Executive Board

(Systemwide Senate Review) Proposed Revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline

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June 14, 2024

James Steintrager
Chair, UC Academic Senate

Re: (Systemwide Senate Review) Proposed Revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Steintrager,

The divisional Executive Board (EB) reviewed the proposed revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline and the enclosed divisional committee and council responses at its meeting on June 6, 2024.

Members voted unanimously in favor of a motion to decline to endorse the proposed revisions in its present form, to request more data to demonstrate that there is an issue to address, and to affirm the belief that any proposal should start with the recommendations in the Request to Update the APM to Address Simultaneous Academic Misconduct Investigations and Personnel Actions endorsed by the Academic Council. (One student representative voted in favor of the motion.)

Thank you for the opportunity to advise on this matter.

Sincerely,

Andrea Kasko
Chair
UCLA Academic Senate

Encl.

Cc: Kathleen Bawn, Vice Chair/Chair Elect, UCLA Academic Senate
    Jessica Cattelino, Immediate Past Chair, UCLA Academic Senate
    April de Stefano, Executive Director, UCLA Academic Senate
May 31, 2024

To: Andrea Kasko, Chair
UCLA Academic Senate

Re: (Systemwide Senate Review) Proposed Revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Kasko,

The Committee on Academic Freedom reviewed the Proposed Revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline.

Members of the Committee on Academic Freedom believe that an explicit procedure is necessary but are in agreement with the criticisms of the present proposal made by the Committee on Privilege and Tenure.

We appreciate the opportunity to opine on this matter. If you have any questions, please do not hesitate to contact me at barry.oneill@polisci.ucla.edu or committee analyst Lilia Valdez at lvaldez@senate.ucla.edu.

Sincerely,

Barry O’Neill, Chair
Committee on Academic Freedom

cc: Kathy Bawn, Vice Chair/Chair-Elect, UCLA Academic Senate
Jessica Cattelino, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Lilia Valdez, Senior Policy Analyst, UCLA Academic Senate
Members of the Committee on Academic Freedom
To: Andrea M. Kasko, Chair, Academic Senate

From: Diana Messadi, Chair, Committee on Privilege and Tenure

CC: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Marian M. Olivas, Principal Policy Analyst, Academic Senate
Members of the Committee on Privilege and Tenure

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:</th>
<th>Academic Council-UCPT Proposal</th>
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</thead>
<tbody>
<tr>
<td><strong>Section II Pause on Academic review actions</strong></td>
<td>4/5/2023</td>
</tr>
<tr>
<td>4/5/2024</td>
<td>4/2023</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td>...</td>
<td>2. with promotion to tenure rack, no-fault imposed when either a pending disciplinary action or ongoing investigation</td>
</tr>
<tr>
<td>...</td>
<td>3. if sanctions imposed, conclusions of proceedings should contain violation of COC and sanctions as part of review file</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>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.</th>
<th>Strict requirements for involuntary leave with pay exist.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspension is disciplinary action; involuntary is precautionary action</td>
<td>Do nt agree with prior to or at any time</td>
</tr>
<tr>
<td>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.</td>
<td>The faculty under review must be notified immediately that their personnel action has been paused, stating the stage at which the action was suspended.</td>
</tr>
<tr>
<td>Not addressed</td>
<td>- provide a timeline to the P&amp;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</td>
</tr>
</tbody>
</table>

**Sections IV: Procedures for Imposition of Disciplinary Action**

<table>
<thead>
<tr>
<th>Faculty may grieve decision through applicable faculty grievence procedures P and T handle on expedited basis.</th>
<th>A procedure for grieving the imposition of the pause should be established on an expedited basis.</th>
</tr>
</thead>
<tbody>
<tr>
<td>If ongoing investigation, faculty may grieve decision and seek review by P&amp;T on an expedited basis</td>
<td></td>
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3 https://equity.ucla.edu/accountability/#par
The College Faculty Executive Committee (FEC) at UCLA appreciated the opportunity to comment on the Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline. The report and its findings were discussed at the College FEC meeting held on May 17, 2024. This response consolidates the main ideas that our faculty shared.

Upon reviewing the report, members found the revisions to the policy, by placing an indefinite pause on advancements and promotions during an ongoing investigation, unacceptable and many were opposed to the changes.

One key concern raised by the committee was the broad and vague language used to describe cause, specifically the phrase “alleged misconduct relevant to assessment criteria for personnel action.” Members noted the lack of concrete examples justifying this section and were alarmed by the extensive discretion granted to the Chancellor in pausing academic personnel reviews.

Members also questioned why disciplinary action should be linked to merit and pointed out the potential for abuse. Due to the vagueness of the policy, it could be easily misused to harm faculty due to minor infractions or controversial statements leading to unwarranted pauses in advancements, especially as the alleged misconduct need not be substantiated.

Additionally, concerns were raised about the retroactive nature of actions if no wrongdoing is found. Specifically: (1) Would faculty merits and promotions be retroactively applied if an investigation finds no evidence of wrongdoing? Even retroactive merits potentially would have adverse tax consequences for faculty members and have an opportunity cost in terms of lost interest rates. And (2) Could the policy be exploited to control faculty for minor infractions, such as incomplete paperwork or controversial statements made in class?
Given the gravity of these concerns, members emphasized the potential unfairness and do not support the proposed revisions to Academic Personnel Manual (APM) Section 016.

