May 29, 2024

Re: Proposed Revisions to APM-016

The Committee on Privilege & Tenure (P&T) reviewed the proposed revisions to APM-016 (University Policy on Faculty Conduct and The Administration of Discipline) at multiple meetings. P&T strongly disagrees with this revision. It disregards the shared governance recommendations. It also makes the erroneous assumption that pausing a personnel case during an investigation is a “no harm” action and therefore adds neither standards for when a pause can be imposed nor a right to grieve the pause.

The proposal simply states that it is a response to the “need to revise APM - 016 to address the handling of simultaneous academic misconduct investigations and personnel actions.” It does not define or defend the assertion that it is a “need.” More significantly, it does not provide the background or any of the documentation that the Academic Senate submitted a proposal. This is troubling as UCPT put in considerable effort to consider the issue. Almost two years ago, in June, 2022, a workgroup presented an initial report to UCPT “Simultaneous Misconduct Charges and Merit and Promotion Considerations – Workgroup Report.” After getting feedback from UCAP and UCAF, UCPT resumed discussion of the proposal in February, 2023. In April, 2023, UCPT sent the Academic Council a proposal that incorporated the feedback. On May 9, 2023, Senate Chair Susan Cochran forwarded a proposed addition to APM-016 which included “clear guidelines under which a personnel action could be paused,” indicating that the proposed language provided a “strong starting framework.” Suffice it to say that the proposed revisions differ in key places from the UCPT proposal that was endorsed by Academic Council, thereby showing a significant disregard for shared governance.

P&T finds that the proposal to be a threat to faculty rights. First, the proposed revisions assume that there is no harm or violation of faculty rights in pausing personnel cases during
investigations. P&T members strongly disagree. **Pausing a personnel case is harmful to faculty.** First, investigations are lengthy. This was discussed in a recent Joint Senate-Administration Taskforce report.² Having to wait for the outcome of a personnel case is not only stressful, but there is reputational harm. It is unrealistic to expect that colleagues do not notice a long delay in receiving a merit or promotion. No visible advancement can also harm external career efforts such as grant review, invitations to speak, and society memberships. The revisions as they stand assume that moving forward with a merit or promotion during an investigation is harmful to the University. However, the statistics do not seem to support that.³

The UCPT proposal allowed that in **some** cases it might be harmful to the University to move forward with a personnel case before proceeding with a merit or promotion. Given that it is harmful to faculty to pause a personnel case and **not** always harmful to the University, a proposal should incorporate the following elements:

- The Administration should have the burden of defending why a pause to happen before the faculty have a right to a hearing.
- There should be standards for conditions that might merit a pause.
  - The Administration must make the case that the allegations, if true, is relevant to merit or promotion.
  - The Administration must make the case that the allegations, if true, meet the APM-016 standard for discipline.
- The revisions must support the right to an expedited grievance if a personnel case is paused.

Lastly, the proposal states that “Locations are responsible for developing procedures to implement this Section, including, but not limited to:

- local procedures to address at what stage in existing local procedures the pause occurs
- identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member
- identification of which campus office(s) have responsibility to give a faculty member under investigation periodic updates on the status of the investigation
- identification of which campus office(s) have responsibility to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.

P&T is concerned that this leaves far too much under local discretion without oversight. It is in direct contradiction to the UCPT recommendation, which was to provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide.
If you have any questions for us, please do not hesitate to contact me at dmessadi@dentistry.ucla.edu or via the Committee’s analyst, Marian Olivas, at molivas@senate.ucla.edu

cc:  Kathleen (Kathy) Bawn, Vice Chair/Chair-Elect, Academic Senate
     Jessica Cattelino, Immediate Past Chair, Academic Senate
     April de Stefano, Executive Director, Academic Senate
     Marian Olivas, Principal Policy Analyst, Academic Senate
     Members of the Committee on Privilege & Tenure

<table>
<thead>
<tr>
<th>UCOP Proposal: Section II Pause on Academic review actions</th>
<th>Academic Council-UCPT Proposal</th>
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<tbody>
<tr>
<td>4/5/2024</td>
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<td>No-fault pause on any academic personnel action by Chancellor (designee) at the beginning of a formal investigation of alleged misconduct by a faculty member,</td>
<td>1 (a) The Chancellor or the Chancellor’s designee may impose a temporary no-fault pause when disciplinary charges are filed with the Chair of the Divisional Committee on Privilege and Tenure according to Bylaws 336.C.1.a.</td>
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<td>...</td>
<td>2. with promotion to tenure rack, no-fault imposed when either a pending disciplinary action or ongoing investigation</td>
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<td>3. if sanctions imposed, conclusions of proceedings should contain violation of COC and sanctions as part of review file</td>
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AMP15: No disciplinary sanction shall be imposed until after the faculty member has had an opportunity for a hearing before the Divisional Committee on Privilege and Tenure, subsequent to a filing of a charge by the appropriate administrative officer, as described in Academic Senate Bylaw 336.

AMP15: The Chancellor may not initiate notice of proposed disciplinary action unless there has been a finding of probable cause.
AMP15: In cases where the Chancellor wants a disciplinary action to proceed, the Divisional hearing committee must hold a hearing and make findings on the evidence presented unless the accused faculty member settles the matter with the Chancellor prior to the hearing or the accused faculty member explicitly waives the right to a hearing.

If the Chancellor (or Chancellor’s designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, they may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member.

Misconduct being charged must have occurred during the period under review and have a direct bearing on research teaching or service (and are relevant to the assessment criteria used for personnel actions).

Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs, as well as identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member, to give a faculty member under investigation periodic updates on the status of the investigation, and to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.

It is essential that the procedures be identical on every campus.

Provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide.

The no-fault pause on any current or future academic personnel review action of the faculty member shall end when the investigative and disciplinary processes are concluded; in the event of a disciplinary process following a formal investigation, the no-fault pause shall end when a final decision is made whether to impose disciplinary sanctions.

Resumption of personnel action as soon as disciplinary proceedings are concluded with immediate communication to faculty member.

If the investigative and disciplinary processes are not concluded by the beginning of the faculty member’s eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to...
recommend to the President that the appointment be extended beyond the eighth year in accordance with Regents Bylaw 40.3(c).

| Section III: Types of Disciplinary Sanctions |  
| Chancellor is authored to initiate involuntary leave with pay prior to or at any time following the initiation of a disciplinary action if actions pose a harm to University, impeding investigation, serious crime or felony. | Strict requirements for involuntary leave with pay exist.  

|  
| Suspension is disciplinary action; involuntary is precautionary action | Do nt agree with prior to or at any time  

| The faculty member will receive confirmation from the Chancellor within 5 working days (or the Chancellor’s designee) that the no-fault involuntary leave is in place. | The faculty under review must be notified immediately that their personnel action has been paused, stating the stage at which the action was suspended.  

| Not addressed | - provide a timeline to the P&T Committee for the anticipated conclusion of the disciplinary action and resumption of the personnel case  
- provide periodic updates at least every six months regarding the status of the case to the PMT committee  
-should not place materials into the personal files before the conclusion of the disciplinary proceedings  

| Sections IV: Procedures for Imposition of Disciplinary Action |  
| Faculty may grieve decision through applicable faculty grievence procedures P and T handle on expedited basis. | A procedure for grieving the imposition of the pause should be established on an expedited basis.  

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| If ongoing investigation, faculty may grieve decision and seek review by P&T on an expedited basis |  

3 [https://equity.ucla.edu/accountability/#par](https://equity.ucla.edu/accountability/#par)