

VII. Reports of Standing Committees

C. Committee on Privilege & Tenure (UCP&T)

George Blumenthal, Immediate Past Chair

Jodie Holt, Chair

- Approval of Revisions to Academic Personnel Manual (APM Section 015 and new APM Section 016 (action))

The Assembly is being asked to approve the new APM section and the APM revision noted above.

Justification from UCP&T Immediate Past Chair Blumenthal:

At today's meeting, the Assembly of the Senate is being asked to approve revisions to the Academic Personnel Manual's section 015, and to approve a new, related APM section, 016. The Academic Personnel Manual is an administrative document; changes in the APM normally are approved by the President of the University, with the Senate playing a consultative role in the revision process. By tradition, however, sections of the APM dealing with faculty discipline have been submitted to the Assembly for approval. Because authority for discipline derives ultimately from the Regents, revisions to APM-015 (and now 016) are also submitted to the Regents for their approval. Consequently, should the Assembly approve these proposed revisions to the APM, they will be submitted to the Regents for their consideration. With Regental approval, APM-016 and the revised APM-015 would be issued by the President as University policy, the President already having approved these provisions. The APM revisions are being presented to the Assembly by the University Committee on Privilege and Tenure because UCP&T worked in tandem with the Office of the President in revising these faculty regulations.

The process of reforming the University of California procedures and policies regarding the discipline of faculty began several years ago with the recommendations of the joint senate-administrative Task Force on Disciplinary Procedures chaired by Professor Daniel Simmons. With the work of the Simmons panel in hand, both Senate and administration agreed on the need to revise UC's disciplinary procedures and policies. UCP&T has worked intensively over the past two years to draft new rules for adoption. These rules are set forth in two separate bodies of regulations, which are complementary to one another. One set is the APM, whose proposed revisions are before the Assembly today. A second is the set of Senate Bylaws governing the operation of Privilege and Tenure Committees. Last May, the Assembly approved revisions to Senate Bylaws 195 and 334-337. Bylaws 334-337 govern the functioning of campus Privilege & Tenure Committees, which are charged with carrying out hearings and other procedures in connection with faculty discipline, grievance, and early

termination cases. Bylaw 195 specifies the duties of the systemwide University Privilege & Tenure Committee. The new Bylaws include many substantive changes, including clear statements of the standards of proof needed in each type of Privilege and Tenure case, clarifications of who bears the burden of proof, procedures for resolving potential disagreements between chancellors and P&T committees, and the establishment of a record-keeping function for UCP&T.

UCP&T is now bringing forward for Assembly adoption changes to the other major body of regulations dealing with faculty discipline, the APM. These APM revisions are set forth in two separate APM sections, 015 and 016. The former is the Faculty Code of Conduct, while the latter is University Policy on Faculty Conduct and the Administration of Discipline. In the current APM, both of these overarching bodies of regulations are included within APM-015.

The Faculty Code of Conduct essentially does three things: It sets forth the professional rights of faculty (to freedom of expression, freedom of inquiry and so forth); it sets forth both general ethical principles for faculty and examples of unacceptable faculty conduct; and it sets forth rules and recommendations for the enforcement of the Faculty Code. In contrast, The University Policy on Faculty Conduct and the Administration of Discipline includes a good deal of general policy regarding faculty discipline; it elaborates on the various penalties that may be imposed for violations of the Faculty Code of Conduct; it specifies what types of faculty behaviors are covered under the Faculty Code, as opposed to other University regulations (such as those dealing with incompetent performance); and it specifies which academic personnel are governed by the Faculty Code. The revised APM 015 and new 016 have been re-ordered because it makes sense for disciplinary principles to come before disciplinary procedures.

Review of the APM revisions before the Assembly today has proceeded as follows. An earlier version of these revisions was brought before the Assembly at its February 2001 meeting for discussion and to inform the Assembly of UCP&T's ongoing efforts. A revised version of APM 015 and 016 were subsequently sent to the campuses and to systemwide Senate committees in April 2001 for formal review. UCP&T has received considerable feedback from systemwide Senate committees and from several Divisions of the Senate regarding these proposed revisions. As a result, the committee has made a number of changes in the documents. I believe that the version we are now submitting is much improved and has benefited greatly from those comments. Appended to this justification is a memorandum showing all revisions to the documents since they were circulated for formal review in April.

Let me now summarize the main features of the revisions we are proposing, starting with those in the Faculty Code of Conduct, which is divided into Parts I,

II, and III. We have proposed relatively few changes in the Code's Part I (faculty rights) and Part II (ethical principles and unacceptable conduct). Our main intent in these sections was to strengthen the principle that faculty may be disciplined only for conduct that meets the standard set forth in the Code for unacceptable faculty conduct: conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions. In Part III of the Faculty Code, we replaced the recommended guidelines for the campuses with a set of mandatory guidelines and a second set of recommendations, intended to make campus procedures consistent with the Senate bylaws and to make them more efficient and fair.

The most important change in the proposed APM 016 is the inclusion of two new possible sanctions for faculty. One is the denial or curtailment of emeritus status. Currently, no sanction applies to emeriti. While it is desirable that emeriti remain an integral part of the University community, it is also important that there be a mechanism in place to guarantee and enforce appropriate behavior for emeriti. In addition, in UCP&T's view, the existing sanction of demotion is appropriate only in cases where promotion was inappropriately received, for example by fraud. Therefore, we are proposing an additional sanction of reduction in pay (without demotion) for some specified period of time. In certain cases, this new sanction may provide a less onerous alternative to the sanction of suspension without salary.

What now follows is a more detailed listing of all the proposed changes to the original APM 015 policy. A list of changes made just since the proposed revisions were circulated for formal review is attached.

Revised APM 015 Preamble

- Language was added to clarify that the Faculty Code of Conduct is not limited to the types of unacceptable conduct enumerated in the Code, and that other types of conduct may be the basis for disciplinary action if the conduct meets the standard set forth in the Code for unacceptable faculty conduct: conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions.

Revised APM 015 Part II

- Language was added to make clear that a faculty member may face disciplinary sanctions ONLY for conduct which meets the standard set forth in the Code for unacceptable faculty conduct: conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions.