As always, our membership appreciates the consultative process and welcomes the opportunity to participate in the discussion of important matters like this. You are welcome to contact us with questions.
TO: UCLA Academic Senate

FROM: Professor Ramesh Srinivasan, Chair, Faculty Executive Committee Meeting
       UCLA School of Education & Information Studies

DATE: May 30, 2024

In response to the below (email received 4/19/24):

Dear Faculty Executive Committee Chairs and Analysts,

The issue, **Systemwide Senate Review** Proposed Revisions to APM - 016, University Policy on Faculty Conduct and the Administration of Discipline, is now available in DMS for FEC review, and will be discussed at the Executive Board meeting on 6/6/24.

In order to formulate the divisional response, we ask that you submit comments no later than **5/31/24**.

**Brief issue summary:**

This is another important systemwide review with a short review window. The proposed revisions are substantive because they seek to codify that the Chancellor (or designee, which currently is the Vice Chancellor of Academic Affairs and Personnel) may “pause” (aka put on hold) academic personnel review actions when there is an investigation of allegations of misconduct. The “pause” would remain in effect until the conclusion of the investigation, which in current practice, may take a year or more. Also, it is worth noting that, in practice, it is also possible that the allegation of misconduct may be related to an administrative role held by the faculty member in question and not in their main faculty role. Lastly, it appears that the imposition of the “pause” is not required, but at the discretion of the Chancellor (or designee). Your committee or council may want to consider whether this revision is appropriate and warranted. Also, what are the implications of this new policy for faculty at different stages of their careers? What types of investigations of “alleged misconduct” would be/should be included? Would the types of included investigations or criteria have a differential impact on various groups of faculty? To what degree, should the Chancellor (or designee) have discretion? Is there a time frame beyond which it would not seem reasonable to “pause” an academic personnel action? What topics or aspects should be addressed in this policy revision that are not already?

**Please note:**

- FECs may opine at their discretion.
- FEC Analysts must submit their FEC’s response **(including “Does Not Wish to Opine”)** through the Academic Senate DMS. Please do not email your FEC response.
- **FEC Chairs and Analysts can now access the materials in DMS (please see attached guide).**
- FEC comments must be submitted by the assigned deadline for review by the Executive Board and inclusion in the divisional response.

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**Based on discussion held at UCLA School of Education & Information Studies FEC Meeting held on May 10, 2024:**

**FEC COMMENTS:**

Our main feedback is: We would want to know clarity on what the change length would be, want clarification on the 'local procedures', want to know the maximum length of the pause based on indefinite review of faculty action/investigation.
May 29, 2024

We write to submit our opinion on Proposed Revisions to General Univ Policy Regarding Academic Appointees: APM 016—Univ Policy on Faculty Conduct and the Administration of Discipline.

- FEC member 1: I would be concerned that an allegation would pause a junior faculty’s tenure clock and if they were found innocent of the allegation, the irreparable harm to their career if it interferes with them getting tenure. Is there a provision that could be put in place to protect pre-tenured faculty?

- FEC Member 2: I also question how this may affect faculty hiring who must go through academic personnel review as well. If a question is brought up prior to hiring and in this academic personnel review, what recourse would the candidate have in this process - would they even be able to participate at all in the review? This all seems a little too broad based at this point. There needs to be some specific reason to trigger a pause in that process; it says now it is up to the discretion of the Chancellor or their designee. That’s too ambiguous.

- FEC member 3:
  - This past year has yielded a lot of interpersonal conflict among faculty. For example, I heard at least six people in my department say they were planning to file a DEI complaint against other colleagues. Although I don’t know if these complaints happened, I worry that in the current climate, some faculty may be making unsubstantiated claims of faculty misconduct against each other. It is important for the policy to clarify what criteria the Chancellor will use to determine “that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions.” It’s important for this policy not to be weaponized by other faculty to harm someone’s career trajectory.

- Another concern is how long the investigation process may take. Such investigations are generally very slow moving. It would be important to know, for context, the average length of time an investigation into faculty misconduct takes at UCLA, in order to assess whether such a measure is warranted. In other words, is the punishment unduly harsh given the alleged misconduct? This also goes back to the Chancellor’s decision-making criteria regarding which cases rise to the level of warranting a pause.

Sincerely,

Dr. Veronica Herrera
FEC Chair, 2023-2024

An Equal Opportunity Employer
To: Andrea M. Kasko, Chair, Academic Senate  
From: Brett Trueman, Chair, Charges Committee  
CC: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate  
Jessica Cattelino, Immediate Past Chair, Academic Senate  
April de Stefano, Executive Director, Academic Senate  
Marian M. Olivas, Principal Policy Analyst, Academic Senate  
Members of the Committee on Privilege and Tenure  
Date: May 30, 2024  
Re: Proposed Revisions to APM-016

The Charges Committee appreciates the opportunity to review and comment on these proposed revisions. First, members disagree completely with the proposed revisions. The Charges Committee had an opportunity to review the Committee on Privilege and Tenure response to the proposed changes in APM-016. Members agreed with P&T's response and had the following additional comments.

The Charges Committee learned that the UC Academic Senate spent months creating a thoughtful proposal to address the possibility that personnel cases might need to be pause, yet the proposed policy revision did not even include this background. If this proposal passes, it will be yet another instance of the utter disregard by the administration for the much-touted "shared governance" principles.

Charges agrees that pausing personnel actions is inherently harmful. First, delaying promotions or merits is not no harm--apart from stress and reputational damage, these actions come with raises that affect pension benefits as well as ongoing salaries. The proposal does not specify how (or if) promotions and raises will be made retroactive when the faculty member is cleared of charges, or if minor charges are made that would not normally preclude promotion. In the rare cases a pause is used, implementation should not be left up to campuses with no central rules. Given that delays to raises and promotions are harmful, the proposal seems punitive before the fact, and comes dangerously close to assuming the faculty member is guilty until proven innocent.

