him although that was before Regent Swentzell's time so we are just lucky to have inherited the previous boards selection. It is important through the processes of shared governance that we think about the best way we might do our duty as public servants, as servants to Northern New Mexico College, as servants to the Rio Grande Valley, right and how we might best take care of the people that comprise our community,

right, the communities of this area. So, to Regent Swentzell it is always good to take a minute and just think about that, how can we best serve, right. Regent Swentzell appreciates Regent Velarde's comments of perhaps strategizing about the best ways that we might serve and do the best for our community. Regent Swentzell stated this is really all he would have to say and he appreciates everybody for coming out this morning, joining us in this discussion about how we might best serve the communities of Northern New Mexico. Board President Martin thanked Regent Swentzell and called upon Regent Archuleta.

Regent Archuleta stated he understands what the Regent Velarde and what Regent Swentzell said and he is going to give his point of view as a hospital employee. Regent Archuleta stated he sees this virus causing a lot of problems, a lot of issues. It is said and he is in the trenches. Regent Archuleta supports getting vaccinated so we can avoid all this situation. Getting people, getting students back on campus he thinks is very important because another issue people haven't spoken about is mental health. Suicide rates have gone up across the country in Elementary, suicidal people coming into the ER here at the hospital. Regent Archuleta thinks it is important, try to get our students back on campus. Again, Regent Archuleta would like to thank Dr. Bailey for his leadership in taking this role and for this mandate it is not going to be easy, it is going to cause a lot of controversy but at the end of the day, Regent Archuleta thinks it is best for our students, best for our community and the fastest way of getting people back on campus. Regent Archuleta stated his point of view, you know, the mental health aspect is very important in this in getting kids back on campus, getting teachers back on campus and you know online learning is nice, there is a lot of perks to it but nothing beats the in-person learning. The fastest we can get people on campus, that is his point of view. Regent Archuleta thanked the Board of Regents. Board President Martin thanked Regent Archuleta and called on Regent Juarez.

Regent Juarez stated she would like to thank everyone on this call for sharing their thoughts and feelings, their input is so appreciated. She has been thinking about this for the past couple of days and she has been carefully reviewing the responsibilities of Regents as well as that of the President. Regent Juarez stated she did want to say that she supports President Bailey's decision in mandating the vaccine which has been supported by rock solid science and decision in making this decision in the best interest of the students, staff and faculty with their health and safety in mind. Regent Juarez believes it is not only our civic responsibility as a College but as individuals to become vaccinated in order to protect those around us especially those that cannot get vaccinated due to health reasons and she thinks that, she thanks Regent Velarde for her input and she thinks it would be great for us to come together as Board and President and she thinks even if we were to do that she would still vote on the mandate to remain the same, as it is, in order to keep our people and our College as safe as possible. Board President Martin thanked Regent Juarez and entertained a motion. Ms. Pena stated Mr. Zamora would like to speak.

Mr. Zamora stated he would like to provide some additional information based on Regents comments. Ortiz & Zamora did also do the research on UNM and its Board of Regents activities and he does want to distinguish some ways the things were done. On August 5th the Board of Regents of UNM had a special meeting in which the agenda item was pretty limited in scope. It was listed under the Open Meetings Act as Agenda Item IV, Vote to Affirm the Mandatory COVID-19 Vaccination Policy for Faculty, Staff and Students and then secondarily going to the minutes of the meeting, the motion was listed in the minutes as follows, the motion to endorse the administrative mandate on required COVID-19 vaccination passed unanimously. To distinguish it from our agenda, from Northern's agenda, different folks have different philosophies on the UNM agenda, there was only one vote to be taken, whether or not to affirm the agenda item here is for

faculty, staff and students. In the minutes, the motion to endorse administration mandate ... to distinguish it from the agenda. On their agenda there was only one item. The agenda item here is broader and would allow the board to affirm, to overrule or to take no action. It also should be noted that this relates 2021-2022 school year so that this mandate is limited in scope and can be revisited. With regard to the precedent issues, it is a reminder the Board also retains the authority to overrule or alter the day-to-day operations of a President. So, whether it is this Present or the next, the Board always has that authority, they never give that away, first and foremost. Secondly, the Board, by policy, has provided the President with very broad authority in so to address one of the comments of the Board being concerned that oh maybe we have given, will be interpreted to have given operational authority to the President. You actually have already done so through your policies and procedures, but always subject to your review. The last distinguishing item is that this is intentionally termed an administrative mandate and Mr. Zamora is not sure why UNM used the term policy in theirs but the President is not adopting a policy and it is limited in scope. Some folks may mistakenly call it that but it is a single school year mandate which can be revisited in in any point in time. Board President Martin thanked Mr. Zamora and asked if President Bailey had anything to share with the Board of Regent.