- Language was added to clarify that sanctions may be imposed for violations of University policies only to the extent that such violations meet the standard set forth in the Code for unacceptable faculty conduct.
- Language was added to clarify that the section on students applies to all individuals under the academic supervision of a faculty member (such as postdocs, teaching assistants, and other employees).
- The language referring to discrimination was updated to conform to changes in law and University policy (in particular, new laws regarding veterans, protected medical conditions, and harassment).
- The word "knowing" was deleted from the existing provisions regarding violation of University policy applying to non-discrimination on the basis of disability.
- The phrase "research misconduct" was added to the existing provision for types of unacceptable conduct relating to violations of canons of intellectual honesty.
- Language was added to make discrimination, including harassment, against University employees a type of unacceptable conduct.
- Language was added to make serious violation of University policies governing the professional conduct of faculty a type of unacceptable conduct (this includes several new policies such as whistleblower protection and conflict of commitment, but again, only to the extent that such misconduct meets the standard set forth in the Code for unacceptable faculty conduct).

Revised APM 015 Part III

- The existing principles recommended as guidelines in developing divisional disciplinary procedures was divided into two sections, one with mandatory principles and one with recommended principles.
- Language was added requiring that no disciplinary action may proceed if more than three years have passed between the time the Chancellor (or the Chancellor's designee) knew or should have known of the alleged violation and the delivery of the notice of proposed disciplinary action (consistent with the new Senate bylaws).
- Language was added requiring that the Chancellor (or the Chancellor's designee) may not initiate notice of proposed disciplinary action unless there has been a finding of probable cause.

- Language was modified to reflect that divisional procedures must include designation of the following disciplinary sanctions authorized in the University Policy on Faculty Conduct and the Administration of Discipline: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University.
- Language was added to clarify that staff, in addition to students, faculty, the administration and other members of the University community, may bring forward allegations of misconduct.
- Language was added to encourage Divisions to provide faculty investigators with training, consultation or legal counsel to assist with the investigation of faculty disciplinary cases.
- Language was added to encourage Divisions to develop procedures for mediation of disciplinary cases.
- Language was added to encourage Divisions to develop procedures to allow information about ongoing disciplinary proceedings to be shared with the complainant(s) to the extent allowable by State law and University policy.
- Language was added to encourage Divisions to develop reasonable time frames for the conduct of disciplinary procedures.
- Language was added to encourage Divisions to develop procedures for keeping records of disciplinary matters in a confidential manner and sharing such records with Senate and administrative officers with a need to know in accordance with State law and University policy.

New APM 016 Section I - Introduction

- Language was added to clarify that the Faculty Code of Conduct applies to the professional responsibilities of faculty but that faculty members, like all other members of the University community are subject to general rules and regulations and may be subject to appropriate administrative actions for failure to comply with such regulations.
- Language was added to address cases where the Chancellor's tentative decision regarding discipline of a faculty member disagrees with the recommendation of the Divisional Privilege and Tenure Committee.

New APM 016 Section II - Types of Disciplinary Sanctions

- A new disciplinary sanction of denial or curtailment of emeritus status was added and the current disciplinary sanction of demotion was divided into two separate sanctions: demotion and reduction in pay (without demotion).
- Language was added to clarify that written censures should be maintained in a designated personnel file or files for a period of time specified in writing.
- Language was added to clarify that demotion as a sanction should be imposed in a manner consistent with the merit based system of advancement and is appropriate only when the misconduct is relevant to the academic advancement of the faculty member.
- Language was added to clarify that suspension as a sanction is without pay and may include the loss of normal faculty privileges such as access to University property, participation in departmental governance and other campus privileges.
- Language was added to permit a Chancellor to waive or limit the imposition of a disciplinary sanction on the condition that the accused faculty member perform some specified actions designed to address the harm caused by the misconduct.
- Language was added to clarify the difference between suspension as a sanction and involuntary leave (with pay) which may be imposed prior to the initiation of disciplinary action if it is found that there is a strong risk that the accused faculty member's continued presence on campus will cause immediate or serious harm to the University community.
- Language was added to clarify existing policy that 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, and to clarify grievance rights and procedures (including prompt written notice) for faculty members subject to such actions.

New APM 016 Section III - Procedures

- Language was added to clarify the difference between disciplinary actions and grievance actions as reflected in the newly enacted Bylaws of the Academic Senate 334-337, in that a disciplinary action generally is commenced by the administration against a faculty member based on

charges that have been investigated and found to have probable cause, while 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 and privileges.

- Language was added to clarify that the Faculty Code of Conduct also applies to faculty members holding administrative appointments and that such faculty members may be subject to disciplinary action under the Code for professional misconduct in the their administrative appointments in addition to administrative actions involving the removal of their administrative title.

To summarize, UCP&T urges that Academic Assembly approve the revised Faculty Code of Conduct and endorse the changes proposed in APM 016.

On the pages that follow, Assembly members can see APM 015 as currently written; APM 015 with its proposed revisions noted in underlines and strikeouts; and the new, proposed APM 016. The agenda item concludes with a listing of changes made to the APM proposal since the revisions were circulated last April for formal review.

Current APM 015 for Assembly Review

015-0 Policy

The University policy on faculty conduct and the administration of discipline is set forth in its entirety on the following pages.

UNIVERSITY POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE

Section I

This Policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, supersedes the President's interim statement on the same subject, issued on January 15, 1971. The present policy incorporates the Faculty Code of Conduct as approved by the Assembly of the Academic Senate on June 15, 1971 and amended by the Assembly on May 30, 1974, and with amendments approved by the Assembly on March 9, 1983, May 6, 1986, and May 7, 1992, and by The Regents on July 18, 1986, May 15, 1987, and June 19, 1992. In addition, technical changes were made September 1, 1988.

Part I of the Faculty Code 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, 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 Standing Orders of The Regents, the policies and regulations of the University, and the By-Laws and Regulations of the Academic Senate.

The Faculty Code 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 Code consists solely of suggested guidelines and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code, as incorporated into this Policy, 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 deals only with professional conduct or misconduct. However, faculty members, in common with all other members of the University community, are subject to the general rules and regulations of the University — e.g., those pertaining to parking, library privileges, health and safety, and use of University facilities — and are subject to appropriate sanctions for failure to comply with such rules and regulations.

To maintain consistency in the future between the Code, 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.

In case of disagreement between the administration and the faculty over the interpretation or application of the Code, conflicts will be resolved on a case-by-case basis, with the fullest consideration given to peer judgments achieved through procedures for discipline.

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.

Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).