Charges agrees that such a pause is harmful to the faculty and any policy to impose a pause should carefully protect faculty rights. Pausing a personnel case when the faculty member under review is being investigated for misconduct suggests that the said faculty member has already been tarnished with wrong-doing when, in fact, no determination has been made at that time. There may be a small number of cases where the charges alleged against a faculty member are so serious that a pause may be warranted, but that cannot be laid down as a rule to be followed in all cases.
Discipline of faculty is a form of personnel review reserved for a separate process overseen by Charges and the Committee on Privilege and Tenure. Pausing a personnel case closely resembles a disciplinary action in that the person is effectively held back during that pause. At the risk of undermining existing structures and protections, this separation should be maintained unless the investigation involves an allegation that demonstrably will have a serious impact on teaching, research, service, and/or professional competence. Much more thought should be put into standards for identifying cases where research, teaching, and/or service might be so significantly impacted by a potential violation that it merits pausing a case. Once there are standards-based guidelines, the faculty should then have an appropriate avenue to grieve whether the pause was appropriate.

In addition, the Charges Committee was dismayed to learn that this practice of universally pausing personnel cases when faculty are under any kind of investigation has already been implemented at UCLA.

If you have any questions, please do not hesitate to contact me at brett.trueman@anderson.ucla.edu or via the Committee’s analyst, Marian Olivas, at molivas@senate.ucla.edu.
At its meetings on May 14 and 21, 2024, the Council on Academic Personnel (CAP) discussed the proposed revisions to APM-016 on University policy on faculty conduct and the administration of discipline. The proposal provides the Chancellor (or their designee) with the discretionary authority to “impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) where the faculty member is the subject a formal investigation.” While we recognize the legitimate interest in coordinating academic misconduct investigations and personnel actions, we believe the proposal undermines the norm of fundamental fairness reflected in the University’s bylaws and policies. Moreover, the proposal suffers from specific implementation flaws that compound the fairness concerns. The goal of aligning the personnel action process with misconduct investigations can be achieved through an alternative retrospective strategy: use of the existing disciplinary processes to “unwind” any personnel action affected by the misconduct.

The University disciplinary procedures incorporate well-recognized principles of procedural due process intended to protect the rights of faculty accused of misconduct. UC Regents Bylaw 40.3(b) states that a faculty member is entitled to “a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare.” Under Systemwide Bylaw 336.F.8., at the hearing the Chancellor or Chancellor’s designee bears the burden of proving the faculty member’s misconduct by clear and convincing evidence.¹

The proposal subverts these fundamental protections by allowing the imposition of what amounts to a sanction prior to a finding of misconduct after a hearing. Delay in consideration for merit increases, advancement and promotion can result in meaningful financial, professional, reputational, and emotional consequences for faculty. Clearly, such delays would affect the faculty member’s compensation and could also affect their ability to secure funding for their research or creative activities. A freeze on advancement and promotion would raise questions among colleagues and others, signaling to them that the faculty member may be the subject of investigation for unspecified misconduct. And the financial and reputational impacts of the freeze will exacerbate the stress and emotional turmoil that comes with being the subject of an investigation. All of this imposed without a hearing and in the sole discretion of the Administration.

¹ In cases involving allegation of sexual harassment or sexual violence, the Chancellor’s burden of proof is the preponderance of the evidence.
The existing disciplinary processes already provide a vehicle for aligning misconduct investigations and personnel actions, one that respects the principles of fundamental fairness embedded in the bylaws and policies. Faculty members found to have engaged in misconduct after a full and fair hearing are subject to a range of disciplinary sanctions. These sanctions include reduction in salary and demotion (defined in the current APM-016 as “reduction to lower rank or step with corresponding reduction in salary.”) The Chancellor may use these two sanctions to unwind any personnel actions taken during the course of the disciplinary process. (Indeed, APM-016 states that “demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member.”) While this retrospective process may be administratively more complex, it protects critically important norms of fairness.

Beyond concerns of fundamental fairness, the proposal also presents substantial implementation issues:

- The proposal fails to define the critical term “formal investigation.”

- The proposal lacks a clear standard for triggering a “no-fault pause.” As written, the Chancellor or their designee may pause the personnel action process when they find that “any of the alleged misconduct is relevant to the assessment criteria for academic personnel review action.” That standard is so ambiguous as to be no standard at all. Virtually any violation of the Code of Faculty Conduct could fall within its scope. This is particularly troubling given the substantial impact that a pause could have on the affected faculty member. In the rare case in which current APM-016 allows for sanctions prior to hearing (i.e., imposition of involuntary leave with pay), the policy establishes a stringent standard:

  [T]here is a strong risk that the accused faculty member’s continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing, or in situations where the faculty member’s conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency.

- The proposal provides no requirement or means for mitigating the effects of the pause for faculty members ultimately cleared of alleged misconduct. At a minimum, financial impacts should give rise to a right of compensation. Other non-financial impacts will be more difficult, or even impossible, to address.

Thank you for the opportunity to review and comment. If you have any questions, please do not hesitate to contact me at CColwell@mednet.ucla.edu or via the Council’s analyst, Lori Ishimaru, at lishimaru@senate.ucla.edu.

cc: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Lori Ishimaru, Senior Policy Analyst, Academic Senate
Members of the Council on Academic Personnel
May 17, 2024

Andrea Kasko, Chair
Academic Senate

Re: (Systemwide Senate Review) Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Kasko,

At its May 7, 2024, meeting, the Faculty Welfare Committee (FWC) reviewed and discussed the systemwide Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline.

