

Senate-Administration Workgroup Report on Faculty Discipline Policies and Procedures

Executive Summary

In January 2025, the UC Board of Regents directed President Michael V. Drake and Academic Council Chair Steven W. Cheung to undertake a comprehensive review of the policies and procedures governing the faculty disciplinary process, including the Academic Personnel Manual section 015 – The Faculty Code of Conduct (APM - 015) at Part III, Academic Personnel Manual section 016 – University Policy on Academic Conduct and the Administration of Discipline (APM - 016), the Academic Senate’s Bylaws 195 and 334-337 relating to faculty disciplinary cases, and campus policies and procedures that govern the administration of discipline to truncate the time that it takes to resolve faculty discipline cases and to promote consistent application of discipline across the system. In addition, at the January Board of Regents meeting, UC System Provost and Executive Vice President Katherine Newman made commitments to The Regents as to additional items to review that may facilitate timely completion of faculty discipline cases and consider case-flow monitoring tools that may be used for data-driven process improvements in the future.

Since the January 22-23 Regents meeting, at the direction of President Drake and Provost Newman, co-chairs Academic Senate Chair Steven W. Cheung and Interim Vice Provost Doug Haynes convened the Joint Senate-Administration workgroup six times and also convened multiple separate meetings with campus Privilege and Tenure committee members and administration representatives from Academic Personnel, Civil Rights, and Compliance offices.

The combined set of deliverables and the workgroup recommendations are summarized below:

- 1) Develop systemwide guidance on calibrating disciplinary sanctions related to APM - 016 misconduct cases related to expressive activities.**
 - a) The workgroup developed draft systemwide Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity and a companion document that provides a resource to reviewers regarding the UC policies that could be implicated in allegations of faculty misconduct in the realm of expressive activity to assist locations with calibration of disciplinary sanctions. If the Regents accept the draft systemwide calibration guidelines and companion document (Attachments A and B) at the May 13-15 Regents meeting, the draft systemwide guidelines will undergo a 30-day systemwide review in order to finalize the systemwide calibration guidelines by the July 15-17 Regents meeting. The approved systemwide calibration guidelines would be implemented by fall 2025.
- 2) Evaluate options and develop recommendations for handling situations in which a Privilege and Tenure (P&T) hearing panel cannot be convened, particularly when faculty members are unable or unwilling to serve. Assess the appropriateness of campus-specific versus systemwide hearing committees. For instance, the creation of a standing, systemwide Senate committee on faculty discipline that would be responsible for hearing cases from all campuses and recuse members from cases arising from their home campus. It would have jurisdiction over any case that is not resolved at the campus level within a time period recommended by the workgroup.**

- a) The workgroup reviewed multiple different models of a systemwide P&T committee. After considering all models, the recommendation is to create a standing, Systemwide Network P&T Committee comprised of members from other campus P&T committees that would serve as a “jury pool” that is available to hear cases if a campus P&T hearing panel is unable to be appointed within 14 days of the administration filing charges. The Systemwide Network P&T Committee hearing panel may invite faculty from the faculty respondent’s campus to consult and provide expertise on the campus procedures, norms, atmosphere, and culture, as well as on the conduct in question in that particular case. Fourteen days was selected as the trigger for invoking the Systemwide Network P&T Committee because Senate Bylaw 336 requires that hearings start within 60 days after disciplinary charges are filed, unless there is a good cause extension. If a campus cannot appoint their local P&T hearing panel within 14 days, a Systemwide Network P&T Committee panel will still have time to be appointed and review all the necessary materials within the 60-day timeframe to hold the hearing. In order to facilitate timely appointment of a campus P&T hearing panel, when the administration files disciplinary charges, the notice should include the dates the administration is available for hearing.
- 3) Assess current campus policies and procedures and assess whether campus procedures should be aligned for consistency across the system. Review for elimination of processes and procedures that have developed over time but are not required in policies.**
 - a) The workgroup does not recommend that each campus be required to have all the same procedures as each campus is different in its structure and it is not clear how the variation arose or whether one system is superior to the other, particularly with respect to moving cases forward in a timely fashion. Unless a problem is identified from having different procedures, requiring consistent procedures systemwide would be a costly endeavor without much impact. However, if the goal is to identify differences in processes and procedures that adds to the timeframe for completion of discipline cases, the workgroup identified one significant step that is different between campuses, is not required by systemwide policies, and may or may not add to the time for completion. Five campuses (UCSB, UCR, UCLA, UCB, UCSC) have a separate Charges Committee that makes a probable cause assessment. Although not required in systemwide policies or Senate Bylaws, the Charges Committee has been codified in local procedures or Senate Division regulations at those five campuses and is consistent with faculty peer review and shared governance. Five campuses (UCD, UCI, UCM, UCSD, UCSF) do not have a separate Charges Committee and faculty investigators are paired with a professional investigator to determine probable cause. To ensure that all campuses, whether they have a Charges Committee or not, adhere to the same timeframes for completion of faculty misconduct cases, the workgroup recommends that the Charges Committee, the faculty investigators, and the administration meet the target time durations in Recommendation #4 below.
- 4) Review procedural timelines and provide recommendations to ensure a timely process.**
 - a) The workgroup recommends for Faculty Code of Conduct cases the following target time durations from case intake through issuing the filing of disciplinary charges. The workgroup referred to the deadlines in the SVSH Policy, Abusive Conduct Policy, and the Anti-Discrimination Policy, and recommended similar deadlines. Many faculty misconduct cases will involve one of these three policies, which means the cases would have to adhere to the deadlines in those policies and the misconduct under the Code of Conduct could not move forward until completion of the steps under those policies. The

completion of an initial assessment should be within 30 business days, investigation and the investigation report should be concluded within 120 business days, and disciplinary charges should be filed within 40 business days of the conclusion of the investigation. At the request of the workgroup, the Systemwide Office of Civil Rights developed a good cause assessment guidance document to be utilized during each step of this process to determine if a good cause extension is warranted.

- b) The workgroup reviewed whether multiple investigations are occurring for the same conduct at issue. It determined that if there are multiple allegations that fall under different policies there is a chance that different offices are conducting investigations into different components, which may result in interviewing the same witnesses and duplication of gathering some documents and information. There should be one investigation to determine whether the Faculty Code of Conduct was violated, while bringing in other subject matter experts to advise throughout the investigation.
- c) The workgroup reviewed whether campus P&T committees meet over the summer months and determined that most P&T cases do continue over the summer months if there are active discipline cases that need to be scheduled for hearing. In case there are delays over the summer months in scheduling a hearing, the workgroup recommends the Systemwide Network P&T Committee will be triggered after 14 days of charges being filed. For members of the Systemwide Network P&T Committee that do hear cases over the summer months, the workgroup recommends they be provided additional compensation or non-monetary recognition for their service on the Systemwide Network P&T. If additional compensation is provided, the amount should be uniform across campuses and determined by the Chancellors or Chancellors' designees.
- d) The workgroup recommends that systemwide guidelines be developed in partnership with the UC Police Departments (UCPD) for sharing information in all misconduct cases. Currently, systemwide guidelines, developed in partnership with UCPD, only exist for SVSH cases. In April 2022, systemwide *Guidelines on Responsible Employee Reporting and Information Sharing Between UC Police Departments and Title IX Offices* were issued to ensure compliance with the SVSH Policy and federal and state law and promote consistent information-sharing expectations and practices. The systemwide guidelines addressed information-sharing obligations upon UCPD's receipt of an initial report of possible Prohibited Conduct, and at the Title IX initial assessment and investigation stages. They were developed with careful consideration of input from the campus Title IX Officers, Police Chiefs and CARE Directors, and mindfulness of the tension that sometimes exists between the privacy and agency of individual complainants/victims on the one hand, and protection of the broader community and compliance on the other. However other considerations may sometimes limit the type and amount of information shared, and the timing. Limits may exist if there is potential interference with the law enforcement process. Any police report or evidence UCPD provides to Title IX, if there is a Title IX investigation, likely will be shared with the complainant/victim and respondent/suspect as part of the Title IX evidence review required by law and UC policy. This could have implications for any parallel criminal process, particularly if the Title IX process is moving faster. The SVSH Policy provides that when the respondent/suspect's alleged conduct is the subject of both a Title IX and a criminal investigation, the Title IX Officer will coordinate its investigation with the police, and

that “the fact-finding portion of a Title IX investigation may be delayed temporarily during the evidence-gathering stage of the criminal investigation.”

5) Create a case-monitoring system to gather data on delays and their sources.

- a) The workgroup consulted with the Systemwide Office of Civil Rights on assessing the costs associated with expanding its systemwide case-monitoring system that tracks cases from intake through case resolution. The Systemwide Office of Civil Rights met with Case IQ, the vendor for the current Sexual Violence and Sexual Harassment (SVSH), Abusive Conduct, and Anti-Discrimination case-monitoring system, to obtain an estimate on the cost of expansion of the system to other areas. The cost estimate for the software platform is estimated at \$375,000 for one-time set-up fees and then an annual systemwide fee of \$600,000. The associated data-management labor is estimated at one new dedicated FTE per location, with an estimated annual cost of \$200,000 per location for salary and benefits.
- b) Given the current difficult budget projections for the University of California and the hiring freeze that has been implemented, the workgroup recommends that now is not the time to expand the systemwide case-monitoring system. Instead, the workgroup recommends that all campuses agree on a set of common data fields that capture key aspects of each disciplinary case for continuous monitoring. To develop the appropriate common data fields for faculty misconduct cases from case intake through case resolution (e.g., administration of discipline, settlement, or a determination of no findings of policy violations), a systemwide group should consist of representatives from Academic Senate, Academic Personnel, Civil Rights, Anti-Discrimination, Title IX, Research, and Compliance offices. Those data would enable comparative analyses for periodic reporting.