The types of discipline that may be imposed on a member of the faculty are as follows: *written censure*, *suspension* (other than interim suspension with pay), *demotion*, and *dismissal* from the employ of the University. 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 expression of institutional rebuke, conveyed by the Chancellor or by a Dean to whom the Chancellor has delegated authority for this kind of disciplinary action. Written censure is to be distinguished from an informal

spoken warning, and must be delivered confidentially to the recipient. Informal spoken warning is not an official disciplinary action.

2. Suspension

Debarment of a faculty member for some stated period of time from the continuance of the appointment on its normal terms. 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 *interim suspension with pay*, which is a precautionary action, but not a form of discipline. A Chancellor is authorized to impose an interim suspension, with full pay, on a faculty member if it is found that there is a clear probability that the faculty member's continued assignment to regular duties will be immediately and seriously harmful to the University community. When such action is necessary it must be possible to impose the interim suspension swiftly, without resorting to normal disciplinary procedures, but the Chancellor must as soon as possible explain the reasons for the interim suspension and initiate disciplinary procedures by bringing charges against the suspended faculty member.

3. Demotion

Reduction to lower rank, step, or salary. 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 or salary of any faculty member to a lower step or salary rests with the Chancellor. For either action, this authority may not be redelegated.

Authority for demoting a faculty 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.

In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to demoting or recommending for demotion any member of the faculty.

4. 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. In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to dismissing or recommending for dismissal any member of the faculty.

Procedures for Discipline

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

The Standing Orders 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” (Standing Orders 100.4(c), 103.9 and 103.10). In addition, Standing Order 103.2 provides that any member of the Academic Senate may have the privilege of a hearing by an appropriate Senate committee on matters relating to personal, departmental, or University welfare.

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. The traditional roles of the Divisional Committees on Privilege and Tenure are to take under consideration complaints against or by members of the Academic Senate and — in certain cases — other members of the faculty. The committees hold hearings and advise the administration.

For all academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there is an avenue for hearings and appeals separate from that of the Senate’s committees. This avenue is provided in Section 140 of the Academic Personnel Manual and concomitant procedures established on each campus. Beyond these existing provisions for hearings and appeals, it is desirable to establish clearly the procedures to be followed in initiating and carrying through the various types of disciplinary action. It is not essential that the procedures be identical on every campus — for example, it is left to campus option whether a prior hearing shall be required before the imposition of a milder form of discipline such as written censure. It is important, however, that the same basic principles and standards prevail throughout the University.

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. 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.

Section II

THE FACULTY CODE OF CONDUCT AS APPROVED BY THE ASSEMBLY OF THE ACADEMIC SENATE

(Code of Professional Rights, Responsibilities,
and Conduct of University Faculty,
and University Disciplinary Procedures)

Preamble

The University seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom. Effective performance of these central functions requires that faculty members be free within their respective fields of competence to pursue and teach the truth in accord with appropriate standards of scholarly inquiry.

The faculty's privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty's special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members.

It is the intent of this Code to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

Part I of this Code sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty's pursuit of the University's central functions.

Part II of this Code elaborates standards of professional conduct, derived from general professional consensus about the existence of certain precepts as basic to acceptable faculty behavior. Conduct which departs from these precepts is viewed by faculty as unacceptable because it is inconsistent with the mission of the University. The articulation of types of unacceptable faculty conduct is appropriate both to verify that a consensus about minimally acceptable standards in fact does exist and to give fair notice to all that departures from these minimal standards may give rise to disciplinary proceedings.

In Part II a clear distinction is made between statements of (1) ethical principles and (2) types of unacceptable behavior.

1. Ethical Principles

These are drawn primarily from the 1966 *Statement on Professional Ethics* and subsequent revisions of June, 1987, issued by the American Association of University Professors. They comprise ethical prescriptions affirming the highest professional ideals. They are aspirational in character, and represent objectives toward which faculty members should strive. Behavior in accordance with these principles clearly precludes the application of a disciplinary sanction. These Ethical Principles are to be distinguished from *Types of Unacceptable Faculty Conduct* referred to in the following paragraph. The *Types of Unacceptable Faculty Conduct*, unlike the Ethical Principles, are mandatory in character, and state minimum levels of conduct below which a faculty member cannot fall without being subject to University discipline.

2. Types of Unacceptable Faculty Conduct

Derived from Ethical Principles, these statements specify types of unacceptable faculty behavior which are subject to University discipline because, as stated in the introductory section to Part II, they are “not justified by the Ethical Principles” and they “significantly impair the University’s central functions as set forth in the Preamble.”

Although the listing in neither category of statements is exhaustive, it encompasses major concerns traditionally and currently important to the profession. It is expected that case adjudication, the lessons of experience and evolving standards of the profession will promote reasoned adaptation and change of this Code. It should be noted, however, that no provision of the Code shall be construed as providing the basis for judging the propriety or impropriety of collective withholding of services by faculty. Rules and sanctions that presently exist to cover such actions derive from sources external to this Code.

Part III of this Code deals with the enforcement process applicable to unacceptable faculty behavior. That process must meet basic standards of fairness and must reflect significant faculty involvement. Common guidelines for these enforcement procedures and sanctions are elaborated, and procedural arrangements are suggested which may be employed, at the option of each Division, to satisfy these guidelines.

Part I

Professional Rights of Faculty

In support of the University's central functions as an institution of higher learning, a major responsibility of the Administration is to protect and encourage the faculty in its teaching, learning, research, and public service. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the Administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to the faculty, include, for example:

1. free inquiry, and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. participation in the governance of the University, as provided in the Bylaws and Standing Orders of The Regents and the regulations of the University, including
 - (a) approval of course content and manner of instruction,
 - (b) establishment of requirements for matriculation and for degrees,
 - (c) appointment and promotion of faculty,
 - (d) selection of chairs of departments and certain academic administrators,
 - (e) discipline of members of the faculty, and the formulation of rules and procedures for discipline of students,
 - (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
 - (g) determination of the forms of departmental governance;
5. the right to be judged by one's colleagues, in accordance with fair procedures, in matters of promotion, tenure, and discipline, solely on the basis of the faculty members' professional qualifications and professional conduct.

Part II

Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

This listing of faculty responsibilities, ethical principles, and types of unacceptable behavior is organized around the individual faculty member's relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. Since University discipline, as distinguished from other forms of reproof, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition, or its consequences, the following general principle is intended to govern all instances of its application:

University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions as set forth in the Preamble. The *Types of Unacceptable Conduct* listed below in Sections A through E meet the preceding standards and hence are subject to University discipline.