The FWC had an extended discussion about the addition of a “pause on academic review actions,” as laid out in Section II of this revised policy. The pause would permit the Chancellor, or their designator, to stop any personnel actions while a faculty member is under review for misconduct. No context or historical knowledge was provided by the administration to explain why this change in policy is necessary, i.e., why the Chancellor needs the ability to hold a faculty member back from advancement. The FWC had many significant concerns about the appropriateness and the consequences of this policy, as follows:

1. Faculty should be considered innocent until proven guilty. FWC members felt this revision was a considerable overreach by the administration. Accused faculty are essentially being considered guilty until proven innocent. The FWC cannot support suspending the presumption of innocence.

2. Delay in faculty promotion and advancement. This new policy most negatively affects wrongly accused faculty, who undergo lengthy investigations and are found innocent. Misconduct investigations can last for years, such that exonerated faculty members would be unable to make up for the lost years in advancement. There needs to be more consideration about how to prevent this policy from having irrevocably damaging effects on faculty careers.

3. The current system of evaluating misconduct is too slow. The FWC also expressed concern that more needs to be done to protect the victims of faculty misconduct. Given that the current system is so slow, there needs to be another way of stopping a perpetrator from moving through administration.

4. DEI consideration. The FWC notes this policy is likely to have the most delirious effects on faculty – women, members of the LGBTQ+ community, and people of color – who are already most at risk for retaliation and delays to their advancement.

Thank you for the opportunity to opine. If you have questions, please do not hesitate to contact me at butlersj@ucla.edu or via the Committee analyst, Renee Rouzan-Kay, at rrouzankay@senate.ucla.edu.

Sincerely,

DMS 16
Samantha Butler, Chair
Faculty Welfare Committee

cc: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Senior Policy Analyst, Faculty Welfare Committee
Members of the Faculty Welfare Committee
May 2, 2024

To The Executive Board:

I am writing in my capacity as Chair of the Faculty Executive Committee (FEC) of the School of Theater, Film & Television (TFT). At our meeting on April 22, 2024, members of the TFT FEC expressed their gratitude for the opportunity to opine on the most recent draft (undated) of APM-16, the General University Policy on Faculty Conduct and the Administration of Discipline.

The circulated draft document sparked an animated discussion that included numerous expressions of concern regarding this policy’s potential erosion of faculty governance in favor of more centralized, administrative control over faculty advancements. In particular, TFT faculty expressed concerns about the potentially inequitable impact on junior faculty, who are disproportionately women and faculty of color, as well as those who have taken on administrative service. Faculty also perceived a lack of clarity on the “discretionary” aspect of this policy – on what basis and with what limits will pauses be determined, and in response to what sorts of investigations? Given that judicial investigations are protracted – at times, indeed, they seem to be unresolved and indefinite – the potential for long-term, unpredictable, adverse consequences seems great. The confidentiality of judicial investigations further suggests the possibility of an unfair “presumption-of-guilt” becoming associated with a paused advancement.

In summary, faculty of the School of Theater, Film & Television view this policy with great caution, concern and desire for clarification.

Thank you for the invitation to opine on this important topic,

Steve F. Anderson
Chair of the Faculty
School of Theater, Film & Television
sfanders@tft.ucla.edu
424-259-1067

Cc:
Brian Kite, Dean, School of Theater, Film & Television
CHANCELLORS
ACADEMIC COUNCIL CHAIR JAMES STEINTRAGER
LABORATORY DIRECTOR MICHAEL WITHERELL
ANR VICE PRESIDENT GLENDA HUMISTON

RE: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Colleagues:

Enclosed for systemwide review are proposed revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline (APM - 016). The policy revisions respond to the need to revise APM - 016 to address the handling of simultaneous academic misconduct investigations and personnel actions.

Key Policy Revisions
Summarized below are the proposed policy revisions:

- **Pause on Academic Personnel Review Actions:** At the beginning of a formal investigation of alleged misconduct by a faculty member, 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, the Chancellor (or Chancellor’s designee) 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. Locations are responsible for developing implementation procedures that address at what stage in existing local procedures the pause occurs and that identify the offices that have responsibility for providing written confirmation of the pause to the respondent, giving a respondent periodic updates on the status of the investigation, and for notifying relevant administrators of the beginning and end of the pause.

- **Conclusion of the pause:** The pause will end when the investigative and disciplinary processes are concluded. In the event of a disciplinary process following a formal investigation, the pause will end when a final decision is made whether to impose disciplinary sanctions. The academic personnel process may then proceed according to campus procedures.

- **Assistant Professors in Year 8:** 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).
Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policies, available on the Academic Personnel and Programs website. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than July 8, 2024. Please submit your comments to VP-ACADEMICPERSONNEL@ucop.edu. Please indicate “APM - 016” in the subject line. If you have any questions, please contact Rebecca Woolston, Associate Director, Academic Policy and Policy Exceptions, at Rebecca.Woolston@ucop.edu.

