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NOTICE OF MEETING

MEETING OF THE ASSEMBLY OF THE ACADEMIC SENATE

Wednesday, July 30, 2003, 1 p.m. - 5 p.m.
Lipman Room, 8th Floor, Barrows Hall
University of California, Berkeley
(510) 643-3886

- | | | |
|-----|---|----------|
| I. | ROLL CALL OF MEMBERS | 1 |
| II. | BUSINESS – | |
| | Proposed Revision of Academic Personnel Manual | 2 |
| | (APM) 010 – Academic Freedom (action) | |
| | • Gayle Binion, Chair | |

Next regular meeting of the Assembly: Wednesday, October 29, 2003, UC Berkeley

I. ROLL CALL

2002-2003 Assembly Roll Call July 30, 2003

President of the University:

Richard Atkinson

Academic Council Members:

Gayle Binion, Chair

Lawrence Pitts, Vice Chair

Catherine Koshland, Chair, UCB

Bruce Madewell, Chair, UCD

James Given, Past-Chair, UCI (alt. for Philip DiSaia, Chair, UCI)

Clifford Brunk, Vice Chair, UCLA (alt. for Duncan Lindsey, Chair, UCLA)

Robert Heath, Vice Chair UCR (alt. for Irwin Sherman, Chair, UCR)

Joel Dimsdale, Chair, UCSD

Daniel Bikle, Chair, UCSF

Walter Yuen, Chair, UCSB

George Blumenthal, Chair, UCSC

Michelle Yeh, Chair, UCAP

Richard Church, Chair, CCGA

Andrew Grosovsky, Chair, UCEP

Barbara Sawrey, Chair, BOARS

Mark Traugott, Chair, UCFW

Janis Ingham, Chair UCORP

Richard Price, Chair, UCPB

Berkeley (7)

Richard Abrams

Sharon Fleming

Michael Hanemann

Andrew Garrett (alt. for Russell Jones)

Donald Mastronarde

Ignacio Navarrete

Raymond Wolfinger (alt. for Robert Spear)

Davis (6)

Peter Hays

Ryken Grattet (alt. for Gyongy Laky)

Jerry Powell

John Rutledge

Evelyn Silvia

Margaret Rucker (alt. for Philip Yager)

Irvine (4)

Joseph DiMento

Linda Georgianna

Alexei A. Maradudin

Thomas Poulos

Los Angeles (9)

Kathryn Atchison

Charles Berst

Tasneem Naqvi (alt. for Dalila Corry)

Jamie Villablanca (alt. for Robert Ettenger)

Phillip Bonacich (alt. for Lillian Gelberg)

Ann Karagozian

Seymour Levin

Vickie Mays

Jane Valentine

Riverside (2)

R. Erwin Taylor

Linda Tomko

San Diego (4)

Stuart Brody

Ellen T. Comisso

Terry Jernigan (alt. for Barney Rickett)

Geert Schmid-Schoenbein

San Francisco (3)

Patricia Benner

Philip Darney

Francisco Ramos-Gomez

Santa Barbara (3)

Michael Gerber

Susan Koshy

Nelson Lichtenstein

Santa Cruz (2)

Alison Galloway

John Lynch

Secretary/Parliamentarian

Robert Anderson (alt. for Peter Berck)

II. Business
Proposed Revision of Academic Personnel Manual
(APM) 010 – Academic Freedom (action)
• **Gayle Binion, Chair**

The July 30, 2003 meeting of the Assembly of Academic Senate has been called with the approval of the Academic Council and as noticed at the May 28, 2003 meeting of the Assembly to vote on the proposed revision of Academic Personnel Manual (APM) 010 – Academic Freedom.