A. Teaching and Students

Ethical Principles. “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflects each student’s true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including:
 - (a) arbitrary denial of access to instruction;
 - (b) significant intrusion of material unrelated to the course;
 - (c) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;
 - (d) evaluation of student work by criteria not directly reflective of course performance;
 - (e) undue and unexcused delay in evaluating student work.
2. Discrimination against a student on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition*, status as a Vietnam-era veteran or disabled veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Knowing violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of handicap.

*Medical condition, according to the California Fair Employment and Housing Act, means “health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured.”

4. Use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons.
5. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

B. Scholarship

Ethical Principles. “Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

Violation of canons of intellectual honesty, such as intentional misappropriation of the writings, research, and findings of others.

C. The University

Ethical Principles. “As a member of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of the work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Intentional disruption of functions or activities sponsored or authorized by the University.

2. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that violence or abuse against persons or property will occur or that the University's central functions will be significantly impaired.
3. Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.
4. Forcible detention, threats of physical harm to, harassment or intimidation of another member of the University community, with the intent to interfere with that person's performance of University activities.

D. Colleagues

Ethical Principles. "As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debts and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution." (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance.
2. Discrimination against faculty on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition*, status as a Vietnam-era veteran or disabled veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Knowing violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against faculty on the basis of handicap.

*Medical condition, according to the California Fair Employment and Housing Act, means "health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured."

4. Breach of established rules governing confidentiality in personnel procedures.

E. The Community

Ethical Principles. “Faculty members have the same rights and obligations as all citizens. They are as free as other citizens to express their views and to participate in the political processes of the community. When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University.” (U.C. Academic Council Statement, 1971)

Types of unacceptable conduct:

1. Intentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member’s name in a public statement or appearance is permissible, if used solely for purposes of identification.)
2. Commission of a criminal act which has led to conviction in a court of law and which clearly demonstrates unfitness to continue as a member of the faculty.

Part III

Enforcement and Sanctions

The Assembly of the Academic Senate recommends that each Division, in cooperation with the campus Administration, promptly develop procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings.

Procedures shall be consistent with the By-Laws of the Academic Senate. Each Division should duly notify the University Committee on Rules and Jurisdiction and the University Committee on Privilege and Tenure of the procedures it has adopted and any subsequent changes therein. These Committees in turn are directed to report periodically to the Assembly of the Academic Senate on procedures adopted by the Divisions and to recommend to the Assembly such action as they deem appropriate for assuring compliance with the By-Laws of the Academic Senate or the promotion of uniformity among Divisions to the extent to which it appears necessary and desirable.

The following principles are recommended as guidelines in developing disciplinary procedures.

1. No disciplinary sanction for professional misconduct should be imposed by the Administration except in accordance with specified campus procedures adopted after appropriate consultation with agencies of the Academic Senate, as prescribed in the introduction to this part of the Code.
2. No disciplinary sanction should 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 By-Law 335.
3. Provision should be made for developing procedures whereby the Divisional Committee on Privilege and Tenure may sit in panels smaller than the full committee, to hear minor disciplinary cases or to facilitate the efficient and timely handling of a heavy case load.
4. There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, students, the Administration, and other members of the University community.
5. There should be provision for a method by which efforts can be made for informal disposition of allegations of faculty misconduct before formal disciplinary proceedings are instituted.
6. Appropriate precautions should be taken to safeguard the confidentiality of investigative and disciplinary proceedings.
7. Because it is desirable that the faculty meaningfully participate in its own self-discipline, and in order to provide the Administration with faculty advice in the beginning stages of what may become formal disciplinary proceedings, appropriate procedures should be developed to involve the faculty in participating in the investigation of allegations of misconduct and/or in making recommendations to appropriate administrative officers whether a disciplinary charge should be filed.
8. There should be provision, to the maximum feasible extent, for separating investigative and judicial functions. A faculty member who has participated in investigating an allegation of misconduct or in recommending that a charge should be filed should thereafter not participate, as a member of the Committee on Privilege and Tenure, in the hearing of that charge.
9. Consideration should be given to provision for the Divisional Committee on Privilege and Tenure to reconsider a case on which the Chancellor disagrees with the Committee's findings.

10. In the implementation of all procedures, specific provisions should be made for the time span within which certain actions may or must be taken.
11. There should be provision for the Chancellor to impose an interim suspension, with full pay, on a faculty member, without having followed the procedures otherwise applicable for imposing disciplinary sanctions, when the Chancellor finds that there is a clear probability that the faculty member's continued assignment to regular duties will be immediately and seriously harmful to the University community. There should be provision for written statement of the reasons for such a suspension, and procedures for prompt filing by the Chancellor of a charge with the Committee on Privilege and Tenure and for prompt hearing by that Committee.
12. The procedures adopted should include designation of permissible disciplinary sanctions. The following disciplinary sanctions are authorized in The Regents' statement of University Policy on Faculty Conduct and the Administration of Discipline, of which this Faculty Code is an integral part: written censure; suspension (other than interim suspension with pay); demotion (in rank or in salary step); dismissal from the employ of the University.
13. There should be consideration of provision for the availability of removal or termination of a sanction, either automatically or by administrative discretion, in individual cases. The nature and circumstances of the offense should determine the severity and type of discipline.

Revised APM 015 for Assembly Consideration

015-0—Policy

~~The University policy on faculty conduct and the administration of discipline is set forth in its entirety on the following pages.~~

~~UNIVERSITY POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE~~

[NOTE: The text from Section I of the University Policy on Faculty Conduct and the Administration of Discipline has been moved to new APM - 016]

~~Section I~~

~~This Policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, supersedes the President's interim statement on the same subject, issued on January 15, 1971. The present This policy incorporates is the Faculty Code of Conduct as approved by the Assembly of the Academic Senate on June 15, 1971, and amended by the Assembly on May 30, 1974, and with amendments approved by the Assembly on March 9, 1983, May 6, 1986, and May 7, 1992, and XXXX, 2001, and by The Regents on July 18, 1986, May 15, 1987, and June 19, 1992, and XXXX, 2001. In addition, technical changes were made September 1, 1988.~~

Additional policies regarding the scope and application of the Faculty Code of Conduct and the University's policies on faculty conduct and the administration of discipline are set forth in APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline.