Sincerely,

Douglas M. Haynes
Vice Provost
Academic Personnel and Programs

Enclosures:
1) Proposed Revisions to APM - 016, Clean Version
2) Proposed Revisions to APM - 016, Tracked-Changes Version
3) Model Communication

cc: President Drake
    Provost and Executive Vice President Newman
    Executive Vice Chancellors/Provosts
    Executive Vice President and Chief Operating Officer Nava
    Executive Vice President Rubin
    Senior Vice President and Chief Compliance & Audit Officer Bustamante
    Vice President Lloyd
    Vice President Maldonado
    Vice Provosts/Vice Chancellors for Academic Affairs/Academic Personnel
    Academic Council Vice Chair Cheung
    Assistant Vice Provosts/Vice Chancellors for Academic Affairs/Academic Personnel
    Associate Vice Provost Lee
    Associate Vice President Matella
Deputy General Counsel Woodall
Executive Director Lin
Chief of Staff Beechem
Chief of Staff Kao
Deputy Chief HR Officer and Chief of Staff Henderson
Chief of Staff Levintov
Chief Policy Advisor McAuliffe
Principal Counsel Mastro
Director Anders
Director Chin
Director Weston-Dawkes
Associate Director DiCaprio
Associate Director Soria
Associate Director Woolston
Assistant Director LaBriola
HR Manager Crosson
Policy Analyst Durrin
Policy Analyst Miller
Policy Analyst Wilson
General University Policy Regarding Academic Appointees: APM - 016 - University Policy on Faculty Conduct and the Administration of Discipline

University Policy on Faculty Conduct and The Administration of Discipline

The University policy on faculty conduct and the administration of discipline is set forth in its entirety in this policy and in the Faculty Code of Conduct.

Section I -- Introduction and General Policy

This policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, November 15, 2001, and March 15, 2017, supersedes the President’s interim statement on the same subject, issued on January 15, 1971. The present policy is to be read in conjunction with the Faculty Code of Conduct.

The Faculty Code of Conduct is set forth in APM - 015. Part I of the Faculty Code of Conduct notes the responsibility of the administration to preserve conditions that protect and encourage the faculty in its central pursuits. Part II defines normative conditions for faculty conduct and sets forth types of unacceptable faculty conduct subject to University discipline. Part III makes recommendations and proposes guidelines to assure the development of fair procedures for enforcing the Code.

Nothing in the Faculty Code of Conduct, or in this policy, is intended to change the various authorities and responsibilities of the Academic Senate, the administration, and The Regents as currently set forth in The Regents’ Bylaws, the policies and regulations of the University, and the Bylaws and Regulations of the Academic Senate.

The Faculty Code of Conduct explicitly does not deal with policies, procedures, or possible sanctions pertaining to strikes by members of the faculty. These are covered by Regental and administrative policies external to the Code.

Except for the matter of strikes, and with recognition that Part III of the Faculty Code of Conduct consists of mandatory principles and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code of Conduct, as set forth in APM - 015, is the official basis for imposing discipline on members of the faculty for professional misconduct.

With respect to the imposition of disciplinary sanctions, the Faculty Code of Conduct deals only with the professional responsibilities, ethical principles, and standards of conduct that pertain to the professional obligations of faculty members. No disciplinary sanctions described in this policy may be imposed on faculty members other than through the procedures pursuant to this policy and the Faculty Code of Conduct. In addition, faculty members may be subject to certain administrative actions which are outside the scope of faculty discipline. For example, like all other members of the University community, faculty
members are subject to the general rules and regulations of the University such as those pertaining to parking, library privileges, health and safety, and use of University facilities. Faculty are subject to appropriate administrative actions for failure to comply with such rules and regulations. Another example applies to faculty members serving in administrative appointments who are subject to administrative actions for misconduct in their role as administrators. Faculty members serving in administrative roles may be subject to disciplinary sanctions under this policy, in addition to administrative actions, if the faculty member’s misconduct in the role of an administrator also violates the ethical and professional standards for faculty set forth in the Faculty Code of Conduct.

To maintain consistency in the future between the Faculty Code of Conduct, if it should be further amended by the Academic Senate, and any new or changed Regental or administrative policies relating to faculty conduct that might be adopted, the President will consult with appropriate agencies of the Academic Senate, and will undertake to facilitate any needed joint action by the Senate and The Regents or the administration.

Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Regents’ Bylaw 31), subject to certain procedures and safeguards involving the President and the Academic Senate (Regents’ Bylaws 30, 31, and 40).

This policy regarding faculty discipline requires a spirit of active cooperation between the administration, as embodied by the Chancellor, and the Academic Senate. In case of disagreement between the administration and the faculty over the interpretation or application of the Faculty Code of Conduct, conflicts will be resolved on a case-by-case basis, with the fullest consideration given to peer judgments achieved through procedures for discipline. In cases where a Chancellor’s tentative decision regarding the imposition of discipline on a faculty member disagrees with the recommendation of the Divisional Committee on Privilege and Tenure, the Chancellor shall inform the Chair of the Committee on Privilege and Tenure in writing that the Chancellor may disagree and ask if the Chair would like the Chancellor to meet with the Chair or with the whole committee prior to making a final decision or recommendation.

Disciplinary action is to be distinguished from certain other administrative actions taken as the result, not of willful misconduct but rather, for example, of disability or incompetence. The administration naturally bears the responsibility of assuring that the University’s resources are used productively and appropriately. In meeting this responsibility, administrators must occasionally take actions which resemble certain disciplinary sanctions but which are actually of an entirely different character. These actions are subject to separate procedures with due process guarantees and should not be confused with disciplinary action with its implications of culpability and sanction. APM - 075 on Termination for Incompetent Performance articulates the conditions under which faculty members with tenure or security of employment may be terminated for incompetent performance.
Section II -- Pause on Academic Review Actions

At the beginning of a formal investigation of alleged misconduct by a faculty member, 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, the Chancellor (or the Chancellor’s designee) 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. The faculty member will receive confirmation from the Chancellor (or the Chancellor’s designee) that the no-fault pause is in place.

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. The academic personnel review process may then proceed according to campus procedures. 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(e).

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.

