

General University Policy Regarding Academic Appointees
Section UCD APM 016, Procedures for Academic Senate Faculty Discipline

Date: 10/9/17

Supersedes: 6/29/11

Responsible Department: Academic Affairs

Source Document: UC APM 016

I. Purpose, Scope, and Definitions

A. Purpose

In accordance with the University Policy on Faculty Conduct and the Administration of Discipline, APM 016, the Chancellor has established these procedures for the formal administration of Academic Senate faculty discipline at the Davis campus. No disciplinary sanction for professional misconduct of a member of the Davis Division of the Academic Senate shall be imposed except pursuant to the procedures specified herein, in related Davis Division Bylaw 87.E, and consistent with Academic [Senate Bylaw 336](#). The Chancellor will not appoint any current member of the Committee on Privilege and Tenure or any member of the accused's department or equivalent administrative unit as an investigator.

As used herein, the term "Chancellor" includes the Vice Provost--Academic Affairs or anyone designated in writing to act on the Chancellor's behalf with regard to any specific allegations or complaint of faculty misconduct, with the exception of final authority to determine and execute sanctions (Section IV) that cannot be delegated.

B. Scope

1. The disciplinary hearing procedures set forth in III, below, apply only to proceedings against members of the Academic Senate. Disciplinary procedures, including for non-Senate academic appointees are governed by APM 150, APM 140, UCD APM 140, and/or the applicable collective bargaining agreement or memorandum of understanding.
2. UCD APM 015, II.D, provides procedural guidance regarding "informal disposition" options and procedures applicable to all academic appointees, unless otherwise precluded by contract or policy.
3. As provided in UCD APM 015, I.B.2, allegations of faculty misconduct in research shall be addressed first under [PPM 220-05, Integrity in Research](#). If disciplinary proceedings are warranted subsequent to a finding of research misconduct, such proceedings shall begin within 14 days after the Chancellor or Deciding Official (as defined in [PPM 220-05](#)) notifies the accused faculty member of the findings of the investigation.

C. Disciplinary Sanctions

1. Types of Sanctions: Disciplinary sanctions are limited to the following actions:
 - written censure;
 - reduction in salary;
 - demotion;
 - suspension;
 - denial or curtailment of emeritus status; and,
 - dismissal from the employ of the University.

(APM 016, Section II, Types of Discipline).

More than one disciplinary sanction may be imposed for a single act of misconduct, e.g., a Letter of Censure, a reduction in salary and a suspension. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member.

2. **Conditional Waiver of Sanctions:** 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.
3. **Letter of Censure:** In cases where a disciplinary sanction is imposed, the written notice to the faculty member will be in the form of a Letter of Censure, conveyed by the Chancellor. The Letter of Censure shall contain a brief description of the censured conduct and the sanction(s) imposed (if any) in addition to the Letter of Censure. The Letter of Censure must be delivered confidentially to the recipient and maintained in a designated personnel file¹ or files indefinitely or for a lesser period of time specified in the letter. If not specified, the retention period is specified by the UC Records Retention Schedules.
4. **Retention of the Letter of Censure:** In all cases, a copy of the Letter of Censure will be retained in a separate confidential file in the Office of Academic Affairs. If the censured conduct is relevant to the faculty member's performance in (1) teaching, (2) research and other creative work, (3) professional activity, or (4) University and public service, a copy of the Letter of Censure may be placed in the personnel review file in accordance with APM 160, Appendix B and APM 200-30.

II. Initiating the Discipline Process

A. Response of Accused Faculty to Notice of Proposed Disciplinary Action

1. When faculty misconduct allegations result in a finding of probable cause, as outlined in UCD APM 015, II.F1.b, the Chancellor may issue written charges to the faculty member including notice of proposed sanction(s) as described in APM 016, II, and a full statement of the facts underlying the charges. The written charges will include notice of the faculty member's right to request a hearing with the Committee on Privilege and Tenure.
2. Within 15 calendar days after the date of the written charges from the Chancellor, the

¹ Letters of Censure may be designated for placement in the academic review file if the conduct violation of the APM 015 is relevant to teaching, research and creative work, professional competence and activity, or University and public service. (APM 200-30; APM 210-1.d.)

faculty member will notify the Chancellor in writing whether he or she accepts the proposed disciplinary sanction(s). If the faculty member accepts the proposed sanction(s), the Chancellor will report the findings and the accepted sanction(s) to the Committee on Privilege and Tenure for information.

3. If the faculty member does not accept the proposed disciplinary sanction(s), he or she may inform the Chancellor in writing of a request that the Committee on Privilege and Tenure conduct a hearing in accordance with the procedures described in III below, or may reach prior settlement with the Chancellor or waive the right to a hearing.
4. If the faculty member does not accept the proposed disciplinary sanction(s) or does not respond within 15 calendar days, the Chancellor will send a copy of the charges to the Committee on Privilege and Tenure.
 - a. Consistent with the prehearing procedures for disciplinary actions as described in [Senate Bylaw 336](#), the charges shall be in writing and shall contain notice of proposed disciplinary sanction(s) and a full statement of the facts underlying the charges. Upon receipt of the charges, the Chair of the Divisional Privilege and Tenure Committee shall promptly deliver a copy to the accused faculty member or send it by registered mail to the accused's last known place of residence.
 - b. The accused shall have 21 calendar days from the date of the receipt in which to file an answer in writing with the Committee. The Committee shall provide a copy of the answer to the Chancellor. Upon receipt of a written application, the Chair of the Committee may grant a reasonable extension of time for filing of an answer.
 - c. The Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. The Committee shall evaluate the case and establish time frames for all subsequent procedures. With the consent of both the accused and the administration, the Committee may refer the case for mediation ([Bylaw 336.C](#)). If either the accused or the administration objects to mediation, the Committee shall appoint a hearing committee ([Bylaw 336.D](#)). As a general guide, a prehearing conference ([Bylaw 336.D.2](#)) shall be scheduled, though not necessarily held, within 30 calendar days and a hearing ([Bylaw 336.D](#)) shall be scheduled, though not necessarily held, within 90 calendar days of the appointment of a hearing committee. The accused shall be given, either personally or by registered mail, at least 10 calendar days' notice of the time and place of the hearing. The Chancellor or Chair of the Committee on Privilege and Tenure may for good reason grant an extension of any of these time limits.
5. Once having notified the Committee on Privilege and Tenure, the Chancellor and the accused may still attempt to resolve the disciplinary charges informally through negotiations and reach early resolution. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures.
6. Where a settlement resolving disciplinary charges is entered into after a matter has been referred to the Committee on Privilege and Tenure, the Committee may request that the Chancellor consult with the Chair of the Committee before finalizing the settlement.