~~Part I of the Faculty Code 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, 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 Standing Orders of The Regents, the policies and regulations of the University, and the By Laws and Regulations of the Academic Senate.~~

~~The Faculty Code 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 Code consists solely of suggested guidelines and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code, as incorporated into this Policy, 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 deals only with professional conduct or misconduct. However, faculty members, in common with all other members of the University community, are subject to the general rules and regulations of the University—e.g., those pertaining to parking, library privileges, health and safety, and use of University facilities—and are subject to appropriate sanctions for failure to comply with such rules and regulations.~~

~~To maintain consistency in the future between the Code, 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.~~

~~In case of disagreement between the administration and the faculty over the interpretation or application of the Code, conflicts will be resolved on a case-by-case basis, with the fullest consideration given to peer judgments achieved through procedures for discipline.~~

~~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.~~

~~Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).~~

~~The types of discipline that may be imposed on a member of the faculty are as follows: *written censure, suspension* (other than interim suspension with pay), *demotion*, and *dismissal* from the employ of the University. 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 expression of institutional rebuke, conveyed by the Chancellor or by a Dean to whom the Chancellor has delegated authority for this kind of disciplinary action. Written censure is to be distinguished from an informal spoken warning, and must be delivered confidentially to the recipient. Informal spoken warning is not an official disciplinary action.~~

~~2.—Suspension~~

~~Debarment of a faculty member for some stated period of time from the continuance of the appointment on its normal terms. 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 *interim suspension with pay*, which is a precautionary action, but not a form of discipline. A Chancellor is authorized to impose an interim suspension, with full pay, on a faculty member if it is found that there is a clear probability that the faculty member's continued assignment to regular duties will be immediately and seriously harmful to the University community. When such action is necessary it must be possible to impose the interim suspension swiftly, without resorting to normal disciplinary procedures, but the Chancellor must as soon as possible explain the reasons for the interim suspension and initiate disciplinary procedures by bringing charges against the suspended faculty member.~~

3.—Demotion

~~Reduction to lower rank, step, or salary. 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 or salary of any faculty member to a lower step or salary rests with the Chancellor. For either action, this authority may not be redelegated.~~

~~Authority for demoting a faculty 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.~~

In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to demoting or recommending for demotion any member of the faculty.

4.—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. In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to dismissing or recommending for dismissal any member of the faculty.

Procedures for Discipline

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

The Standing Orders 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” (Standing Orders 100.4(c), 103.9 and 103.10). In addition, Standing Order 103.2 provides that any member of the Academic Senate may have the privilege of a hearing by an appropriate Senate committee on matters relating to personal, departmental, or University welfare.

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. The traditional roles of the Divisional Committees on Privilege and Tenure are to take under consideration complaints against or by members of the Academic Senate and—in certain cases—other members of the faculty. The committees hold hearings and advise the administration.

For all academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there is an avenue for hearings and appeals separate from that of the Senate's committees. This avenue is provided in Section 140 of the Academic Personnel Manual and concomitant procedures established on each campus. Beyond these existing provisions for hearings and appeals, it is desirable to establish clearly the procedures to be followed in initiating and carrying through the various types of disciplinary action. It is not essential that the procedures be identical on every campus—for example, it is left to campus option whether a prior hearing shall be required before the imposition of a milder form of discipline such as written censure. It is important, however, that the same basic principles and standards prevail throughout the University.

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.

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.

Section II

The Faculty Code of Conduct as Approved by the Assembly of the Academic Senate

(Code of Professional Rights, Responsibilities,
and Conduct of University Faculty,
and University Disciplinary Procedures)

Preamble

The University seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom. Effective performance of these central functions requires that faculty members be free within their respective fields of competence to pursue and teach the truth in accord with appropriate standards of scholarly inquiry.

The faculty's privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty's special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members.

It is the intent of ~~this~~ the Faculty Code of Conduct to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

Part I of this Code sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty's pursuit of the University's central functions.

Part II of this Code elaborates standards of professional conduct, derived from general professional consensus about the existence of certain precepts as basic to acceptable faculty behavior. Conduct which departs from these precepts is viewed by faculty as unacceptable because it is inconsistent with the mission of the University. The articulation of types of unacceptable faculty conduct is appropriate both to verify that a consensus about minimally acceptable standards in fact does exist and to give fair notice to all that departures from these minimal standards may give rise to disciplinary proceedings.

In Part II a clear distinction is made between statements of (1) ethical principles and (2) types of unacceptable behavior.

1. **Ethical Principles**

These are drawn primarily from the 1966 *Statement on Professional Ethics* and subsequent revisions of June, 1987, issued by the American Association of University Professors. They comprise ethical prescriptions affirming the highest professional ideals. They are aspirational in character, and represent objectives toward which faculty members should strive. Behavior in accordance with these principles clearly precludes the application of a disciplinary sanction. These Ethical Principles are to be distinguished from *Types of Unacceptable Faculty Conduct* referred to in the following paragraph. The *Types of Unacceptable Faculty Conduct*, unlike the Ethical Principles, are mandatory in character, and state minimum levels of conduct below which a faculty member cannot fall without being subject to University discipline.

2. **Types of Unacceptable Faculty Conduct**

Derived from the Ethical Principles, these statements specify examples of types of unacceptable faculty behavior which are subject to University discipline because, as stated in the introductory section to Part II, they are “not justified by the Ethical Principles” and they “significantly impair the University’s central functions as set forth in the Preamble.”

~~Although the listing in neither category of statements is exhaustive, it~~ The Ethical Principles encompasses major concerns traditionally and currently important to the profession. The examples of types of unacceptable faculty conduct set forth below are not exhaustive. It is expected that case adjudication, the lessons of experience and evolving standards of the profession will promote reasoned adaptation and change of this Code. Faculty may be subjected to disciplinary action under this Code for any type of conduct which, although not specifically enumerated herein, meets the standard for unacceptable faculty behavior set forth above. It should be noted, however, that no provision of the Code shall be construed as providing the basis for judging the propriety or impropriety of collective withholding of services by faculty. Rules and sanctions that presently exist to cover such actions derive from sources external to this Code.

Part III of this Code deals with the enforcement process applicable to unacceptable faculty behavior. That process must meet basic standards of fairness and must reflect significant faculty involvement. ~~Common guidelines for these enforcement procedures and sanctions are elaborated, and procedural arrangements are suggested which may be employed, at the option of each Division, to satisfy these guidelines.~~ In order to guide each campus in the development of disciplinary procedures that comply with this policy and Senate Bylaws, Part III provides an outline of mandatory principles to which each Division must adhere and discretionary principles which are strongly recommended.