6) Consider whether each Chancellor should be required to report to The Regents on the disposition of disciplinary cases on their campuses and note any delays that have arisen for good cause.

- a) The workgroup recommends that each Chancellor report to The Regents annually on the disposition of disciplinary cases and delays for good cause.

7) Consider whether the P&T Committee has the authority to recommend, and the Chancellor has the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor’s designee.

- a) No, the P&T Committee does not have the authority to recommend, and the Chancellor does not have the authority to impose disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor’s designee. The provision in APM - 016, prohibiting a Chancellor from imposing a penalty more severe than that articulated in the notice of intent, was grounded in principles of due process and on the principle that the same individual cannot serve as both investigating officer and judge in the same case. Both APM - 015 (Faculty Code of Conduct) and Senate Bylaw 336 also provide that a hearing committee cannot recommend a disciplinary sanction more severe than that proposed by the Chancellor. This is also consistent with the Skelly process for other UC employees, wherein the proposed discipline cannot be increased during the due process granted under the Skelly standard.
- b) To address the concern raised in the charge, the workgroup recommends that when the administration files disciplinary charges/sends a notice of proposed discipline to a faculty member that the administration include a range of potential disciplinary sanctions that

may be imposed. The range of potential disciplinary sanctions should be proportional to the conduct alleged, the facts of the case, the investigation's findings, and the potential testimony and evidence that is expected to occur at a P&T hearing. The range of proposed disciplinary sanctions would enable the P&T Hearing Committee to recommend the severity of discipline based on the totality of the evidence, including evidence presented at the hearing, and whether the allegations were substantiated by clear and convincing evidence. As an example, the administration, depending on the severity of the alleged conduct, may propose disciplinary sanctions that ranges from "letter of censure up to and including suspension without pay" or "a suspension without pay up to and including dismissal." By providing a range of proposed disciplinary sanctions that is proportional to the alleged conduct, rather than proposing one disciplinary sanction only, it provides both the Academic Senate and the administration with more flexibility to address new evidence that may be introduced at the P&T hearing (*e.g.*, through testimony or additional documents presented during the hearing).

8) Clarify administrative policies regarding paid versus unpaid leave during the disciplinary process and consider the circumstances under which paid leave versus unpaid leave should be used during the disciplinary process. The workgroup clarified as follows:

- a) Prior to instituting disciplinary charges and while conduct is investigated, the Chancellor may place a faculty member on involuntary leave without pay in rare and egregious cases where there is a strong risk that the accused faculty member's continued assignment to regular duties, or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing; or in situations where the faculty member's conduct represents a serious crime or felony that is also the subject of investigation by a law enforcement agency. This is similar to other employees as well, not just faculty, since there are no investigation findings of policy violations at this point in time.
- b) Suspension without pay is a disciplinary sanction that can be imposed after the investigation has concluded, charges have been brought, and the faculty member is determined to have engaged in misconduct. On June 28, 2024, at the request of The Regents, UC System Provost and Executive Vice President Katherine S. Newman issued systemwide guidelines, requesting that when Chancellors recommend dismissal of a faculty member who has tenure or security of employment under APM - 016 to the President, that they also impose the disciplinary sanction of suspension without pay.

Senate-Administration Workgroup Report on Faculty Discipline Policies and Procedures

April 2025

I. Background

In Fall 2024, the UC Board of Regents requested a discussion item at their January 2025 meeting on Senate faculty discipline and dismissal policies and process, as well as the Faculty Code of Conduct. The discussion item provided an overview of the relevant policies, procedures, and bylaws related to faculty discipline and dismissal, as well as a summary of the way in which policies on Sexual Violence and Sexual Harassment (SVSH), Anti-Discrimination (A-D), and Abusive Conduct interplay with the process timelines of a misconduct charge.

Following the January 2025 Regents' meeting, the UC Board of Regents sent both President Michael V. Drake and Academic Council Chair Steven W. Cheung a letter requesting that the administration and the Academic Senate undertake a comprehensive review of the policies and procedures governing the faculty disciplinary process, including the Academic Personnel Manual section 015 – The Faculty Code of Conduct (APM - 015) at Part III, Academic Personnel Manual section 016 – University Policy on Academic Conduct and the Administration of Discipline (APM - 016), the Academic Senate's Bylaws 195 and 334-337 relating to faculty disciplinary cases, and campus policies and procedures that govern the administration of discipline. In addition, at the January Board of Regents meeting, UC System Provost and Executive Vice President Katherine Newman made commitments to The Regents as to additional deliverables.

In January 2025, Provost Newman charged Interim Vice Provost Douglas Haynes and Academic Council Chair Steven W. Cheung with convening a joint Senate-Administration workgroup to submit a report with recommendations on shortening the timeframe for completion of faculty discipline cases and to promote consistent application of discipline across the system. The workgroup was to submit a report to Provost Newman by early April, addressing the following:

- 1) Develop systemwide guidance on calibrating disciplinary sanctions related to APM - 016 misconduct cases related to expressive activities.
- 2) Evaluate options and develop recommendations for handling situations in which a P&T hearing panel cannot be convened, particularly when faculty members are unable or unwilling to serve. Assess the appropriateness of campus-specific versus systemwide hearing committees, such as the creation of a standing, systemwide Senate committee on faculty discipline that would be responsible for hearing cases from all campuses and recuse members from cases arising from their home campus. It would have jurisdiction over any case that is not resolved at the campus level within a time period recommended by the workgroup.
- 3) Assess current campus policies and procedures and assess whether campus procedures should be aligned for consistency across the system. Review for elimination of processes and procedures that have developed over time but are not required in policies.
- 4) Review procedural timelines and provide recommendations to ensure a timely process.
- 5) Create a case monitoring system to gather data on delays and their sources for data-driven process improvements in the future.

- 6) Consider whether each Chancellor should be required to report to The Regents on the disposition of disciplinary cases on their campuses and note any delays that have arisen for good cause.
- 7) Consider whether the P&T Committee has the authority to recommend, and the Chancellor has the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor's designee.
- 8) Clarify administrative policies regarding paid versus unpaid leave during the disciplinary process and consider the circumstances under which paid leave versus unpaid leave should be used during the disciplinary process.

The Senate-Administration workgroup participants and the groups consulted together represent considerable expertise about, and years of experience with, research, policy, procedure, and practice related to employee discipline policies and procedures. The workgroup completed its work within the prescribed timetable. All parts of the workgroup's charge were considered, reviewed, and responded to. The workgroup met six times, worked collaboratively between meetings, reviewed and analyzed a great many existing and newly prepared documents and surveys (UCPT was also surveyed), consulted with the University Committee on Privilege and Tenure (UCPT), Office of Civil Rights, and Ethic, Compliance, and Risk Services, and sent the draft recommendations to the UCPT Chair and the University Committee on Faculty Welfare (UCFW) Chair for expedited review.

II. Overview of Current Policies and Procedures related to Faculty Discipline

Regental, Presidential, and Academic Senate policies govern matters of faculty misconduct. The privilege and protections of tenure ensure that faculty can pursue research, teaching, and service without fear of political, ideological, or administrative interference. Tenure safeguards academic freedom by protecting faculty from dismissal based on controversial ideas, unpopular research, or criticism of institutional policies. Tenure also strengthens the faculty's role in shared governance by empowering them to participate in decision-making processes and institutional oversight. Members of the Academic Senate are entitled to due process protections that are fundamental to the tenets of academic freedom. Freedom of speech and academic freedom, however, are not limitless and, for example, do not protect speech or expressive conduct that violates federal or state laws. In addition, when faculty are engaged in teaching, research, scholarship, or the public dissemination of knowledge, as defined in APM - 010, they are entitled to the protections of academic freedom, but they are also obligated by the responsibilities specified in the Faculty Code of Conduct. Examples of unacceptable faculty conduct include introducing a significant amount of material unrelated to the course being taught, participating in or deliberately abetting disruption, interference, or intimidation in the classroom; and inciting 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.

Regents Bylaw 40.1 states, "The Regents recognize that faculty participation in the shared governance of the University of California through agency of the Academic Senate ensures the quality of instruction, research and public service at the University and protects academic

freedom.” Regents Bylaw 30 states that the President of the University “is expected to consult with the Academic Senate, consistent with the principles of shared governance, on issues of significance to the general welfare and conduct of the faculty.” It is the responsibility of the Chancellors to “oversee all faculty personnel” at their respective campuses and to be “responsible for ... discipline.” (Regents Bylaw 31.) In addition, “[a]ny member of the Academic Senate shall have the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare” (Regents Bylaw 40.3(b)), which matters include whether to discipline a faculty member (APM - 015, III.A.2).