Section III -- Types of Disciplinary Sanctions

The types of discipline that may be imposed on a member of the faculty are as follows, in order of increasing severity: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. In any disciplinary proceeding, the Chancellor may not impose a type of discipline more severe than that which was set forth in a written notice of proposed disciplinary action to the faculty member. The Chancellor may impose additional appropriate remedial or corrective sanctions not set forth in this Code only with the consent of the accused faculty member. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g., a letter of censure and a suspension. The Chancellor may remove or terminate a sanction, either automatically or by administrative discretion, in individual cases. The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case.

1. Written Censure

A formal written expression of institutional rebuke that contains a brief description of the censured conduct, conveyed by the Chancellor. Written censure is to be distinguished from an informal written or spoken warning, and must be delivered confidentially to the recipient and maintained in...
a designated personnel file or files indefinitely or for a lesser period of time specified in the writing. Informal written or spoken warning is not an official disciplinary action.

2. **Reduction in Salary**

   Reduction to lower salary without change in rank or step. The authority to reduce the salary of any faculty member rests with the Chancellor. This authority may not be redelegated. The amount and duration of the reduced salary shall be specified.

3. **Demotion**

   Reduction to lower rank or step with corresponding reduction in salary. Demotion as a disciplinary action should be imposed in a manner consistent with the merit based system for advancement. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member. The authority to reduce the rank of a faculty member who does not have tenure or security of employment rests with the Chancellor. The authority to reduce, within rank, the step of any faculty member to a lower step rests with the Chancellor. This authority may not be redelegated.

   Authority for demoting a faculty member with tenure or with security of employment to a lower rank, also with tenure or with security of employment, rests with the President, on recommendation of the Chancellor. Demotion of a faculty member with tenure or with security of employment to a lower rank without tenure or security of employment is not an option.

4. **Suspension**

   Suspension of a faculty member without pay for some stated period of time from the continuance of the appointment on its normal terms. Unless otherwise noted, the terms of a suspension will include loss of normal faculty privileges such as access to University property, participation in departmental governance, voting rights, administration of grants, supervision of graduate students, and use of University administrative staff, and may include loss of other campus privileges such as parking and library privileges. The degree and duration of the suspension shall be specified. Authority for the suspension of a faculty member rests with the Chancellor and may not be redelegated. Suspension as a disciplinary action is to be distinguished from involuntary leave, which is a precautionary action.

5. **Denial or Curtailment of Emeritus Status**

   Denial or curtailment of current or future emeritus status of a faculty member, including the privileges associated with the emeritus status. The denial or curtailment of emeritus status does not affect the faculty member’s entitlement to earned retirement benefits. Authority for the denial or curtailment of emeritus status of a faculty member rests with the President, on recommendation of the Chancellor.
6. **Dismissal from the Employ of the University**

The Chancellor has authority to dismiss a faculty member who does not have tenure or security of employment. This authority may not be redelegated. Authority for dismissal of a faculty member who has tenure or security of employment rests with The Regents, on recommendation of the President, following consultation with the Chancellor.

Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, or other act to make whole injury caused by the faculty member’s professional misconduct or to prevent future misconduct.

If the imposition of a disciplinary sanction is waived, the subsequent failure to perform the required act or otherwise comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the underlying sanction without an additional hearing. The authority to determine whether the faculty member has complied with the conditions of the waiver rests with the Chancellor. The Chancellor may designate a fixed time period for compliance with the terms of the waiver, after which the authority to impose discipline will lapse. If a faculty member disputes the Chancellor’s determination, the faculty member may grieve under applicable faculty grievance procedures.

A Chancellor is authorized to initiate involuntary leave with pay prior to, or at any time following, the initiation of a disciplinary action if it is found that there is a strong risk that the accused faculty member’s continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing, or in situations where the faculty member’s conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency. When such action is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary procedures. In rare and egregious cases, a Chancellor may be authorized by special action of The Regents to suspend the pay of a faculty member on involuntary leave pending a disciplinary action. This is in addition to the Chancellor’s power to suspend the pay of a faculty member who is absent without authorization and fails to perform duties for an extended period of time, pending the resolution of the faculty member’s employment status with the University. Thereafter, the faculty member may grieve the decision to place the faculty member on involuntary leave pursuant to applicable faculty grievance procedures. The Divisional Committee on Privilege and Tenure shall handle such grievances on an expedited basis if so requested by the faculty member; the Committee may recommend reinstatement of pay and back pay in cases where pay status was suspended. Within 5 (five) working days after the imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave including the allegations being investigated and the anticipated date when charges will be brought, if substantiated.

Every such document must include the following statements: (1) the Chancellor has the discretion to end the leave at any time if circumstances merit; (2) the involuntary leave will end either when the allegations...
Section III-IV -- Procedures for Imposition of Disciplinary Sanction

Safeguards against arbitrary or unjust disciplinary actions, including provision for hearings and appeals, are well established in the University.

The Regents’ Bylaws provide that actions of certain types, some of them disciplinary in character, may not be carried out without the opportunity of a prior hearing before, or without advance consultation with, “a properly constituted advisory committee of the Academic Senate” (Regents’ Bylaws 30, 31, and 40.3).

The Academic Senate has established Committees on Privilege and Tenure in each of the nine Divisions. The composition and duties of these committees are defined by the Academic Senate. One of the traditional roles of the Divisional Committees on Privilege and Tenure is to conduct hearings on disciplinary charges initiated by the Chancellor under this policy and make findings of fact and recommendations to the Chancellor regarding proposed disciplinary sanctions. The procedures for disciplinary hearings are set forth in Academic Senate Bylaw 336.