Part I – Professional Rights of Faculty

In support of the University's central functions as an institution of higher learning, a major responsibility of the Administration is to protect and encourage the faculty in its teaching, learning, research, and public service. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the Administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to the faculty, include, for example:

1. free inquiry, and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. participation in the governance of the University, as provided in the Bylaws and Standing Orders of The Regents and the regulations of the University, including
 - (a) approval of course content and manner of instruction,
 - (b) establishment of requirements for matriculation and for degrees,
 - (c) appointment and promotion of faculty,
 - (d) selection of chairs of departments and certain academic administrators,
 - (e) discipline of members of the faculty, and the formulation of rules and procedures for discipline of students,
 - (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
 - (g) determination of the forms of departmental governance;

5. the right to be judged by one's colleagues, in accordance with fair procedures and due process, in matters of promotion, tenure, and discipline, solely on the basis of the faculty members' professional qualifications and professional conduct.

Part II – Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

This listing of faculty responsibilities, ethical principles, and types of unacceptable behavior is organized around the individual faculty member's relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. Since University discipline, as distinguished from other forms of reproof or administrative actions, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition, or its consequences, the following general principle is intended to govern all instances of its application:

University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions as set forth in the Preamble. To the extent that violations of University policies mentioned in the examples below are not also inconsistent with the ethical principles, these policy violations may not be independent grounds for imposing discipline as defined herein. The *Types of Unacceptable Conduct* listed below in Sections A through E are examples of types of conduct which meet the preceding standards and hence are presumptively subject to University discipline. Other types of serious misconduct, not specifically enumerated herein, may nonetheless be the basis for disciplinary action if they also meet the preceding standards.

A. Teaching and Students

Ethical Principles. “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflects each student’s true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.” (AAUP Statement, 1966; Revised, 1987) In this section, the term student refers to all individuals under the academic supervision of faculty.

Types of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including:
 - (a) arbitrary denial of access to instruction;
 - (b) significant intrusion of material unrelated to the course;
 - (c) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;

- (d) evaluation of student work by criteria not directly reflective of course performance;
 - (e) undue and unexcused delay in evaluating student work.
2. Discrimination, including harassment, against a student on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition*, status as a ~~Vietnam-era~~ covered veteran ~~or disabled veteran~~, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
 3. ~~Knowing~~ Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of ~~handicap~~ disability.
 4. Use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons.
 5. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

*~~Medical condition, according to the California Fair Employment and Housing Act, means “health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured.”~~

B. Scholarship

Ethical Principles. “Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

Violation of canons of intellectual honesty, such as research misconduct and/or intentional misappropriation of the writings, research, and findings of others.

C. The University

Ethical Principles. “As a member of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of the work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Intentional disruption of functions or activities sponsored or authorized by the University.
2. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that violence or abuse against persons or property will occur or that the University’s central functions will be significantly impaired.
3. Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.
4. Forcible detention, threats of physical harm to, or harassment or intimidation of another member of the University community, ~~with the intent to interfere~~ that interferes with that person’s performance of University activities.
5. Discrimination, including harassment, against University employees on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran or, within the limits imposed by law or University regulations, because of age or citizenship, or for other arbitrary or personal reasons.

6. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against employees on the basis of disability.

7. Serious violation of University policies governing the professional conduct of faculty, including but not limited to policies applying to research, outside professional activities, conflicts of commitment, clinical practices, violence in the workplace, and whistleblower protections.

D. **Colleagues**

Ethical Principles. “As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debts and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance.
2. Discrimination, including harassment, against faculty on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition*, status as a ~~Vietnam-era~~ covered veteran ~~or disabled veteran~~, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. ~~Knowing~~ Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against faculty on the basis of ~~handicap~~ disability.
4. Breach of established rules governing confidentiality in personnel procedures.

*~~Medical condition, according to the California Fair Employment and Housing Act, means “health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured.”~~

E. The Community

Ethical Principles. “Faculty members have the same rights and obligations as all citizens. They are as free as other citizens to express their views and to participate in the political processes of the community. When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University.” (U.C. Academic Council Statement, 1971)

Types of unacceptable conduct:

1. Intentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member’s name in a public statement or appearance is permissible, if used solely for purposes of identification.)
2. Commission of a criminal act which has led to conviction in a court of law and which clearly demonstrates unfitness to continue as a member of the faculty.

Part III – Enforcement and Sanctions

The Assembly of the Academic Senate recommends that each Division, in cooperation with the campus Administration, ~~promptly~~ promptly develop and periodically re-examine procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings.

Procedures shall be consistent with the ~~By-Laws~~ Bylaws of the Academic Senate. Each Division should duly notify the University Committee on Rules and Jurisdiction and the University Committee on Privilege and Tenure of the procedures it has adopted and any subsequent changes therein. These Committees in turn are directed to report periodically to the Assembly of the Academic Senate on procedures adopted by the Divisions and to recommend to the Assembly such action as they deem appropriate for assuring compliance with the ~~By-Laws~~ Bylaws of the Academic Senate or the promotion of uniformity among Divisions to the extent to which it appears necessary and desirable.

~~The following principles are recommended as guidelines in developing disciplinary procedures.~~

- A. In the development of disciplinary procedures, each Division must adhere to the following principles:
1. No disciplinary sanction for professional misconduct ~~should~~ shall be imposed by the Administration except in accordance with specified campus procedures adopted after appropriate consultation with agencies of the Academic Senate, as prescribed in the introduction to this part of the Code. Systemwide procedures for the conduct of disciplinary hearings are set forth in Academic Senate Bylaw 336.

2. No disciplinary sanction ~~should~~ 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 ~~By-Law~~ Bylaw ~~335~~ 336.
 3. No disciplinary action may commence if more than three years have passed between the time when the Chancellor knew or should have known about the alleged violation of the Faculty Code of Conduct and the delivery of the notice of proposed disciplinary action.
 4. The Chancellor may not initiate notice of proposed disciplinary action unless there has been a finding of *probable cause*. The *probable cause* standard means that the facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct and that the Chancellor is satisfied that the University can produce credible evidence to support the claim. 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 explicitly waives his or her right to a hearing.
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~~12.~~ 5. The procedures adopted ~~should~~ shall include designation of ~~permissible disciplinary sanctions~~— ~~T~~the following disciplinary sanctions are authorized in ~~The Regents' statement of~~ the University Policy on Faculty Conduct and the Administration of Discipline, of which this Faculty Code of Conduct is an integral part: written censure; ~~;~~ suspension (other than interim suspension with pay); reduction in salary; ~~;~~ demotion (in rank or in salary step); ~~;~~ suspension; ~~;~~ denial or curtailment of emeritus status; ~~;~~ and dismissal from the employ of the University. 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. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g. a letter of censure and a suspension.