Regents Policy 7401 states that the applicable policy “is the Faculty Code of Conduct and University Policy on Faculty Conduct and the Administration of Discipline as set forth in the Academic Personnel Manual Section 015 (APM - 015) and 016 (APM - 016).” APM - 015 (Faculty Code of Conduct) and APM - 016 (University Policy on Faculty Conduct and Administration of Discipline) define ethical standards and professional responsibilities for UC faculty, define both acceptable behavior and misconduct to guide faculty conduct in teaching, research, and service, and provide the procedural framework for implementing disciplinary measures, detailing how disciplinary actions are initiated, reviewed, and resolved.

Since its issuance in 1974, Part I of the Faculty Code of Conduct has incorporated the element of peer review and faculty participation in faculty discipline:

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: [...] 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.

In January 2001, APM - 016 was issued following several years of work and discussion by the Joint Senate-Administration Task Force on Disciplinary Procedures. The joint Senate-Administration taskforce deliberations emphasized the norms of shared governance and their recommendations informed the work of the P&T Committee in the late 1990s through 2001 to propose revisions to Senate Bylaws related to the faculty disciplinary and grievance processes. This work resulted in the establishment of separate Senate Bylaws for grievances (SB 335), disciplinary cases (SB 336), and early termination cases (SB 337).

The University Committee on Privilege and Tenure (UCPT) is a systemwide Academic Senate committee that advises the President, the Academic Senate and its divisions, and divisional Privilege and Tenure (P&T) committees on policies related to academic privileges, tenure, and faculty disciplinary processes across the UC system. UCPT does not hear misconduct or grievance cases. Each divisional P&T manages individual cases on their campus, which fall into

three primary categories: (1) Grievance cases brought by faculty members who claim injury through the violation of their rights and privileges; (2) Cases of faculty misconduct under APM - 015 and ensure procedural compliance with APM - 016; and (3) Proposed dismissal of both Senate and non-Senate faculty members before the expiration of the faculty member's appointment.

Prior to the initiation of discipline, misconduct must be first identified and assessed to determine which category of policy or concern it falls under. Misconduct may include violations of the SVSH, Anti-Discrimination, Abusive Conduct policies, other University policies, or of other provisions of the Faculty Code of Conduct itself.

APM - 016: University Policy on Faculty Conduct and the Administration of Discipline

Depending on the alleged policy violation at issue, there are distinct procedures and timelines for determining whether the behavior rose to the standard of prohibited conduct under policy. In order of increasing severity, the types of discipline that may be imposed on a member of the faculty include: (1) Written Censure; (2) Reduction in Salary (without reduction in rank or step); (3) Demotion (reduction in rank or step); (4) Suspension (without pay); (5) Denial or Curtailment of Emeritus Status; and (6) Dismissal.

The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case. 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 also impose additional appropriate remedial or corrective sanctions not set forth in the policy, but only with the consent of the accused faculty member.

Probable Cause

The Chancellor may not initiate a 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.

For each campus, this process is established by local Academic Senate divisional policies and campus procedures. For campuses that have a Charges Committee, the Charges Committee will review the case and make a recommendation to the Chancellor on whether probable cause has been established. At the campuses that do not have a Charges Committee, faculty paired with a professional investigator, will make a recommendation on whether probable cause has been established.

P&T Hearing Process

For faculty who do not accept the proposed discipline, they have the right to request a hearing with the Academic Senate before discipline is imposed by the administration. The accused faculty member receives a copy of the disciplinary charges, as well as written notice of the deadline for submitting a response to the disciplinary charges and the deadline for commencing the hearing. The accused faculty member has 14 calendar days to provide an answer in writing to

the P&T committee, who provides it to the administration. The accused faculty member can at this point in the process decide to accept the discipline proposed and forego the hearing altogether.

Within five days from the filing of disciplinary charges with the P&T committee, it must coordinate with all parties to schedule the hearing that must take place within 60 calendar days from the filing, with exceptions for good cause. Senate Bylaws require that all parties must give priority to the scheduling of a hearing and cooperate in good faith during the scheduling process. It further dictates that a hearing shall not be postponed because the accused faculty member is on leave or fails to appear.

If the administration and the accused faculty member do not reach a resolution on the disciplinary sanction(s) and the accused faculty member requests a hearing, at the hearing, each party has the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross examination for a full and true disclosure of the facts. The administration has the burden of proving the allegations by clear and convincing evidence, except for allegations of a violation of the University's policy on SVSH, where the administration has the burden of proving the allegations by a preponderance of the evidence.

The hearing committee makes its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, which is then forwarded to the parties in the case, not more than 30 calendar days after the conclusion of the hearing.

Chancellor's Decision or Recommendation

Upon receipt of the P&T hearing committee's report, Chancellors determine whether the Faculty Code of Conduct was violated, and if so, decide upon the appropriate sanction (which cannot be more severe than that proposed by the initial charges). If the determination is to demote rank, deny/curtail emeritus status, or dismiss a faculty member with tenure or security of employment, the Chancellor forwards their recommendation to the Office of the President. For determinations of written censure, reduction in salary, demotion of step, suspension without pay, or dismissal of a faculty member without tenure or security of employment (*e.g.*, Assistant Professors), the authority to impose discipline remains with the Chancellor.

Presidential Step

Once the Chancellor forwards their recommendation to the Office of the President, the System Provost and Executive Vice President for Academic Affairs reviews the case. Upon careful and deliberative review of the facts, documentation, and policies, the Provost makes a recommendation to the President on the decision to recommend demotion of rank, denial/curtailment of emeritus status, or dismissal. The President further reviews the case and either decides to demote or deny/curtail emeritus status, or makes a final recommendation to the Board of Regents for cases of dismissal.

Regental Step

As established within Regents Bylaws and APM - 016, The Regents of the University of California serve as the final decision maker for dismissal of faculty with tenure or security of

employment. Once the President makes their final recommendation, the Board of Regents schedules a meeting for a formal vote on a final decision. The faculty member has the right to attend the Regents' session where their case is heard and provide a statement in response ahead of time. Both parties - the administration and the faculty member - present their case and answer questions. The Regents then vote on a decision to dismiss, and the parties are subsequently informed of the decision.

III. Workgroup Recommendations in Response to the Charge

1) **Develop systemwide guidance on calibrating disciplinary sanctions related to APM - 016 misconduct cases.**

The workgroup developed systemwide calibration guidance that provides for greater consistency in the administration of discipline across the system for misconduct in the realm of expressive activities. The guidelines provide advisory committees and decision makers with benchmarks for recommending and approving disciplinary sanctions based on the severity of the misconduct, its impact on the University community, and mitigating and aggravating circumstances. A systemwide calibration of disciplinary sanctions guidance currently exists for the SVSH Policy. The workgroup modified the SVSH systemwide guidance to reflect cases of alleged misconduct involving expressive activities.

If a formal investigation of allegations of faculty misconduct results in the assessment that a policy violation has occurred, guidance for discipline is found in Attachments A and B. Attachment A: Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity, is intended to support systemwide calibration of disciplinary responses under APM - 016. Attachment B: is the companion document that provides a resource to reviewers regarding the UC policies that could be implicated in allegations of faculty misconduct in the realm of expressive activities.

If the Regents accept the draft systemwide calibration guidelines and companion document (Attachments A and B) at the May 13-15 Regents meeting, the draft systemwide guidelines will undergo a 30-day systemwide review in order to finalize the systemwide calibration guidelines by the July 15-17 Regents meeting. The approved systemwide calibration guidelines would be implemented by fall 2025.

2) **Evaluate options and develop recommendations for handling situations in which a P&T hearing panel cannot be convened, particularly when faculty members are unable or unwilling to serve.**

The workgroup reviewed multiple different models of a systemwide P&T committee. After considering all models, the recommendation is to create a standing, Systemwide Network P&T Committee comprised of members from the campus P&T committees that would serve as a "jury pool" that is available to hear cases if a campus P&T hearing panel is unable to be appointed within 14 days of the administration filing disciplinary charges. The Systemwide Network P&T Committee hearing panel may invite faculty from the faculty respondent's campus to consult and provide expertise on the campus procedures, norms, atmosphere, and culture, as well as on the

conduct in question in that particular case. Fourteen days was selected as the trigger for invoking the Systemwide Network P&T Committee because Senate Bylaw 336 requires that hearings start within 60 days after charges are filed, unless there is a good cause extension. If campuses cannot appoint their local P&T hearing panel within 14 days, the Systemwide Network P&T Committee hearing panel will still have time to be appointed and review all the necessary materials within the 60-day timeframe to hold the hearing. In order to facilitate timely appointment of a campus P&T hearing panel, when the administration files disciplinary charges, the notice should include the dates the administration is available for hearing. Attachment C: P&T Flowchart is an illustration of some of the different models that were considered by the workgroup as it formulated its recommendation.

The workgroup considered the following models:

- Model A-1: This is the current structure where campus P&T committees hear all their own campus cases
- Model A-2: This is the current structure where campus P&T committees hear all of their own campus cases; however, one or two faculty members from other campus P&T committee(s) would also be included as part of the hearing committee (*e.g.*, UCI P&T committee is scheduled to hold a hearing and would seek a participant from UCB P&T and perhaps another campus)
- Model B: Systemwide Network P&T hears cases when a campus is unable to appoint a campus P&T hearing committee within 14 days of charges being filed. The faculty respondent's home campus will identify faculty consultants to provide advice and expertise to the Systemwide Network P&T hearing committee, as needed.
- Model C: Systemwide Network P&T hears all cases (*e.g.*, There is a faculty discipline case at UCB that is scheduled for hearing with P&T and the issue is alleged research misconduct. UCB will then select from the Systemwide Network P&T to form the hearing committee – the outcome could be a hearing panel consisting of a faculty member from UCD, UCR, and UCSC P&T who are in the same discipline as the UCB faculty member to hear the UCB research misconduct case.)