Another traditional role, to be distinguished from the conduct of disciplinary hearings, is to consider grievances by members of the Academic Senate regarding their rights and privileges as faculty members. The procedures for considering grievances are set forth in Academic Senate Bylaw 335. A disciplinary action is distinguished from a grievance action in that a disciplinary action generally is commenced by the administration against a faculty member based on charges that the faculty member has violated the Faculty Code of Conduct. A grievance action is initiated by a faculty member who believes that he or she has suffered injury as the result of a violation of the faculty member’s rights or privileges. A grievance action specifically requests the administration to take appropriate action to eliminate or mitigate the faculty member’s injury. A grievance alleging misconduct by another member of the Academic Senate may result in disciplinary proceedings commenced against that faculty member.

The Faculty Code of Conduct applies to all faculty members, Senate and non-Senate. For members of the Academic Senate, the procedures for disciplinary actions are governed by Senate Bylaws and Divisional rules. For academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there are procedures for disciplinary actions separate from that of the Senate’s committees. Those procedures are found in APM - 150 and relevant collective bargaining agreements or Memoranda of Understanding.

The Faculty Code of Conduct also applies to faculty members holding administrative appointments. Faculty members serving as administrators may be subjected to disciplinary action under this Code for professional misconduct in their administrative role that violates the ethical principles and falls within the types of unacceptable conduct set forth in this Code. A disciplinary action against a faculty member holding an administrative title may proceed in two parts. One part involves the removal of an
administrative title or other administrative action under procedures established by The Regents and the administration. Such action need not adhere to the disciplinary procedures set forth in this policy. The other part involves the proposed imposition of any type of disciplinary sanction set forth in this policy, which must proceed in accordance with the procedures for discipline outlined in the Faculty Code of Conduct and the applicable Senate Bylaws and Divisional rules. The removal of the administrative title or other administrative action does not preclude or require the imposition of a disciplinary sanction under this policy. Administrative incompetence does not in itself constitute a violation of the Faculty Code of Conduct.

It is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate. No disciplinary sanction for professional misconduct shall be imposed except in accordance with specified procedures. It is not essential that the procedures be identical on every campus. It is important, however, that the same basic principles and standards prevail throughout the University. Requirements and recommendations for developing campus disciplinary procedures pursuant to this policy are set forth in the Faculty Code of Conduct and the Senate Bylaws. Chancellors are to keep the President informed about campus procedures and to report any significant changes made in such procedures. The President will consult periodically with the Chancellors and the Academic Senate about procedures that are being employed in order to assure equitable standards for discipline throughout the University.

Revision History

XXX XX, 2024:
- Substantive revision to include no-fault pause at onset of investigation of allegations of misconduct.

April 20, 2022:
- Technical revisions to update references to Regental governing documents.

September 23, 2020:
- Technical revision to remove gendered language.

For details on prior revisions, please visit the Academic Personnel and Programs website.
General University Policy Regarding Academic Appointees: APM - 016 - University Policy on Faculty Conduct and the Administration of Discipline

University Policy on Faculty Conduct and
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Disciplinary action is to be distinguished from certain other administrative actions taken as the result, not of willful misconduct but rather, for example, of disability or incompetence. The administration naturally bears the responsibility of assuring that the University’s resources are used productively and appropriately. In meeting this responsibility, administrators must occasionally take actions which resemble certain disciplinary sanctions but which are actually of an entirely different character. These actions are subject to separate procedures with due process guarantees and should not be confused with disciplinary action with its implications of culpability and sanction. APM - 075 on Termination for Incompetent Performance articulates the conditions under which faculty members with tenure or security of employment may be terminated for incompetent performance.
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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.

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3. **Demotion**

Reduction to lower rank or step with corresponding reduction in salary. Demotion as a disciplinary action should be imposed in a manner consistent with the merit based system for advancement. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member. The authority to reduce the rank of a faculty member who does not have tenure or security of employment rests with the Chancellor. The authority to reduce, within rank, the step of any faculty member to a lower step rests with the Chancellor. This authority may not be redelegated.

Authority for demoting a faculty member with tenure or with security of employment to a lower rank, also with tenure or with security of employment, rests with the President, on recommendation of the Chancellor. Demotion of a faculty member with tenure or with security of employment to a lower rank without tenure or security of employment is not an option.

4. **Suspension**

Suspension of a faculty member without pay for some stated period of time from the continuance of the appointment on its normal terms. Unless otherwise noted, the terms of a suspension will include loss of normal faculty privileges such as access to University property, participation in departmental governance, voting rights, administration of grants, supervision of graduate students, and use of University administrative staff, and may include loss of other campus privileges such as parking and library privileges. The degree and duration of the suspension shall be specified. Authority for the suspension of a faculty member rests with the Chancellor and may not be redelegated. Suspension as a disciplinary action is to be distinguished from involuntary leave, which is a precautionary action.

5. **Denial or Curtailment of Emeritus Status**

Denial or curtailment of current or future emeritus status of a faculty member, including the privileges associated with the emeritus status. The denial or curtailment of emeritus status does not affect the faculty member’s entitlement to earned retirement benefits. Authority for the denial or curtailment of emeritus status of a faculty member rests with the President, on recommendation of the Chancellor.
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The Chancellor has authority to dismiss a faculty member who does not have tenure or security of employment. This authority may not be redelegated. Authority for dismissal of a faculty member who has tenure or security of employment rests with The Regents, on recommendation of the President, following consultation with the Chancellor.

Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, or other act to make whole injury caused by the faculty member’s professional misconduct or to prevent future misconduct.