A. In the development of disciplinary procedures, it is recommended that each Division adhere to the following principles:

- ~~3.~~ 1. ~~Provision should be made for developing procedures whereby the Divisional Committee on Privilege and Tenure may sit in panels smaller than the full committee, to hear minor disciplinary cases or to facilitate the efficient and timely handling of a heavy case load. In order to facilitate the efficient and timely handling of disciplinary matters, it is recommended that procedures be developed that allow each Divisional Committee on Privilege and Tenure to sit in hearing panels smaller than the full committee.~~
- ~~4.~~ 2. There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, staff, students, the Aadministration, and other members of the University community. Procedures should be developed which encourage a single formal investigation of the allegations leading to the proposed disciplinary action.
- ~~7.~~ 3. Because it is desirable that the faculty meaningfully participate in its own self-discipline, and in order to provide the Aadministration with faculty advice in the beginning stages of what may become formal

disciplinary proceedings, appropriate procedures should be developed to involve the faculty in participating in the investigation of allegations of misconduct and/or in making recommendations to appropriate administrative officers whether a disciplinary charge should be filed. Divisions are encouraged to develop procedures to provide faculty investigators with training, consultation, or legal counsel to assist with the investigation of faculty disciplinary cases.

5. ~~4.~~ There should be provision for ~~a method by which efforts can be made for~~ informal disposition of allegations of faculty misconduct before formal disciplinary proceedings are instituted. Procedures should be developed for mediation of cases where mediation is viewed as acceptable by the Chancellor and the faculty member accused of misconduct. Mediators should be trained in mediation, be regarded as neutral third parties and have experience in the University environment. In cases where a settlement resolving disciplinary charges is entered into after a matter has been referred to an Academic Senate committee, the Chancellor is encouraged to consult with the Chair of the Divisional Privilege and Tenure committee prior to finalizing the settlement.
- ~~6.~~ 5. Appropriate precautions should be taken to safeguard the confidentiality of investigative and disciplinary proceedings. Procedures should be developed that allow information about an ongoing disciplinary proceeding, including information about the outcome, to be shared with complainant(s), to the extent allowable by State law and University policy.
- ~~8.~~ 6. There should be provision, to the maximum feasible extent, for separating investigative and judicial functions. A faculty member who has participated in investigating an allegation of misconduct or in recommending that a charge should be filed should thereafter not participate, as a member of the Committee on Privilege and Tenure, in the hearing of that charge.

- ~~9. — Consideration should be given to provision for the Divisional Committee on Privilege and Tenure to reconsider a case on which the Chancellor disagrees with the Committee's findings.~~
10. 7. In the implementation of all procedures, specific provisions should be made for the time span within which certain actions may or must be taken. Every effort should be made to conform to reasonable, specified time frames. Ideally, 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.
- ~~11. — There should be provision for the Chancellor to impose an interim suspension, with full pay, on a faculty member, without having followed the procedures otherwise applicable for imposing disciplinary sanctions, when the Chancellor finds that there is a clear probability that the faculty member's continued assignment to regular duties will be immediately and seriously harmful to the University community. There should be provision for written statement of the reasons for such a suspension, and procedures for prompt filing by the Chancellor of a charge with the Committee on Privilege and Tenure and for prompt hearing by that Committee.~~
13. 8. There should be consideration of provision for the availability of removal or termination of a sanction, either automatically or by administrative discretion, in individual cases. The nature and circumstances of the offense should determine the severity and type of discipline.
9. Procedures should be developed for keeping records of disciplinary matters in a confidential manner and sharing such records with Senate and administrative officers with a need to know in accordance with State law and University policy.

APM 016 for Assembly Consideration

[NOTE: The text in proposed APM - 016 derives from text that currently appears in APM - 015]

015-0—~~Policy~~

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 ~~on the following pages~~ in this policy and in the Faculty Code of Conduct.

Section I – Introduction and General Policy

This ~~P~~policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, and XXXX, 2001, supersedes the President's interim statement on the same subject, issued on January 15, 1971. The present policy ~~incorporates~~ is to be read in conjunction with the Faculty Code of Conduct ~~as approved by the Assembly of the Academic Senate on June 15, 1971 and amended by the Assembly on May 30, 1974, and with amendments approved by the Assembly on March 9, 1983, May 6, 1986, and May 7, 1992, and by The Regents on July 18, 1986, May 15, 1987, and June 19, 1992. In addition, technical changes were made September 1, 1988.~~

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 ~~P~~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 Standing Orders of The Regents, the policies and regulations of the University, and the ~~By-Laws~~ 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 ~~solely of suggested guidelines~~ of mandatory principles and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code of Conduct, as ~~incorporated into this Policy~~ 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 ~~professional conduct or misconduct~~ 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, ~~However,~~ faculty members, may be subject to certain administrative actions which are outside the scope of faculty discipline. For example, like ~~in common with~~ all other members of the University community, faculty members are subject to the general rules and regulations of the University —e.g., such as those pertaining to parking, library privileges, health and safety, and use of University facilities. —~~and Faculty~~ are subject to appropriate administrative actions ~~sanctions~~ 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 (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).

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 Privilege and Tenure Committee, the Chancellor shall inform the Chair of the Privilege and Tenure Committee in writing that he or she 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.

~~Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).~~

Section II – 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 (~~other than interim suspension with pay~~), ~~demotion~~, 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 ~~or by a Dean to whom the Chancellor has delegated authority for this kind of disciplinary action~~. 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 ~~or~~ 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 ~~or salary~~ of any faculty member to a lower step ~~or salary~~ rests with the Chancellor. ~~For either action, 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.