The workgroup noted that all UC campuses must adhere to Senate Bylaw 336, which requires disciplinary hearings to begin within 60 calendar days of filing disciplinary charges, with extensions for good cause. Much of the 60-day period is dedicated to logistical preparations, including coordinating schedules for P&T members and the involved parties; appointing hearing committee members; drafting pre-hearing letters; and booking transcriptionists and preparing evidence. When charges are filed in the spring, hearings generally are scheduled during the summer to comply with the timeline, though not in all cases. Across UC's 10 divisions, hearings average 3.15 days, ranging from one to five days. Only three campuses reported hearings lasting five days. The length of the hearing is dependent on the complexity of the case or the amount of testimony on both sides.

Each campus has their own P&T Committee, which often consists of about eight to nine faculty members. A Hearing Committee is typically three to four faculty members, usually drawn from those on the divisional P&T Committee. The Chair of the P&T Committee is responsible for appointing the Hearing Committee. Senate Bylaw requires that the Chair of the Hearing Committee be a current member of P&T, and that the majority of the Hearing Committee be

current or former members of P&T. When a particular campus has many P&T hearings in a year, or faces other scheduling challenges, they may need to go outside the Committee for at least some of the members. The P&T Committee receives training and guidance from a UC Legal representative on how to conduct hearings.

In making its recommendation to adopt Model B, the workgroup concluded that normally the process by which campus P&T Committees hear cases has generally been timely and rigorous in their review of discipline cases. The workgroup noted the current campus-based P&T model provides faculty members with the benefit of knowing that they are being heard by their own campus peers who understand the campus culture, organization, and structures. Workgroup members agreed that detailed knowledge of a campus is more likely to allow for committee members to have deep understanding of what is happening in the particular case. The workgroup also noted that most delays occur during initial fact-finding and the ensuing investigation phase, if an investigation is warranted, and not during the P&T process. Accordingly, the workgroup concluded that most cases should remain with campus P&T Committees. However, if a campus is unable to appoint a P&T panel to hear a particular case within 14 days of charges being filed, the workgroup recommends that a Systemwide Network P&T hearing panel be appointed to hear those cases.

In those cases where a campus P&T Committee hearing panel cannot be appointed within 14 days of disciplinary charges being filed, the Systemwide Network P&T would provide an alternative venue for timely processing of cases, and may, in some circumstances, be the more desirable venue in matters where campus P&T members may not feel safe to serve. The Systemwide Network P&T Committee hearing panel may invite faculty from the faculty respondent's campus to consult and provide expertise on the campus procedures, norms, atmosphere, and culture, as well as on the conduct in question in that particular case. The faculty member(s) may provide expert testimony, provide written declarations, informal consultation to the hearing panel, and other contributions, as requested. In order for a campus P&T panel to be appointed within 14 days, the administration should provide dates of availability for a hearing at the time it files disciplinary charges.

The workgroup lacked support for Model A-2 and Model C because both are likely to lengthen the time to completion of cases because of the administrative efforts and steps that would have to be added to the process. While Model C has some potential to facilitate data aggregation and to increase consistency in outcomes, some workgroup members noted that consistency may not be appropriate for cases that depend on knowledge of location practices and norms. In addition, the development of the systemwide guidance on calibrating disciplinary sanctions related to expressive activities and adoption of a case monitoring system will help to facilitate greater consistency. Model C also risks loss of knowledge of the local context, which could result in other problems.

The workgroup considered the administrative burden associated with each model. An argument in support of the current model (A-1) is that it is easier to organize and schedule hearings, and it may prove more cost efficient. The P&T analyst has established connections with members of the hearing committee, facilitating a more efficient and seamless outreach process for scheduling. Model A-2 adds administrative complexity due to the need to coordinate between

campuses. Workgroup members expressed concern that Models A-2 and C risk slowing the disciplinary process considerably due to the time involved in selecting hearing-panel members, making it nearly impossible to meet timeframes established in Senate Bylaws. There would also be a significant up-front administrative effort required to build an administrative structure and processes to support Models A-2 and C.

In recommending Model B, the workgroup concluded that having a Systemwide Network P&T could provide a reasonable back-up option in the event that local P&T committees cannot be appointed in a timely manner. Some participants shared instances in which P&T members' concern about safety and/or retaliation resulted in a delay in convening a hearing panel. It is these kinds of cases that would be escalated to the Systemwide Network P&T for hearing.

3) Assess current campus policies and procedures and review for elimination of processes and procedures that have developed over time but are not required in policies.

The workgroup does not recommend that each campus be required to have all the same procedures, as each campus is different in its structure and it is not clear how the variation arose or whether one system is superior to the other, particularly with respect to moving cases forward in a timely fashion. Unless a problem is identified from having different procedures, requiring consistent procedures systemwide would be a costly endeavor without much impact. However, if the goal is to identify differences in processes and procedures that add to the timeframe for completion of discipline cases, the workgroup identified one significant step that is different between campuses, is not required by systemwide policies, and may or may not add to the time for completion. Five campuses (UCSB, UCR, UCLA, UCB, UCSC) have a separate Academic Senate Charges Committee that makes a probable cause assessment. The Charges Committee has been codified in local procedures or Senate Division regulations at those five campuses. Five campuses (UCD, UCI, UCM, UCSD, UCSF) do not have a separate Charges Committee and faculty investigators are paired with a professional investigator to determine probable cause.

The workgroup discussed the advantages and disadvantages of campus-based Charges Committees, and whether there is any perceived benefit to not having a Charges Committee and pairing a faculty member with an investigator to establish probable cause. There was no consensus from the workgroup as to whether to eliminate the Charges Committee at the five campuses that have that structure in place. The only consensus was that the Charges Committee process may lengthen the timeframe for completion of faculty misconduct cases but there is no data to support it. Although not required in systemwide policies or Senate Bylaws, the Charges Committee has been codified in local procedures or Senate Division regulations at those five campuses and is consistent with faculty peer review and shared governance.

The workgroup, based on the recommendation by Provost and Executive Vice President Newman, addressed the lack of consensus on this by recommending timeframes for completion of misconduct cases from case intake through the filing of disciplinary charges. To ensure that all campuses, whether they have a Charges Committee or not, adhere to the same timeframes for completion of faculty misconduct cases, the workgroup recommends that the Charges Committee, the faculty investigators, and the administration meet the target time durations in Recommendation #4 below.

4) Review procedural timelines and provide recommendations to ensure a timely process.

Procedural Timelines

The workgroup recommends for Faculty Code of Conduct cases the following target time durations from case intake through the filing of disciplinary charges. The workgroup referred to the deadlines in the Abusive Conduct Policy, the Anti-Discrimination Policy, and SVSH Policy, and recommended similar deadlines. Many faculty misconduct cases will involve one of these three policies, which means the cases would have to adhere to the deadlines in those policies and the misconduct under the Code of Conduct could not move forward until completion of the steps under those policies. The completion of an initial assessment should be within 30 business days, the investigation and the investigation report should be concluded within 120 business days, and disciplinary charges should be filed within 40 business days of the conclusion of the investigation. These deadlines may only be extended for good cause. At the request of the workgroup, the Systemwide Office of Civil Rights developed a good cause assessment guidance document to be utilized during each step of this process to determine if a good cause extension is warranted.

The following are the deadlines associated with each step under the Abusive Conduct, Anti-Discrimination, and SVSH Policies. All the steps may be extended for good cause.

Case Intake/Initial Assessment

- Abusive Conduct – 30 business days
- Anti-Discrimination – as soon as practicable
- SVSH – 30 business days

Investigation

- Abusive Conduct – 120 days following initial assessment
- Anti-Discrimination -- within 60 to 90 business days of notifying the parties in writing of the allegations
- SVSH – 60 to 90 business days

Filing of disciplinary charges / notice of proposed discipline

- Abusive Conduct – Defers to other policies
- Anti-Discrimination – Defers to other policies
- SVSH – within 40 business days of receipt of outcome from Title IX Office

Timelines

	SVSH (DOE & Non-DOE)	Anti-Discrimination	Abusive Conduct
Initial Assessment	30 business days*	As soon as practicable	30 business days*
Formal Investigation	60–90 business days*	60–90 business days*	120 business days*
Disciplinary Charges Filed/Notice of Proposed Discipline	40 business days*	Defers to other policies	Defers to other policies

*Unless extended for good cause

The workgroup concluded that normally the investigation is the most time-consuming part of a misconduct case. Misconduct allegations related to cases that fall under APM - 015 only do not currently have a systemwide policy-mandated deadline for investigations to conclude, though some campuses have implemented their own deadlines. The workgroup recommends for Faculty Code of Conduct cases (*i.e.*, APM - 015 cases that do not fall under the Abusive Conduct, Anti-Discrimination, or SVSH policies), that the target time duration for the completion of investigations should be 120 business days, with extensions for good cause only. Currently, SVSH and the Anti-Discrimination policies provide for 60-90 business days and the Abusive Conduct policy provides for 120 business days, all with ability to extend for good cause.