PROPOSED REVISION OF APM 010 - ACADEMIC FREEDOM

The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University's fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom guarantee freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public, both inside and beyond the classroom. The University also seeks to foster in its students a mature independence of mind, and this purpose cannot be achieved unless students and faculty are free within the classroom to express the widest range of viewpoints within the standards of scholarly inquiry and professional ethics. **The exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty. The contours of these duties are more fully set forth in The Faculty Code of Conduct (APM 015).**

Academic freedom requires that teaching and scholarship be assessed only by reference to the professional standards that sustain the University's pursuit and achievement of knowledge.¹ The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body. The

¹ The original language of § 10 of the APM, which was drafted in 1934, associated academic freedom with scholarship that gave “play to intellect rather than to passion.” It conceived scholarship as “dispassionate” and as concerned only with “the logic of the facts.” The revised version of § 10 supersedes this standpoint. It holds that academic freedom depends upon the quality of scholarship, which is to be assessed by the content of scholarship, not by the motivations that led to its production. The revision of § 10 therefore does not distinguish between “interested” and “disinterested” scholarship; it differentiates instead between competent and incompetent scholarship. Although competent scholarship requires an open mind, this does not mean that faculty are unprofessional if they reach definite conclusions. It means rather that faculty must always stand ready to revise their conclusions in the light of new evidence or further discussion. Although competent scholarship requires the exercise of reason, this does not mean that faculty are unprofessional if they are urgently committed to a definite point of view. It means rather that faculty must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion. Competent scholarship can and frequently does communicate definite and politically salient viewpoints about important and controversial questions.

competence of the faculty to apply these standards of assessment is recognized in the Standing Orders of the Regents, which establish a system of shared governance between the Administration and the Academic Senate. Academic freedom requires that the Academic Senate be given primary responsibility for applying academic standards and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care.

Members of the faculty are entitled as University employees to the full protections of the Constitution of the United States and of the Constitution of the State of California. These protections are in addition to whatever rights, privileges and responsibilities attach to the academic freedom of university faculty.

As noted previously, the Academic Council discussed an alternate version of the proposed revision of APM 010. Although not endorsed by the Academic Council, it was agreed that this version would be included in the Assembly “blue book.” The body of the alternate version also contains a reference to the limitations contained in APM 015 but adds a specific reference to one of these prohibitions (“*coercing the judgment of a student,*”) as well as opposing “the use of instruction as a means to nonacademic ends.”

PROPOSED REVISION OF APM 010 – ACADEMIC FREEDOM Alternate Version

The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University’s fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom guarantee freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public, both inside and beyond the classroom. The University also seeks to foster in its students a mature independence of mind, and this purpose cannot be achieved unless students and faculty are free within the classroom to express the widest range of viewpoints within the standards of scholarly inquiry and professional ethics. **The exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty. Responsible instruction precludes coercing the judgment of a student, or the use of instruction as a means to nonacademic ends. Specific standards of professional care are more fully set forth in The Faculty Code of Conduct (APM 015).**

Academic freedom requires that teaching and scholarship be assessed only by reference to the professional standards that sustain the University’s pursuit and achievement of knowledge.¹ The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body. The competence of the faculty to apply these standards of assessment is recognized in the Standing Orders of the Regents, which establish a system of shared governance between the Administration and the Academic Senate. Academic freedom requires that the

¹ The original language of § 10 of the APM, which was drafted in 1934, associated academic freedom with scholarship that gave “play to intellect rather than to passion.” It conceived scholarship as “dispassionate” and as concerned only with “the logic of the facts.” The revised version of § 10 supersedes this standpoint. It holds that academic freedom depends upon the quality of scholarship, which is to be assessed by the content of scholarship, not by the motivations that led to its production. The revision of § 10 therefore does not distinguish between “interested” and “disinterested” scholarship; it differentiates instead between competent and incompetent scholarship. Although competent scholarship requires an open mind, this does not mean that faculty are unprofessional if they reach definite conclusions. It means rather that faculty must always stand ready to revise their conclusions in the light of new evidence or further discussion. Although competent scholarship requires the exercise of reason, this does not mean that faculty are unprofessional if they are urgently committed to a definite point of view. It means rather that faculty must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion. Competent scholarship can and frequently does communicate definite and politically salient viewpoints about important and controversial questions.

Academic Senate be given primary responsibility for applying academic standards and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care.