~~In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to demoting or recommending for demotion any member of the faculty.~~

2. 4. Suspension

~~Debarment~~ 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 ~~interim suspension with pay~~ involuntary leave, which is a precautionary action, ~~but not a form of discipline. A Chancellor is authorized to impose an interim suspension, with full pay, on a faculty member if it is found that there is a clear probability that the faculty member's continued assignment to regular duties will be immediately and seriously harmful to the University community. When such action is necessary it must be possible to impose the interim suspension swiftly, without resorting to normal disciplinary procedures, but the Chancellor must as soon as possible explain the reasons for the interim suspension and initiate disciplinary procedures by bringing charges against the suspended faculty member.~~

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.

4. 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. ~~In all cases, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate prior to dismissing or recommending for dismissal any member of the faculty.~~

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 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 his or her 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 his or her duties for an extended period of time, pending the resolution of the faculty member's employment status with the University. However, within 10 working days after the imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave and initiate disciplinary procedures by bringing charges against the faculty member on leave. Thereafter, the faculty member may grieve the decision to place him or her on involuntary leave pursuant to applicable faculty grievance procedures. The Divisional Committee on Privilege and Tenure shall handle such grievances on an expedited basis and may recommend reinstatement of pay and back pay in cases where pay status was suspended.

Section III - Procedures for ~~Imposition of Discipline~~ Disciplinary Sanction

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

The Standing Orders 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” (Standing Orders 100.4(c), 103.9 and 103.10). ~~In addition, Standing Order 103.2 provides that any member of the Academic Senate may have the privilege of a hearing by an appropriate Senate committee on matters relating to personal, departmental, or University welfare.~~

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. ~~are to take under consideration complaints against or by members of the Academic Senate and in certain cases other members of the faculty. The committees hold hearings and advise the administration.~~

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 all academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there is an avenue for hearings and appeals ~~are procedures for disciplinary actions~~ separate from that of the Senate's committees. This avenue is provided in Section 140 Those procedures are found in APM - 150 of the Academic Personnel Manual and relevant collective bargaining agreements or Memoranda of Understanding. and concomitant procedures established on each campus. Beyond these existing provisions for hearings and appeals, it is desirable to establish clearly the procedures to be followed in initiating and carrying through the various types of disciplinary action. It is not essential that the procedures be identical on every campus—for example, it is left to campus option whether a prior hearing shall be required before the imposition of a milder form of discipline such as written censure. It is important, however, that the same basic principles and standards prevail throughout the University.

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.

Memorandum of Revisions to Proposed Drafts APM - 015 and 016

The following lists represent changes made to proposed revised APM-015 and proposed

APM-016, dated April 3, 2001, that were circulated for formal review by a letter from Provost and Senior Vice President King, dated April 11, 2001. The new drafts of proposed APM-015 and 016, dated August 9, 2001, incorporate the changes listed below.

A. Changes made pursuant to formal review that were approved by the Academic Council along with the April 3, 2001, drafts of proposed revised APM - 015 and proposed APM - 016.

- APM-015, Preamble, paragraph numbered 2: Change end of the first sentence back to the original text so the sentence reads, "Derived from the Ethical Principles, these statements specify examples of types of unacceptable faculty behavior which are subject to University discipline because, as stated in the introductory section to Part II, they are 'not justified by the Ethical Principles' and they 'significantly impair the University's central functions as set forth in the Preamble.'"
- APM - 015, Part II, second paragraph, first sentence: Change the first sentence back to the original text, consistent with the above change to the Preamble, to read, "University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions as set forth in the Preamble."
- APM - 015, Part II, second paragraph, second sentence: Change this sentence, consistent with the above change to the Preamble, to read: "To the extent that violations of University policies mentioned in the examples below

are not also inconsistent with the ethical principles, these policy violations may not be independent grounds for imposing discipline as defined herein.”

- APM - 015, Part II, second paragraph, fourth sentence: Change “conduct” to “serious misconduct,” so that the sentence reads: “Other types of serious misconduct, not specifically enumerated herein, may nonetheless be the basis for disciplinary action if they also meet the preceding standards.”
- APM - 015, Part II, C. 4: Delete the word “intimidation” from this sentence, so that it reads: “Forcible detention, threats of physical harm to, or harassment of another member of the University community, that interferes with that person's performance of University activities.”
- APM - 015, Part II, C. 7: Add the word “serious” to the beginning of this sentence regarding violations of University policies.
- APM - 015, Part III, B.7: Change 45 days to 90 days in the third sentence as follows: “Ideally, 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 hearing.”
- APM - 016, Section II, paragraph numbered 4. Delete the last phrase “but not a form of discipline” from the last sentence. This change is not intended to change the meaning of the sentence, but to eliminate confusion generated by the last phrase regarding the meaning of the word “discipline” in this context.

B. Changes made at the suggestion of UCP&T in response to the request by the Academic Council to have UCP&T discuss concerns raised about the proposals by UC Santa Barbara Charges Committee Officer J. William Forgie.

- APM - 016, Section I, ninth paragraph, last sentence: Change the phrase “In cases where a Chancellor’s tentative decision to impose discipline on a faculty member disagrees with the recommendation of the Divisional Privilege and Tenure Committee,” to “In cases where a Chancellor’s tentative decision regarding the imposition of discipline on a faculty member

disagrees with the recommendation of the Divisional Privilege and Tenure Committee,”

- APM - 016, Section II, first paragraph: Delete fourth sentence because it is repeated in first paragraph following paragraph numbered 6.
- APM - 016, Section II, second paragraph following paragraph numbered 6: In the last sentence, change the phrase “commitment not to repeat the misconduct” to “compliance with a commitment not to repeat the misconduct.”

C. Changes made at the suggestion of campus administrators to clarify the meaning of the text. These changes are technical only and do not change the meaning of the document.

- APM - 015, Part II, C. 5 and Part II, C.6: Change the word “staff” to “employees” to ensure that non-senate academic appointees are included in the prohibition against harassment and discrimination.
- APM - 015, Part III, A.5: Change the second to last sentence to read, “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.” The original sentence read, “The Divisional Committee on Privilege and Tenure shall not have the power to recommend the imposition of a sanction more severe than that proposed in the notice of disciplinary action.”
- APM - 016, first sentence: Delete unnecessary phrase “on the following pages.”

- I. APM - 016, Section I, fifth paragraph: Change the phrase “with the recognition that Part III of the Faculty Code of Conduct consists solely of guidelines and recommendations. . . .” to “with the recognition that Part III of the Faculty Code of Conduct consists of mandatory principles and recommendations. . . .” to match proposed revisions to APM - 015, Part III that were set forth in the April 3, 2001, draft.