Attachment D: Good Cause Factors re Extension of Time Guidance is a tool developed by the Systemwide Office of Civil Rights, at the request of the workgroup, that may be utilized during each step of the process to determine if a good cause extension is warranted.

In consulting sessions with the Civil Rights, Ethics, Compliance, and Audit Services, Title IX, and Equal Opportunity and Diversity offices, it was noted that there are many different reasons as to why investigations and other steps in misconduct cases for all employees (not just faculty) may be extended for good cause. At the initial assessment phase, the designated office, employing trauma-informed best practices, will seek to honor the preferences of the Complainant whenever possible, including with respect to timing. For example, some Complainants may wait weeks or even months between their initial contact with a campus civil rights office and their subsequent contacts and communications as to their preferred course of action. It is also important to note that reporting a concern is not the same as filing a complaint.

Once a Complainant has filed a complaint and/or otherwise provided sufficient information for the designated office to either proceed to formal investigation (or other resolution process, such as informal resolution, alternative resolution, or other inquiry) or dismiss the complaint, the initial assessment stage may be impacted by a variety of factors, including delayed response or non-response from a Complainant, availability of a Complainant for scheduling meetings/intake interview, implementation of safety measures, coordination with law enforcement or other campus investigations, or engaging with multiple Complainants.

At the formal investigation stages, material examples of timeframe extensions for good cause include the number, complexity, and severity of allegations; the number of parties or witnesses; considerations of the health or emotional well-being of the parties; and the need to provide language assistance to a party or key witness. Good cause unforeseen examples include serious illness of a party or witness; discovery of new evidence late in the process; a party's approved request for additional time to review the evidence packet; and a party's approved request for additional investigation after review of the evidence. The actual time required to complete the investigation and report, including reaching a determination or preliminary determination as to whether the policy has been violated, can vary based on a variety of factors, such as the number and availability of parties and witnesses, the volume of evidence, the number of potential policy violations, the length of the report, existence of cross-complaints, review and response periods, and the complexity of the matter.

Multiple Investigations

The workgroup also reviewed investigatory and disciplinary processes currently in place across the system. While most campuses conduct a single investigation, involving appropriate offices with subject-matter expertise, as appropriate, it came to the workgroup's attention that some campuses have been conducting multi-part investigations. When this occurs, one office has begun the investigation of issues under its purview before handing the investigation off to one or more other offices to investigate the issues under their purview. This has resulted in duplicative interviewing of the same witnesses and has contributed to delays in the overall process.

The workgroup recommends that there should be one investigation to determine whether the Faculty Code of Conduct was violated. At the conclusion of the investigation, disciplinary charges should be filed within 40 business days after receipt of the investigation report.

Summer

The workgroup reviewed whether campus P&T committees meet over the summer months and determined that most P&T misconduct cases do continue over the summer months if there are active misconduct cases that need to be scheduled for hearing. Grievance cases, on the other hand, are generally not heard over the summer months but grievance cases do not impact misconduct cases.

In case there are delays over the summer months in scheduling a discipline hearing, the workgroup recommends the Systemwide Network P&T Committee will be triggered after 14 days of charges being filed, if the campus P&T is unable to be appointed and hear the case over the summer. For members of the Systemwide Network P&T Committee that do hear cases over the summer months, the workgroup recommends they be provided additional compensation that is uniform across campuses or non-monetary recognition for their service on the Systemwide Network P&T. If additional compensation is provided, the amount should be uniform across campuses and determined by the Chancellors or Chancellors' designees.

Parallel Law Enforcement Actions and Campus Actions

The workgroup recommends that systemwide guidelines be developed in partnership with the UC Police Departments (UCPD) for sharing information in all misconduct cases. Currently, systemwide guidelines, developed in partnership with UCPD, only exist for SVSH cases. In April 2022, systemwide Guidelines on Responsible Employee Reporting and Information Sharing Between UC Police Departments and Title IX Offices were issued to ensure compliance with the SVSH Policy and federal and state law and promote consistent information-sharing expectations and practices. The systemwide guidance addressed information-sharing obligations upon UCPD's receipt of an initial report of possible Prohibited Conduct, and at the Title IX initial assessment and investigation stages. They were developed with careful consideration of input from the campus Title IX Officers, Police Chiefs and CARE Directors, and mindfulness of the tension that sometimes exists between the privacy and agency of individual complainants/victims on the one hand, and protection of the broader community and compliance on the other.

The SVSH Policy codifies UC's commitment to respond effectively to Prohibited Conduct, and Responsible Employees' obligations to report possible Prohibited Conduct to their Title IX

Officer. Responsible Employee reporting helps Title IX Officers meet the University's obligations, and is critical to UC's prevention, detection and response efforts. As Responsible Employees and partners to Title IX, UCPD employees should generally promptly share all relevant information about possible Prohibited Conduct with Title IX. However other considerations may sometimes limit the type and amount of information shared, and the timing.

Limits may exist if there is potential interference with the law enforcement process. Any police report or evidence UCPD provides to Title IX, if there is a Title IX investigation, likely will be shared with the complainant/victim and respondent/suspect as part of the Title IX evidence review required by law and UC policy. This could have implications for any parallel criminal process, particularly if the Title IX process is moving faster. The SVSH Policy provides that when the respondent/suspect's alleged conduct is the subject of both a Title IX and a criminal investigation, the Title IX Officer will coordinate its investigation with the police, and that "the fact-finding portion of a Title IX investigation may be delayed temporarily during the evidence-gathering stage of the criminal investigation."

If Title IX requests a police report or evidence, then UCPD will provide the information unless specific case-based circumstances indicate that disclosure of the information would endanger either (i) a person involved in an investigation, or (ii) the successful completion of the criminal investigation or prosecution. In making this determination, UCPD will seek input from the District Attorney (including periodic updates when a decision about prosecution is pending). If UCPD does not provide the requested information, it will (i) document the basis for its decision in writing to Title IX, (ii) discuss with Title IX whether alternative information that UCPD can provide exists, and (iii) inform Title IX when the basis for withholding requested information is resolved. In the interim, Title IX may periodically request status updates from UCPD (for example, through the campus Case Management Team).

The systemwide guidelines are also incorporated via FAQs in the SVSH Policy as follows:

FAQ #7: Does the University need to conduct a Title IX investigation if a criminal investigation is taking place?

A criminal investigation is intended to determine whether someone violated criminal law. At the end of the criminal process the person may be imprisoned or subject to criminal penalties. The University has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all community members. Because the purposes and the standards for criminal and Title IX investigations are different, the termination of a criminal investigation without an arrest or conviction does not affect the University's Title IX obligations. Even if a criminal investigation is ongoing, the University must still conduct its own Title IX investigation. The University should notify Complainants of the right to file a criminal complaint and should not dissuade Complainants from doing so. Title IX does not require the University to report alleged conduct to law enforcement, but the University may have reporting obligations under laws such as the Clery Act and the California Child Abuse and Neglect Reporting Act (CANRA) and may report alleged conduct per memoranda of understandings between the University and the police.

FAQ #8: How should the University proceed when campus or local law enforcement agencies (“police”) are conducting a criminal investigation while the University is conducting a parallel Title IX investigation?

If the Respondent’s alleged conduct is also the subject of a criminal investigation, the Title IX Officer will coordinate its investigation with the police. The fact-finding portion of University of California Title IX investigation may be delayed temporarily during the evidence-gathering stage of the criminal investigation. During this delay, the University may put Interim Measures in place. The length of time for evidence gathering by criminal investigators will vary depending on the specific circumstances of each case.

5) Create a case-monitoring system to gather data on delays and their sources.

The workgroup proposes the expansion of a systemwide case-management system that would streamline data collection and reporting and would enhance consistency. The case-management system would allow for tracking of cases from intake through the administration of discipline, if any. The workgroup consulted with the Systemwide Office of Civil Rights on assessing the costs associated with expanding its systemwide case-monitoring system that tracks cases from intake through case resolution. The Systemwide Office of Civil Rights met with Case IQ, the vendor for the current SVSH, Abusive Conduct, and Anti-Discrimination case-monitoring system, to obtain an estimate on the cost of expansion of the system to other areas. The cost estimate for the software platform is estimated at \$375,000 for one-time set-up fees and then an annual systemwide fee of \$600,000. The associated data-management labor is estimated at one new dedicated FTE per location, with an estimated annual cost of \$200,000 per location for salary and benefits. With learned efficiencies in the years subsequent to initial implementation, it may be possible to lower the labor cost.

In developing the cost estimate, the Systemwide Office of Civil Rights evaluated the following in order to have an expanded Case IQ system for each of UC’s campuses, including a dedicated Office of the President (UCOP) instance for systemwide data oversight. UCOP’s Case IQ instance would serve as the system of record for reportable policy data, systemwide reporting, and trend analysis using data from all campuses. Policy and reportable data are fed into UCOP’s system through application programming interface API integrations to form a unified reporting view that supports UCOP’s local oversight requirements, as well as Board, state, and federal reporting obligations. To support process audits, monitoring, or spot checks, and to support UCOP’s consultation or support on cases, UCOP can either have appropriate access to the campus case itself or referred cases can be passed through integrations to UCOP.