If the imposition of a disciplinary sanction is waived, the subsequent failure to perform the required act or otherwise comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the underlying sanction without an additional hearing. The authority to determine whether the faculty member has complied with the conditions of the waiver rests with the Chancellor. The Chancellor may designate a fixed time period for compliance with the terms of the waiver, after which the authority to impose discipline will lapse. If a faculty member disputes the Chancellor’s determination, the faculty member may grieve under applicable faculty grievance procedures.

A Chancellor is authorized to initiate involuntary leave with pay prior to, or at any time following, the initiation of a disciplinary action if it is found that there is a strong risk that the accused faculty member’s continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing, or in situations where the faculty member’s conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency. When such action is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary procedures. In rare and egregious cases, a Chancellor may be authorized by special action of The Regents to suspend the pay of a faculty member on involuntary leave pending a disciplinary action. This is in addition to the Chancellor’s power to suspend the pay of a faculty member who is absent without authorization and fails to perform duties for an extended period of time, pending the resolution of the faculty member’s employment status with the University. Thereafter, the faculty member may grieve the decision to place the faculty member on involuntary leave pursuant to applicable faculty grievance procedures. The Divisional Committee on Privilege and Tenure shall handle such grievances on an expedited basis if so requested by the faculty member; the Committee may recommend reinstatement of pay and back pay in cases where pay status was suspended. Within 5 (five) working days after the imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave including the allegations being investigated and the anticipated date when charges will be brought, if substantiated.

Every such document must include the following statements: (1) the Chancellor has the discretion to end the leave at any time if circumstances merit; (2) the involuntary leave will end either when the allegations
are resolved by investigation or when disciplinary proceedings are concluded and a decision has been made whether to impose disciplinary sanctions; and (3) the faculty member has the right to contest the involuntary leave in a grievance proceeding that will be handled on an expedited basis, if so requested by the faculty member.

Section IV -- Procedures for Imposition of Disciplinary Sanction

Safeguards against arbitrary or unjust disciplinary actions, including provision for hearings and appeals, are well established in the University.

The Regents' Bylaws provide that actions of certain types, some of them disciplinary in character, may not be carried out without the opportunity of a prior hearing before, or without advance consultation with, “a properly constituted advisory committee of the Academic Senate” (Regents’ Bylaws 30, 31, and 40.3).

The Academic Senate has established Committees on Privilege and Tenure in each of the nine Divisions. The composition and duties of these committees are defined by the Academic Senate. One of the traditional roles of the Divisional Committees on Privilege and Tenure is to conduct hearings on disciplinary charges initiated by the Chancellor under this policy and make findings of fact and recommendations to the Chancellor regarding proposed disciplinary sanctions. The procedures for disciplinary hearings are set forth in Academic Senate Bylaw 336.

Another traditional role, to be distinguished from the conduct of disciplinary hearings, is to consider grievances by members of the Academic Senate regarding their rights and privileges as faculty members. The procedures for considering grievances are set forth in Academic Senate Bylaw 335. A disciplinary action is distinguished from a grievance action in that a disciplinary action generally is commenced by the administration against a faculty member based on charges that the faculty member has violated the Faculty Code of Conduct. A grievance action is initiated by a faculty member who believes that he or she has suffered injury as the result of a violation of the faculty member’s rights or privileges. A grievance action specifically requests the administration to take appropriate action to eliminate or mitigate the faculty member’s injury. A grievance alleging misconduct by another member of the Academic Senate may result in disciplinary proceedings commenced against that faculty member.

The Faculty Code of Conduct applies to all faculty members, Senate and non-Senate. For members of the Academic Senate, the procedures for disciplinary actions are governed by Senate Bylaws and Divisional rules. For academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there are procedures for disciplinary actions separate from that of the Senate’s committees. Those procedures are found in APM - 150 and relevant collective bargaining agreements or Memoranda of Understanding.

The Faculty Code of Conduct also applies to faculty members holding administrative appointments. Faculty members serving as administrators may be subjected to disciplinary action under this Code for professional misconduct in their administrative role that violates the ethical principles and falls within the types of unacceptable conduct set forth in this Code. A disciplinary action against a faculty member holding an administrative title may proceed in two parts. One part involves the removal of an
administrative title or other administrative action under procedures established by The Regents and the administration. Such action need not adhere to the disciplinary procedures set forth in this policy. The other part involves the proposed imposition of any type of disciplinary sanction set forth in this policy, which must proceed in accordance with the procedures for discipline outlined in the Faculty Code of Conduct and the applicable Senate Bylaws and Divisional rules. The removal of the administrative title or other administrative action does not preclude or require the imposition of a disciplinary sanction under this policy. Administrative incompetence does not in itself constitute a violation of the Faculty Code of Conduct.

It is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate. No disciplinary sanction for professional misconduct shall be imposed except in accordance with specified procedures. It is not essential that the procedures be identical on every campus. It is important, however, that the same basic principles and standards prevail throughout the University. Requirements and recommendations for developing campus disciplinary procedures pursuant to this policy are set forth in the Faculty Code of Conduct and the Senate Bylaws. Chancellors are to keep the President informed about campus procedures and to report any significant changes made in such procedures. The President will consult periodically with the Chancellors and the Academic Senate about procedures that are being employed in order to assure equitable standards for discipline throughout the University.

Revision History

XXX XX, 2024:

• Substantive revision to include no-fault pause at onset of investigation of allegations of misconduct.

April 20, 2022:

• Technical revisions to update references to Regental governing documents.

September 23, 2020:

• Technical revision to remove gendered language.

For details on prior revisions, please visit the Academic Personnel and Programs website.