III. Procedures for Conducting Faculty Disciplinary Hearing

- A. Procedural Privileges and Protections. In connection with hearings before the Committee on Privilege and Tenure and any hearing panel thereof, an accused faculty member will be entitled to all procedural privileges and protections specified in the Standing Orders of The Regents and in the provisions of the Academic Senate Manual that implement such Orders, including APM 015 and APM 016, as well as privileges and protections set forth in [Bylaw 336](#), [Davis Division Bylaw 87.E](#), UCD APM 015, and UCD APM 016.
- B. Involuntary Leave. At any time prior to the imposition of discipline, the Chancellor may impose involuntary leave with pay, including suspension from teaching duties, if it is found that there is a strong risk that the faculty member's continued assignment to his or her duties would cause immediate and serious harm to the University community, or would impede the investigation into wrongdoing, or when the conduct represents a serious crime or felony that is the subject of investigation by law enforcement. 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 University's authority to presume that a faculty member has resigned if the faculty member is absent from academic duty for 30 calendar days without an approved leave in accordance with the procedures set forth in APM 700-30.
- C. Scheduling the Hearing. Every effort shall be made to conform to a reasonable time frame in the implementation of all procedures. Consistent with [Bylaw 336.B.3](#), the Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. Consistent with UCD APM 015, III.B.7, a hearing should commence within 90 days of the date on which the accused faculty member has been notified of the intention to initiate a disciplinary proceeding. A faculty member who is entitled to a hearing should not be permitted thereafter to delay imposition of discipline by refusing to cooperate or being unavailable for a scheduled hearing. A hearing shall not be postponed because the faculty member is on leave or fails to appear.
- D. Confidentiality. All investigations and hearings will be treated as confidential and open only to those persons directly concerned. Accused faculty members may consult confidentially with their representatives as needed to respond to the allegations. The Chancellor will share with the complainant(s) information about an ongoing disciplinary proceeding, including the outcome, to the extent allowed by State law and University policy.
- E. Representation/Presentation of Evidence. Consistent with [Bylaw 336.D.3](#), the Chancellor, the accused, and/or their representatives shall be entitled to be present at all sessions of the hearing panel when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- F. Burden of Proof. At the hearing, the Chancellor has the burden of proving the allegations by clear and convincing evidence.
- G. Evidentiary Rules. The technical legal rules regarding evidence and witnesses shall not apply, including the rule against hearsay.
 - 1. The hearing panel may call witnesses or make evidentiary requests at its discretion and may require that all witnesses affirm the veracity of their testimony.
 - 2. No evidence other than that presented at the hearing shall be considered by the hearing panel or have weight in the proceedings, except that the panel may take notice of any judicially noticeable facts that are commonly known. The panel shall give notice and a

reasonable opportunity for objection before such facts are considered part of the record.

3. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter.
- H. Record of Proceedings. The hearing shall be recorded by video or audio tape-recorder or other suitable electronic means. The hearing panel may, at its discretion, use a certified court reporter (cost paid by the administration).
- I. Findings of Fact, Conclusions, and Recommendations for Action. As provided by [Bylaw 336](#), the hearing panel shall promptly make written findings of fact and conclusions, supported by a statement of reasons based on the evidence, as well as any recommendations for action. The Divisional Committee on Privilege and Tenure shall not recommend the imposition of a sanction more severe than that in the notice of proposed disciplinary action (APM 015, III.A.5).
- J. Notice of Findings and Recommendations. Copies of the findings, conclusions, and recommendations of the Committee on Privilege and Tenure hearing panel will be transmitted to the accused faculty member, to the Chancellor, to the Chair of the Davis Division Committee on Privilege and Tenure, and to the Chair of the University Committee on Privilege and Tenure.
- K. Confidentiality/Release of Findings/Record. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The hearing panel may, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.
- L. Reconsideration by Hearing Panel. The hearing panel may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances not reasonably discoverable at the time of the hearing that might significantly affect the previous decision.

IV. Authority

- A. The Chancellor has final authority to determine and execute appropriate sanctions, except in those cases of dismissal or demotion where final authority rests with the President or The Regents (see APM 016, II). This authority may not be delegated.
- B. The Chancellor will inform the accused faculty member in writing of his/her final decision. The Chancellor will in no case propose sanctions more severe than those proposed in II.A.1 above.
- C. If the Chancellor's determination disagrees with the findings or recommendations of the Hearing Panel, the Chancellor shall provide the Chair of the Privilege and Tenure Committee with notice of the intent to disagree prior to the imposition of any sanction.