Given the current difficult budget projections for the University of California and the hiring freeze that has been implemented, the workgroup recommends that now is not the time to expand the systemwide case-monitoring system. Instead, the workgroup recommends that all campuses agree on a set of common data fields that capture key aspects of each disciplinary case, from case intake through the end of the case, including through disciplinary action, if any, for continuous monitoring. To develop the appropriate common data fields, a systemwide group should consist of representatives from Academic Senate, Academic Personnel, Civil Rights, Anti-Discrimination, Title IX, Research, and Compliance offices. It appears data is idiosyncratically collected in many different offices and reaching an agreement on a systemwide common set of

data points that will be collected and provided to the Chancellor/Chancellor's designee on a regular basis for periodic comparative analyses and reporting is recommended.

6) Require each Chancellor to report to The Regents on the disposition of disciplinary cases on their campuses and note any delays that have arisen for good cause.

The workgroup recommends that each Chancellor report to The Regents annually on the disposition of disciplinary cases and delays for good cause.

The workgroup recommends implementation of this requirement while adhering to best practices of data privacy. The adoption of a single case-monitoring system for each campus would facilitate reporting by each Chancellor to The Regents on the disposition of disciplinary cases on their campuses. However, given the significant costs associated with a systemwide case-tracking system, agreed upon shared common data fields across the system should be reported by each campus to The Regents on an annual basis.

7) Consider whether the P&T Committee has the authority to recommend, and the Chancellor has the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor's designee.

The workgroup considered this charge and concluded that the P&T Committee does not have the authority to recommend, and the Chancellor does not have the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor's designee. The provision in APM - 016, prohibiting a Chancellor from imposing a penalty more severe than that articulated in the notice of intent, was grounded in principles of due process and on the principle that the same individual cannot serve as both investigating officer and judge in the same case.

Both APM - 015 (Faculty Code of Conduct) and Senate Bylaw 336 also provide that a hearing committee cannot recommend a disciplinary sanction more severe than that proposed by the Chancellor. This is also consistent with the Skelly process for other UC employees, wherein the proposed discipline cannot be increased during the due process granted under the Skelly standard. The faculty member is provided notice of the charges against them so they can prepare their defense, if any. A faculty member may take a different approach to their defense if the notice of proposed disciplinary action is suspension without pay, for instance, versus dismissal.

Changing and increasing the proposed sanction after the faculty member has put on their defense is counter to the principles of due process and will substantially increase the likelihood that the University's imposition of discipline will be overturned in any subsequent litigation. Notably, before a P&T hearing has commenced, the administration may issue a new revised notice of proposed discipline that increases or decreases the proposed disciplinary sanction and with enough advance notice that the faculty member can prepare their defense, if any.

The workgroup recommends compliance with current policy provisions. APM - 016 contains a provision specifically prohibiting the Chancellor from imposing a type of discipline more severe than the sanction referenced in a written notice of proposed disciplinary action to a faculty member. A faculty respondent may elect to hire representation based on the anticipated spectrum

of sanctions that are proposed. If the respondent opted to forego representation and later learned that a more severe sanction, including dismissal, was a possible outcome, this could leave the University vulnerable to legal action.

To address the concern raised in the charge, the workgroup recommends that when the administration sends a notice of proposed discipline to a faculty member, that the administration include a range of potential disciplinary sanctions that may be imposed. The range of potential disciplinary sanctions should be proportional to the conduct alleged, the facts of the case, the investigation's findings, and the potential testimony and evidence that is expected to occur at a P&T hearing. The range of proposed disciplinary sanctions would enable the P&T Hearing Committee to recommend the severity of discipline based on the totality of the evidence, including evidence presented at the hearing, and whether the allegations were substantiated by clear and convincing evidence. As an example, the administration, depending on the severity of the alleged conduct, may propose disciplinary sanctions that ranges from "letter of censure up to and including suspension without pay" or "a suspension without pay up to and including dismissal." By providing a range of proposed disciplinary sanctions that is a proportional range for the alleged conduct, rather than proposing one disciplinary sanction only, it provides both the Academic Senate and the administration with more flexibility to address new evidence that may be introduced at the P&T hearing (*e.g.*, through testimony or additional documents).

In calibrating the range of possible sanctions, Attachment A: Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity and Attachment B: Companion Document, as well as the existing systemwide guidance on disciplinary sanctions in SVSH cases, should be referred to in setting the minimum and maximum of the discipline sanction range for a particular infraction. In addition, if new evidence is discovered that would warrant an increase to the range maximum of proposed disciplinary sanctions, the administration has an option to re-start the process.

8) Clarify administrative policies regarding paid versus unpaid leave during the disciplinary process and consider the circumstances under which paid leave versus unpaid leave should be used during the disciplinary process.

Pursuant to APM - 016, prior to instituting disciplinary charges and while conduct is investigated, the Chancellor may place a faculty member on involuntary leave without pay in rare and egregious cases where there is a strong risk that the accused faculty member's continued assignment to regular duties, or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing; or in situations where the faculty member's conduct represents a serious crime or felony that is also the subject of investigation by a law enforcement agency. In order to impose an unpaid leave, a Chancellor must receive prior authorization by special action of The Regents. In general, employees (including faculty) are placed on paid investigatory leave because there has not yet been a finding of a policy violation.

On the other hand, suspension without pay is a disciplinary sanction that may be imposed after the investigation has concluded, charges have been brought, and the faculty member is determined to have engaged in misconduct. On June 28, 2024, at the request of The Regents, UC

System Provost and Executive Vice President Katherine S. Newman issued systemwide guidelines, requesting that when Chancellors recommend dismissal of a faculty member who has tenure or security of employment under APM - 016 to the President, that they also impose the disciplinary sanction of suspension without pay. Under the existing APM - 016 language, more than one disciplinary sanction may be applied. As such, a faculty member facing a dismissal recommendation from the Chancellor may also be sanctioned with a suspension without pay, which remains at the Chancellor's level of authority to issue. The faculty member will then be on suspension without pay at least until the President makes a recommendation to the Board of Regents, and The Regents decide on the dismissal. This suspension is generally up to a full calendar year.

IV. Conclusion

The Faculty Code of Conduct (APM - 015) provides that "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." Expediency must not compromise accuracy or procedural integrity, though it is incumbent on all of us - Academic Senate, Administration, and Regents - to continue to engage in the regular review of our policies and processes to determine where improvements can be made. In response to The Regents concern about the length of time that elapses between purported infraction of the Faculty Code of Conduct and case resolution with or without disciplinary action, the joint Senate-Administration workgroup provides the above recommendations to streamline the entire process – from beginning to end - while providing appropriate due process to those who are alleged to have engaged in misconduct.

Senate-Administration Workgroup on Faculty Discipline Policies and Procedures

Workgroup Participants

Co-Chairs

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- Douglas Haynes, Interim Vice Provost for Faculty Affairs and Academic Programs

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- UCLA: Michael Levine, Interim Executive Vice Chancellor and Provost
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- UCAP Vice Chair – Nael Abu-Ghazaleh
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Academic Personnel Office, UC Riverside

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Equal Opportunity and Diversity Office

Ethics, Compliance, and Audit Services Office

Senate-Administration Workgroup on Faculty Discipline Policies and Procedures: Administration Subgroup

Senate-Administration Workgroup on Faculty Discipline Policies and Procedures: P&T Subgroup

Systemwide Office of Civil Rights

Systemwide Title IX Office

University Committee on Faculty Welfare (UCFW)

University Committee on Privilege and Tenure (UCPT)

UC Legal/Office of the General Counsel

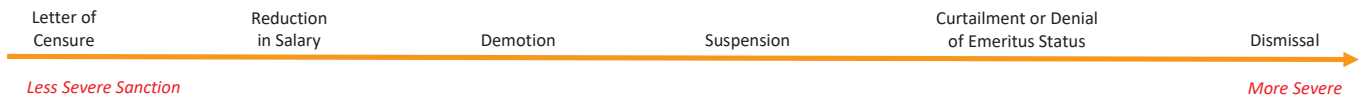
Senate-Administration Workgroup on Faculty Discipline Policies and Procedures