Members of the faculty are entitled as University employees to the full protections of the Constitution of the United States and of the Constitution of the State of California. These protections are in addition to whatever rights, privileges and responsibilities attach to the academic freedom of university faculty.

Appendix A

Current APM 010

<http://www.ucop.edu/acadadv/acadpers/apm/apm-010.pdf>

GENERAL UNIVERSITY POLICY REGARDING APM - 010
ACADEMIC APPOINTEES
Academic Freedom

010-0 Policy

University of California Regulation No. 5, set forth in the following page, is the official statement of academic freedom.

GENERAL UNIVERSITY POLICY REGARDING APM - 010
ACADEMIC APPOINTEES
Academic Freedom
University of California
(Revised No. 5)

University Regulations

Academic Freedom

The following announcement was originally made by the President of the University before the Northern Section of the Academic Senate on August 27, 1934, and is to be regarded as a setting forth of the principles which guide the President in these matters and accordingly stand as, in a certain sense, the policy of the University.

The function of the university is to seek and to transmit knowledge and to train students in the processes whereby truth is to be made known. To convert, or to make converts, is alien and hostile to this dispassionate duty. Where it becomes necessary, in performing this function of a university, to consider political, social, or sectarian movements, they are dissected and examined—not taught, and the conclusion left, with no tipping of the scales, to the logic of the facts.

The University is founded upon faith in intelligence and knowledge and it must defend their free operation. It must rely upon truth to combat error. Its obligation is to see that the conditions under which questions are examined are those which give play to intellect rather than to passion. Essentially the freedom of a university is the freedom of competent persons in the classroom. In order to protect this freedom, the University assumes the right to prevent exploitation of its prestige by unqualified persons or by those who would use it as a platform for propaganda. It therefore takes great care in the appointment of its teachers; it must take corresponding care with respect to others who wish to speak in its name.

The University respects personal belief as the private concern of the individual. It equally respects the constitutional rights of the citizen. It insists only that its members, as individuals and as citizens, shall likewise always respect—and not exploit, their University connection.

The University of California is the creature of the State and its loyalty to the State will never waver. It will not aid nor will it condone actions contrary to the laws of the State. Its high function—and its high privilege, the University will steadily continue to fulfill, serving the people by providing facilities for investigation and teaching free from domination by parties, sects, or selfish interests. The University expects the State, in return, and to its own great gain, to protect this indispensable freedom, a freedom like the freedom of the press, that is the heritage and the right of a free people.

For the President of the University

F. C. Stevens
Executive Secretary

Approved:

Robert G. Sproul
Berkeley, June 15, 1944

Appendix B

Standing Committees of the Assembly responses to the proposed revision of APM 010

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UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

MEMORANDUM

TO: Gayle Binion, Academic Council Chair

FROM: Gary Watson
Chair, University Committee on Academic Freedom

RE: Amendment to APM 010, Academic Freedom

DATE: June 25, 2003

Dear Chair Binion:

On Friday May 23, members of the University Committee on Academic Freedom were asked to vote and comment on a revised version of APM 010 going before the Assembly for approval on May 28. Seven members of the committee voted in favor of the revision. The final vote was 7-1.

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MICHELLE YEH
CHAIR, UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL
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17 July 2003

PROFESSOR GAYLE BINION
CHAIR, ACADEMIC COUNCIL

Dear Gayle:

Re: *UCAP Response to latest proposed revision of APM 010 – Academic Freedom*

At its meeting on June 17, 2003, the University Committee on Academic Personnel (UCAP) reviewed your May 29, 2003 letter to the Academic Council and to Chair Holt of the University Committee on Privilege and Tenure (UCP&T) with an amended revision of the APM 010 – Academic Freedom by University Committee on Academic Freedom (UCAF) that had been distributed and discussed at the Assembly meeting on May 28, 2003. It was our understanding that the Assembly voted on May 28 to return the proposed revision to the Council, and the discussion was ongoing. UCAP also reviewed Divisional, Committee and individual responses that had been distributed (without discussion) at the May 21, 2003 Academic Council meeting. UCAP was asked to comment on the latest revised statement in light of the new material.