President Bailey stated he had to learn; this has been a learning experience for him. He wanted to thank all the people who gave public input, he wanted to thank all the Board members for their thoughts on this. Obviously, he is pretty passionate about this and he knows a lot of people are. He learned through this process and through a lot of talks with legal, ultimately, and President Bailey needs to be aware of this and respect this. Ultimately the Board is responsible for everything. The Board delegates authority for day-to-day operations to the President but the Board has the authority, and that is the way President has gone through, he did what Regent Juarez did, he looked through all the Bylaws and everything and they are purposely written the way they are. The Board of Regents entrusts President Bailey to make decisions that in the best interest of the institution and students, faculty and staff and the Board of Regents has the authority to make it, pass a judgment on that and that is good. President Bailey stated he thinks Regent Velarde is absolutely right, he thinks we are stronger when we are together, we are stronger when come together as a team to agree on decisions but we also from time to time won't get things right and President Bailey doesn't get things right for those who remember some decisions he has made in the past and the Board has helped him overcome those. Obviously, President Bailey stated he has a pretty strong feeling about this otherwise he wouldn't have issued it. One other thing President Bailey wants to point out as the Chief Executive Officer for the organization, he is proud of the fact that over the last 19 months now, we have not had a single positive COVID case originate from either campus, he is proud of that, he is really proud of that but it doesn't mean we haven't had COVID cases, it doesn't mean we haven't had positive COVID cases and he does want everyone to know that the one person who took responsibility for every one of those cases, the one person who reported those to the State was President Bailey. He took personal responsibility for every single positive COVID case that we had. If someone caught it at church or caught it at a family function, he is the one that reported it to the Secretary of the State because this is how strongly he feels about this. He appreciates the Board's passion on this, he appreciates their position and we will respect the decision of the Board and we will move forward but he is grateful we are having the conversation.

Board President Martin stated he would like to go ahead and bring this to a decision; Board President Martin entertained a motion.

Regent Velarde stated she would like to motion, she would like to motion the Board she guesses since Geno gave us the direction that we can at this point affirm it, it looked like three of us wanted to have our say in it and she thinks Ruben and Board President Martin would like to have a say in it as well but she would like to put out as a motion is that we affirm Dr. Bailey's policy or whatever we are calling it with the exception we allow for testing. Dr. Bailey just said that for the last year and a half we haven't had not one positive case on campus and that has been with the policy of just testing and that has really served us well. Also, from her understanding, there is only a hand full of people either faculty, staff or students, and when she says hand full, she means just literally one hand full that have either asked for an exception or have spoken up or said that this something you know they can't do and with that sort of in mind, she would like to then allow the option for testing, to give that medial, personal or religious freedom to individuals but like she said, she would still like to confirm or affirm the rest of Dr. Bailey's policy, our policy. Board President Martin stated the Board has heard the motion and asked if there was a second. Regent Archuleta stated he has a quick question, it is not a policy right, it is a mandate and asked Mr. Zamora to respond. Mr. Zamora stated this is correct. Regent Archuleta asked if we are going to allow people to get tested, who is going to make the decision on religious exception or medical, who is going to make that decision on the individual. Mr. Zamora asked for clarification while stating what he understands this to be. Regent Archuleta stated Regent Velarde she is going to make the motion but allow for testing, and asked Regent Velarde if she is talking about the self-testing. Regent Velarde stated whatever we are doing right now, correct, the testing method that we are doing right now. She does know that with Dr. Bailey's mandate there was an exception for religious accommodation, she believes, so that policy or that procedure, she does not believe has been created on who is going to then be responsible for reviewing those and approving them and that is something further that needs to be explored. Mr. Zamora stated that is fine, he thinks Regent Velarde is providing him for the clarity he is seeking but he wants to make sure the Board understands the current status of the mandate as it complies with law and to differentiate it from other schools. The mandate currently complies with law in that it requires an exception for medical and religious purposes. If someone qualifies and that is determined by the administration, each educational institution will assign an administrator to review an application for a medical or religious exemption. If that is granted and it is considered on a case-by-case basis and it is his understanding without disclosing FERPA information or confidential personnel information that such applications have been received. That is already part of the mandate, it recognizes medical and religious exemptions that are documented and if those are granted, then those persons need to be tested at a minimum of a weekly basis. So, the current mandate seems to incorporate what Regent Velarde is discussing unless Regent Velarde is asking that that be a broader mandate beyond medical and religious requirements, that any student or staff member may opt out of vaccination. Regent Velarde stated she added the word personal freedom, personal choice. Yes, so religious health and personal. Mr. Zamora stated and under the law personal choice is not mandated. Board President Martin asked Mr. Zamora if the Board would be changing the mandate, the President's mandate if we added the word personal to it. He asked if this is correct. Mr. Zamora stated that is correct. Board President Martin thanked Mr. Zamora and stated we need a second for the motion. Ms. Pena let Board President Martin know President Bailey rose his hand. Board President Martin called on President Bailey. President Bailey thanked Board President Martin and stated he doesn't know if he is even allowed to speak. Regent Velarde stated yes, this is what going