Resources Used by Workgroup

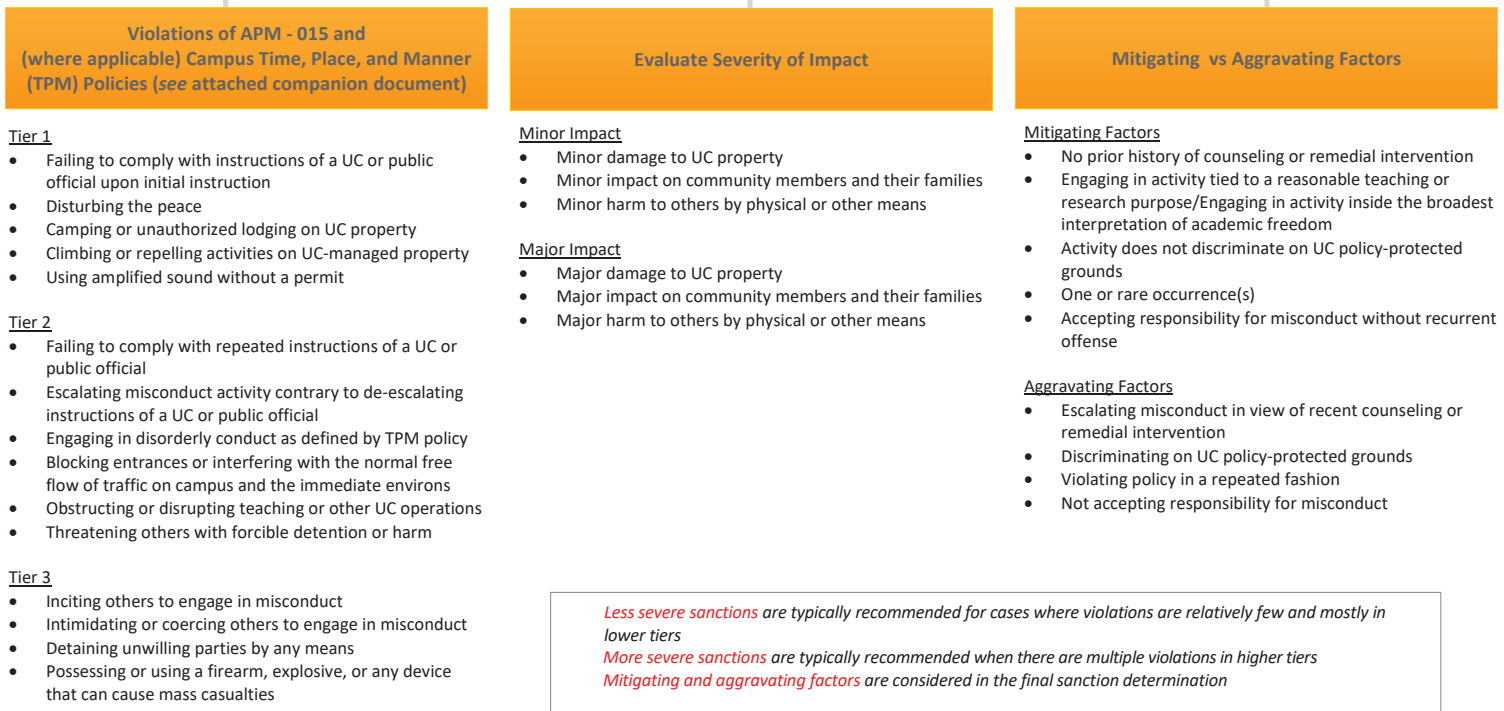
1. August 19, 2024, letter from President Drake to Chancellors
2. [California SB 108, Budget Act of 2024](#)
3. Academic Personnel Manual, Section 015 – The Faculty Code of Conduct ([APM - 015](#))
4. Academic Personnel Manual, Section 016 – University Policy on Faculty Conduct and the Administration of Discipline ([APM - 016](#))
5. Academic Personnel Manual, Section 010 – Academic Freedom ([APM - 010](#))
6. Final report of the Joint Senate-Administration Workgroup to Review APM - 015/016 (submitted November 2024)
7. [CA Penal Code 626.4](#)
8. [Academic Senate Bylaw 195](#)
9. [Academic Senate Bylaw 334](#)
10. [Academic Senate Bylaw 335](#)
11. [Academic Senate Bylaw 336](#)
12. [Academic Senate Bylaw 337](#)
13. [Regents Bylaw 30. President of the University](#)
14. [Regents Bylaw 31. Chancellors](#)
15. [Regents Bylaw 40. Academic Senate](#)
16. [Regents Bylaw 40.1. Duties and Powers of the Academic Senate](#)
17. [Regents Bylaw 40.3. Special Provisions Concerning Faculty](#)
18. [Regents Policy 4400: Policy on University of California Diversity Statement](#)
19. [Regents Policy 4403: Statement of Principles Against Intolerance](#)
20. [Abusive Conduct in the Workplace Policy](#)
21. [Anti-Discrimination Policy](#)
22. [UC Community Safety Plan](#)
23. [UC Mission Statement](#)
24. [UC Principles of Community](#)
25. [UC Campus Time Place Manner Policies](#)
26. [UC Standards of Ethical Conduct](#)
27. Sexual Violence and Sexual Harassment (SVSH) Faculty Respondent Disciplinary Sanction Guidelines
28. Campus disciplinary procedures
29. Division Senate regulations
30. January 31, 2025, Letter from Provost Newman to Co-Chairs and Members of the Joint Senate-Administration Workgroup on Faculty Discipline Policies and Procedures
31. April 7, 2025, Letter from Provost Newman to the Workgroup re Review of Draft Recommendations

Attachment A: Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity

Types of Faculty Disciplinary Sanctions under APM - 016



Factors that Affect the Types of Disciplinary Sanctions for Faculty Respondents



ATTACHMENT B – COMPANION DOCUMENT – FACULTY DISCIPLINARY SANCTIONS GUIDELINES RE EXPRESSIVE ACTIVITY

UC Academic Personnel Manual (APM), Presidential, and Campus Policies Related to Expressive Activity

If a formal investigation of allegations of faculty misconduct results in the assessment that a policy violation has occurred, the accompanying **Faculty Respondent Disciplinary Sanctions Guidelines for Misconduct Related to Expressive Activity** are intended to support calibration of disciplinary responses under APM - 016. The following UC policies could be implicated in allegations of faculty misconduct in the realm of expressive activity. As systemwide calibration guidance already exists for the Sexual Violence and Sexual Harassment (SVSH) Policy, SVSH provisions from the Faculty Code of Conduct will not be addressed in this document. While the calibration guidance for the SVSH Policy informed the accompanying disciplinary sanction guidelines, the two guidance documents differ insofar as the accompanying disciplinary sanction guidelines distinguish between misconduct that has minor versus major severity of impact. The guidelines do not quantify the extent of damage to UC property, but reviewers may wish to do so in their assessments. As an example, in California, property damage of less than \$400 constitutes a misdemeanor, whereas damage in the amount of \$400 or more represents a felony. Assessing minor versus major severity of impact on or harm to UC community members and their families is far less easily tangibly quantifiable, as, in addition to interfering with University operations or access to educational opportunities, the impact or harm may be physical and/or by “other means,” such as psychological. Quantification alone may be insufficient in reviewers’ assessment, as a single incident that results in physical or psychological harm to one individual may be so egregious as to constitute major impact or harm. As in cases of SVSH policy violations, reviewers will need to assess the frequency, nature, and severity of the APM - 015 violation(s), including whether the misconduct resulted in economic damage, or was threatening, impactful, and/or harmful in a physical or psychological manner.

APM - 015, The Faculty Code of Conduct

The policy recognizes the University’s obligation to preserve conditions that are hospitable to the University’s central functions and to protect the faculty in its missions of teaching, learning, research, and service: “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.” Part I of the policy 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 elaborates standards of professional conduct and identifies types of conduct that represent unacceptable behavior and, as a result, a violation of the Faculty Code of Conduct.

Part II, Paragraph A, covers specific situations that provide for protecting safety and protecting access to educational opportunities. Part II, Paragraph A contains the following provisions surrounding failure to meet the responsibilities of instruction:

A.1.a, regarding arbitrary denial of access to instruction;

A.1.b, regarding significant intrusion of material unrelated to the course;

A.1.c, regarding 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;

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A.2, regarding discrimination, including harassment, against a student on political grounds or for protected categories;

A.5, regarding the 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; and

A.6, regarding participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

Part II, Paragraph C, identifies the following types of unacceptable conduct, engagement in which would constitute a violation of the Faculty Code of 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 or individuals...engaged in...training program leading to employment on political grounds, or for reasons of race, color, religion...
7. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against employees on the basis of disability....
8. 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.

Part II, Paragraph E, item 2 covers situations involving the "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."

APM - 010, Academic Freedom

APM - 010 provides in relevant part, "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 protect 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."

"Academic freedom requires that teaching and scholarship be assessed by reference to the professional standards that sustain the University's pursuit and achievement of knowledge. 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

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freedom requires that the Academic Senate be given primary responsibility for applying academic standards, subject to appropriate review by the Administration, and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care.”

“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 academic freedom protections of APM-010 are distinct from the legal right to freedom of speech, to which all University employees are entitled.

Regents Policy 4403: Statement of Principles Against Intolerance

Paragraph A of this policy states that, “The University therefore strives to foster an environment in which all are included, all are given an equal opportunity to learn and explore, in which differences as well as commonalities are celebrated, and in which dissenting viewpoints are not only tolerated but encouraged. Acts of hatred and other intolerant conduct, as well as acts of discrimination that demean our differences, are antithetical to the values of the University and serve to undermine its purpose.”

Paragraph B acknowledges that the University’s mission “is best served when members of the University community collaborate to foster an equal learning environment for all, in which all members of the community are welcomed and confident of their physical safety.”

Paragraph C states that, “In a community of learners, teachers, and knowledge-seekers, the University is best served when its leaders challenge speech and action reflecting bias, stereotypes, and/or intolerance.”

Paragraph D states that, “Freedom of expression and freedom of inquiry are paramount in a public research University and form the bedrock on which our mission of discovery is founded. The University will vigorously defend the principles of the First Amendment and academic freedom against any efforts to subvert or abridge them.”

Under Paragraph E, “Each member of the University community is entitled to speak, to be heard, and to be engaged based on the merits of their views, and unburdened by historical biases, stereotypes and prejudices. Discourse that reflects such biases, stereotypes or prejudice can undermine the equal and welcoming learning environment that the University of California strives to foster.”