Following considerable discussion, UCAP endorsed by consensus the UCAF-amended revision of APM 010, although no formal vote was taken. Two suggestions for the Council and the Assembly to consider are also forwarded herewith.

- 1) The body of the text should incorporate a specific reference to APM 015 – Faculty Code of Conduct as limiting principles with respect to academic freedom. (Hence, no need for footnote #2.) This would help clarify that academic freedom does not exist without entailing responsibilities.
- 2) Footnote #1 should be deleted from the revision. The dismissive tone toward the original APM 010, which has served the University well for decades, was deemed unnecessary.

Sincerely,

Michelle Yeh
Chair, UCAP

MY/lt-vp

C: UCAP members
Academic Council Executive Director Bertero-Barceló



ANDREW GROSOVSKY
CHAIR, UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY
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Riverside, California 92521-0201

30 June 2003

PROFESSOR GAYLE BINION
CHAIR, ACADEMIC COUNCIL

Dear Gayle:

Re: Revised version of proposed revisions to APM 010 – Academic Freedom statement

At its June 2, 2003 meeting, the University Committee on Educational Policy (UCEP) reviewed and discussed your May 29, 2003 letter to Academic Council and to Chair Holt of University Committee on Privilege and Tenure (UCP&T) on proposed revisions to APM 010 – Academic Freedom, with attached Proposed Revisions from University Committee on Academic Freedom (UCAF) submitted to the Assembly of the Academic Senate on May 28, 2003, and also considered the viewpoints from Divisions and Senate committees that were distributed at the May 21, 2003 Academic Council meeting.

There was a great deal of discussion and consideration of multiple proposed revisions and amendments, and some concern was expressed regarding the very short time available to consider the thoughtful statements from various Divisions. Despite this significant concern, UCEP was able to approve a motion to 1) accept the amendments proposed by UCAF that were submitted to the Assembly on May 28, including placement of the footnote superscript (referring to footnote 1) as discussed by UCP&T, and 2) to retain the original footnote 1 that appears in the revised document attached to UCP&T's letter to Academic Council on 21 April, 2003 (page 20 of Distribution 1, Academic Council Agenda, 05/21/03).

Sincerely,

Andrew Grosovsky
Chair, UCEP

:lt-vp

C: UCEP members
Academic Council Director Bertero-Barceló



Mark Traugott, Chair
University Committee on Faculty Welfare
Stevenson College, UC Santa Cruz
traugott@cats.ucsc.edu

June 25, 2003

GAYLE BINION, CHAIR
ACADEMIC COUNCIL

Re: APM 010 – Statement on Academic Freedom

Dear Gayle,

At its June 11, 2003 meeting, UCFW reaffirmed its endorsement of the new language on academic freedom. The committee also noted that it is important for the University to support the academic freedom rights of students, as reflected in the proposed new language for APM 015.

Sincerely,

Mark Traugott, Chair
University Committee on Faculty Welfare

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UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Chair Darrell Long

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

June 18, 2003

GAYLE BINION, CHAIR
ACADEMIC COUNCIL

RE: Proposed Revisions to APM 010 – Academic Freedom (May 28, 2003)

Dear Chair Binion:

At the June 16 meeting of UCORP, our committee discussed UCAF's proposed revisions to APM 010 that were submitted to the Assembly of the Academic Senate on May 28. While our committee members varied in their opinions of and support for the proposed revisions to academic freedom, the committee voted in favor of this proposal being forwarded to the Assembly for consideration at the July 30 Special Meeting.