(inaudible), are you allowed to speak if she made a motion. Regent Velarde stated Geno is saying no. Mr. Zamora stated you have a motion pending, you are looking for a second, once discussions open up, the chair can recognize the College President. Board President Martin stated yes, get a second and then we can open it up for discussion. **Board President Martin asked if there is a second to Regent Velarde's motion. Board President Martin stated there is not a second so the motion dies.** Board President Martin asked if there is anyone else that cares to make a motion about the mandate.

Regent Swentzell moved to affirm the mandate, with clarification from Geno that testing is permitted for those cases that were mentioned as under the law with the addition that this is particularly onerous because he tried to find a test a couple of weeks ago and testing is not as widely available say a year ago. It is nearly, it took him a couple of days to get a test and so this is a pretty challenging situation for any of those individuals. **Regent Swentzell moved to affirm the mandate as it stands. Second – Regent Archuleta. A roll call vote was taken. Board President Martin – yes, Regent Velarde – no, Regent Swentzell – yes, Regent Archuleta – yes, Regent Juarez – yes. Motion passed 4 – yes, 1 – no.**

V. EXECUTIVE SESSION

Board President Martin stated the Board would go to the next item on the agenda which is Executive Session. Board President Martin stated the Board has two items on the agenda which is bargaining strategy preliminary to collective bargaining which is going to be the Status of Collective Bargaining Agreement negotiations and the Board also has threatened or pending litigation subject to the attorney-client privilege M. Velazquez v. Regents of NNMC. Board President Martin stated he would entertain a motion to enter in to Executive Session.

Regent Swentzell moved to enter into Executive Session and stated only those items on the agenda will be discussed. Second – Regent Juarez. A roll call vote was taken. Board President Martin – yes, Regent Velarde – yes, Regent Swentzell – yes, Regent Archuleta – yes, Regent Juarez – yes. Motion passed unanimously.

The Board of Regents entered into Executive Session

Board President Martin entertained a motion to return from Executive Session.

Regent Swentzell moved to exit Executive Session and affirmatively state only those items on agenda were discussed. Second – Regent Juarez. A roll call vote was taken. Board President Martin – yes, Regent Velarde – yes, Regent Swentzell – yes, Regent Archuleta – yes, Regent Juarez – yes. Motion passed unanimously.

The Board of Regents returned from Executive Session at 9:54AM.

VI. POSSIBLE ACTION PERTAINING TO EXECUTIVE SESSION DISCUSSION

Board President Martin stated there was no action.

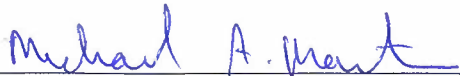
VII. ADJOURN

Board President Martin entertained a motion to adjourn.

Regent Velarde moved to adjourn. Second – Regent Archuleta. A roll call vote was taken. A roll call vote was taken. Board President Martin – yes, Regent Velarde – yes, Regent Swentzell – yes, Regent Archuleta – yes, Regent Juarez – yes. Motion passed unanimously.

The Board of Regents adjourned at 9:55AM.

APPROVED:



Michael A. Martin, Board President



Erica Rita Velarde (Aug 20, 2022 09:51 MDT)
Erica R. Velarde, Vice President







1361_001

Final Audit Report

2022-08-20

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-  Document created by Amy Pena (amy.pena@nnmc.edu)
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