Sincerely,

Janis Ingham, Vice Chair
UCORP

cc: Maria Bertero-Barcelo, Executive Director



UNIVERSITY COMMITTEE ON PLANNING AND BUDGET

May 6, 2003

To: Gayle Binion, Chair, Academic Senate
From: Richard Price, UCPB Chair

RE: Proposed Policy on Academic Freedom – APM 010

Dear Chair Binion,

UCPB has reviewed the proposed new policy on academic Freedom – APM 010, and generally endorses it as a suitable and welcome replacement for the current APM statement on academic freedom. Members found the policy's language to be rather general, however, and felt that the document would gain clarity by integrating the specific language referring to competence and professional standards in footnote 1 (or similar language in the author's accompanying letter), into the text of the policy itself. The committee discussed the obvious points of intersection between the terms of this proposed new APM 010 regarding professional conduct and APM 015, and would like to note that adoption of this policy may call for a review and possible revision of relevant parts of APM 015.

Note: Subject to further comments by the UCPB Chair at the July 30 meeting of the Assembly.

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UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE (UCP&T)
Chair Jodie Holt

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Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309*

June 23, 2003

GAYLE BINION, CHAIR
ACADEMIC COUNCIL

RE: Proposed Revisions to APM 010 – Academic Freedom (May 28, 2003)

Dear Chair Binion:

Members of the University Committee on Privilege and Tenure have reviewed UCAF's proposed revisions to APM 010 that were submitted to the Assembly of the Academic Senate on May 28. One member who reviewed the document has indicated that "supersede" is spelled incorrectly in the footnote of the proposal. This new version of the APM 010 revisions, however, has not changed UCP&T's original position, which was submitted to the Academic Council on April 21, regarding the academic freedom statement revisions.

Sincerely,

Jodie Holt, Chair
UCP&T

cc: Maria Bertero-Barcelo, Executive Director

Appendix C

Excerpt from the June 18, 2003 Academic Council Meeting Discussion on Proposed Revisions to APM 010

V. Proposed Revisions to APM 010 – Statement on Academic Freedom

▪ Professor Robert Post

Issue: At its May 28, 2003 meeting, the Assembly voted to recommit UCAF's proposed version of APM 010 to the Academic Council for further discussion. That iteration of the proposed policy was based on an original drafted by Professor Robert Post at the request of President Atkinson. Council will discuss possible amendments to the UCAF version, and endorse a version to go before the Assembly at the July 30 meeting. Professor Post is available to respond to comments and questions.

Discussion: Council members offered updates on the respective positions of the Senate bodies they represent. All reported general support of the document, with a strong minority recommending that it be amended to include more explicit reference to the responsibilities attending academic freedom. As a means to that end, it was suggested that footnote #2 be incorporated into the body of the text. Additionally, concern was expressed about the lack of time for due consideration at the campus level, and suggestions made to: 1) make available concrete examples of the policy's application; and 2) consider undertaking a review APM 015.

Further discussion generated two possible amended versions. Both versions are appended to these minutes. One version (Appendix A) would incorporate footnote 2 into the text, thereby including direct mention of correlative responsibilities that come with academic freedom, and reference to APM 015. The second version (Appendix B) would also incorporate footnote 2 into the text, but in order to further emphasize the sense of responsibility, would include an additional sentence that mentioned specific limitations of academic freedom using language from APM 015. In favor of the first version, it was argued that the language already found in the footnote would be sufficient to link APM 010 directly to the restrictions listed in APM 015. It was further commented that, since there are numerous restrictions in APM 015, singling any in particular would lend them a special status and possibly lead to misinterpretation.

The advisability of presenting two amended versions to the Assembly was discussed. Some members strongly felt this to be an effective approach that offered a full picture in a comparative format of the options considered by Council. On the other hand, having two endorsed versions was seen as an anomalous practice. It was resolved, after the series of actions recorded below, to present to Assembly a summary of the Council's discussions, indicating the version endorsed by Council (Appendix A) and one alternate (Appendix B) that Assembly may wish to consider. Also recommended was the inclusion of a summary of the case examples offered by Professor Post (see below for summary).

Professor Post: There are a number of significant differences between the proposed statement on academic freedom and the current APM 010. The following two familiar cases exemplify some of these differences. First, in the case of the Berkeley English course R1A, the original course description was revised and then approved by the campus Committee on Courses and Berkeley's Chancellor. Nonetheless, there was the feeling from other quarters that the course should be cancelled. In this instance (and assuming for purposes of this argument that the instructor was not a GSI), the application of the current APM 010 would have disqualified the instructor from teaching by virtue of the fact that he cared passionately about the subject matter he was teaching. Passion links to the motivation behind actions. A common notion among the lay public or those who do not have a good understanding of academic freedom is that scholarship and teaching should be value neutral. According to this notion, a scholar is disinterested, or should not care strongly about what he/she is doing. This position is, however, not tenable in the contemporary world. Of course there are cases where faculty are passionate about their work and their passion occludes judgment. But then, it is their judgment that needs to be evaluated, not their motivation.

The proposed APM 010 -- rather than questioning the motivation behind teaching and research -- would question whether what is in a course description, or done in a classroom, or written on a page is competent and meets professional standards. Motivations and beliefs are irrelevant. The proposed new statement would allow faculty to care deeply about their work or strongly state their opinions as long as that is done in a manner consistent with the goal of instilling in students "a mature independence of mind" (see para.1 of the proposed statement). In this example, the current statement on academic freedom and the proposed new statement lead to fundamentally different conclusions.

Another case brings out further differences between the two documents. The current academic freedom statement, as written by President Sproul, is a political bargain stipulating that the University stays out of politics and the state stays out of scholarship. The deal-making nature of this statement is politically pragmatic, but seriously misrepresents the fundamentals of academic freedom. What provides the basis of academic freedom is not a political bargain, but the mission of the University. (See paragraph 1 of the proposed new statement.) During the controversy surrounding the Free Speech Movement, UC President Clarke Kerr attempted to limit speech on the Berkeley campus, reiterating the Sproul statement. According to this view, the University would uphold its part of the bargain with the state by not allowing students to speak about political events. This was, however, an untenable position that had disastrous results. Political pragmatism and accommodation are not what academic freedom rests on.

Action:

A motion was made, seconded and carried in a 10-7 vote to endorse UCAF's proposed amendment to APM 010 – Statement on Academic Freedom with the following changes:

The content of footnote #2 will be incorporated into the body of the text as the final two sentences of the first paragraph; the words "The exercise of ..." will be

inserted at the beginning of the first sentence of the added text. This version will be presented to Assembly for consideration at its July 30, 2003 meeting.

As a supplement to the above officially endorsed version, Council will include in its distribution to Assembly members a summary of the Council's discussion of this matter at its June 18 meeting, a copy of an alternate version of APM 010 that was discussed, and Professor Post's examples showing the differences in practice between the current APM 010 and the proposed APM 010.

Appendix D

APM 015 Faculty Code of Conduct

(<http://www.ucop.edu/acadadv/acadpers/apm/apm-015.pdf>)

GENERAL UNIVERSITY POLICY APM - 015
REGARDING ACADEMIC APPOINTEES
The Faculty Code of Conduct

This policy 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, May 7, 1992, and October 31, 2001, and by The Regents on July 18, 1986, May 15, 1987, June 19, 1992, and November 15, 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.

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 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.”

The Ethical Principles encompass 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. 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 covered veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of 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.

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 of another member of the University community, 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 covered veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against faculty on the basis of disability.
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, 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 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 Bylaws of the Academic Senate or the promotion of uniformity among Divisions to the extent to which it appears necessary and desirable.

A. In the development of disciplinary procedures, each Division must adhere to the following principles:

1. No disciplinary sanction for professional misconduct 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 shall be imposed until after the faculty member has had an opportunity for a hearing before the Divisional Committee on Privilege and Tenure, subsequent to a filing of a charge by the appropriate administrative officer, as described in Academic Senate Bylaw 336.
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.
5. The procedures adopted shall include designation of the following disciplinary sanctions authorized in the University Policy on Faculty Conduct and the Administration of Discipline, of which this Faculty Code of Conduct is an integral part: written censure, reduction in salary, demotion, 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.

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

1. 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.
2. There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, staff, students, the administration, 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.
3. 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. 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.

4. There should be provision 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 Committee on Privilege and Tenure prior to finalizing the settlement.
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.
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.
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.
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.