Paragraph H states that, “Actions that physically or otherwise interfere with the ability of an individual or group to assemble, speak, and share or hear the opinions of others (within time place and manner restrictions adopted by the University) impair the mission and intellectual life of the University and will not be tolerated.”

Finally, Paragraph I affirms that, “Harassment, threats, assaults, vandalism, and destruction of property, as defined by University policy, will not be tolerated within the University community.”

Anti-Discrimination Policy and the Abusive Conduct in the Workplace Policy

These Presidential Policies affirm the University’s commitment to maintaining a working and learning environment and the institution’s intolerance of behavior that is discriminatory or that disrupts the functioning of the University community and interferes with individuals’ ability to learn, teach, work, and conduct research.

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Campus TPM Policies

In addition to APM, Regental, and Presidential Policies, each UC campus has a Time, Place, and Manner policy that protects the right to freedom of expression, provides for non-interference with University functions and access to University activities and facilities, and ensures compliance with pertinent laws and other applicable University policies. Local TPM policies include:

UC Berkeley: [Berkeley Campus Regulations Implementing University Policies](#)

UC Davis: [Time, Place, and Manner Regulations in Freedom of Expression Policy \(PPM 400-01\)](#)

UC Irvine: [Time, Place, and Manner Policy](#)

UCLA: [UCLA Regulations on Activities, Registered Campus Organizations, and Use of Properties](#)

UC Merced: [Expressive Activities and Assembly: Protests, Demonstrations, Non-University Speakers and Signage on Campus and in University Facilities -- Interim Policy](#)

UC Riverside: [Policy 700-70, Time Place Manner Regulations](#)

UC San Diego: [Interim Policy on Expressive Activity Time, Place, and Manner](#)

UCSF: 600-27: [Interim: Expressive Activities Held on UCSF Property](#)

UC Santa Barbara: [Time, Place, and Manner Regulations -- Chapter 3: Campus Activities - Speech and Advocacy in Campus Regulations and UC Santa Barbara Campus Guidance](#)

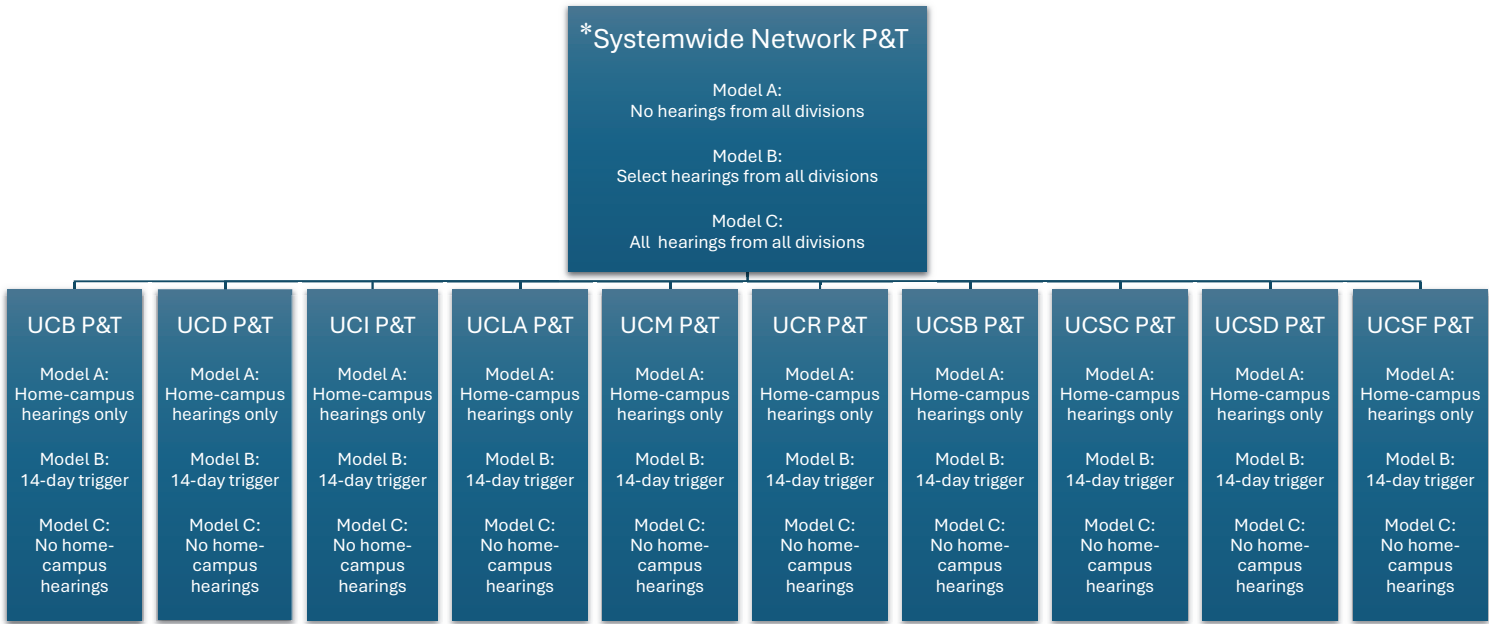
UC Santa Cruz: [Interim Conduct Regulations \(Time, Place, and Manner\)](#)

Interplay of the Above Policies and Extramural Speech

Faculty members are entitled to the academic freedom protections described in APM - 010 as well as the constitutional right to free expression, which all University employees enjoy. However, this does not mean that expressive conduct by faculty can never be subject to discipline. APM - 015 identifies certain expressive conduct as misconduct, including: incitement that creates clear and present danger of violence or abuse of persons or property; threats of physical harm to another member of the University community that interferes with their performance of University activities; intentional misrepresentation of personal views as a statement of position of the University or any of its agencies; and harassment, which can be verbal.

The same is true for faculty extramural speech, which may be protected under APM - 010 only insofar as it is consistent with the standards of professional conduct set forth in APM - 015. The standard provided in APM - 015 allows for discipline only for conduct which is not justified by the faculty's ethical principles stated in APM - 015 and which significantly impairs the University's central functions, as defined in APM - 015's preamble. This analysis must recognize the particular context of the University as an environment that encourages free inquiry and the exchange of ideas and, as described in APM - 015, "seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and furthering the search for wisdom."

Faculty, like all University employees, are also entitled to First Amendment protection for speech on matters of public concern, but only insofar as the employee's expressive interests outweigh the University's interests in fulfilling its public service mission.

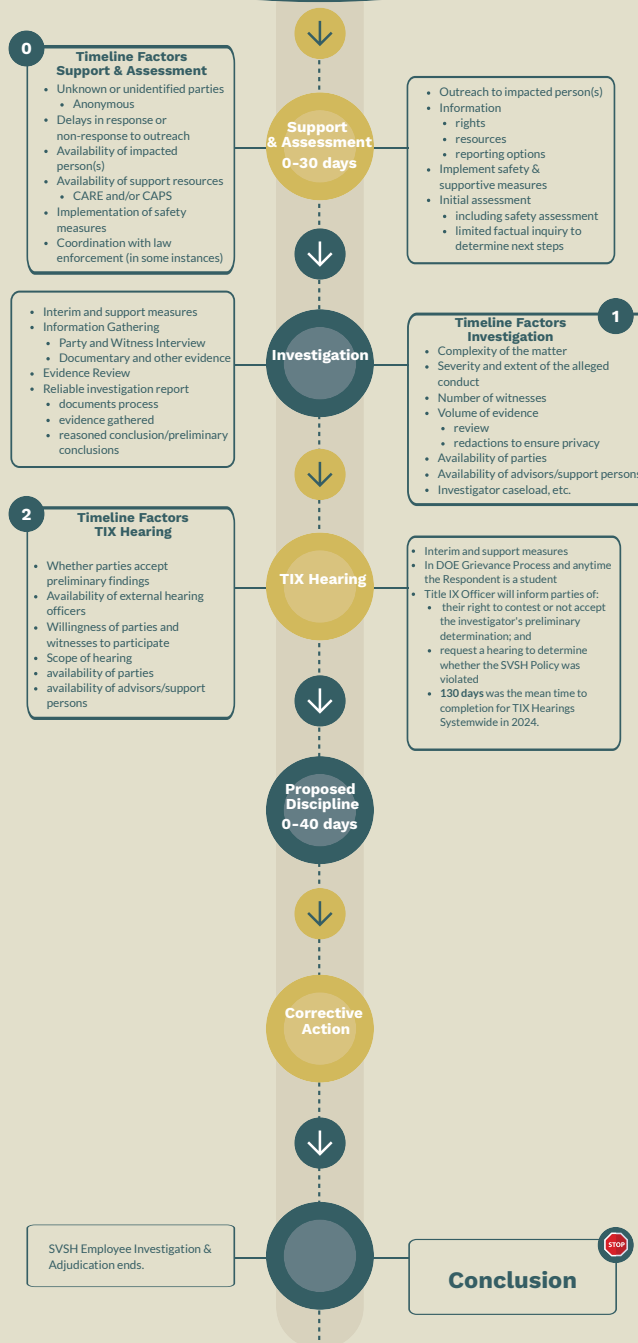


* Systemwide Network P&T – Flexible constitution drawn from all divisional P&T committee members. Applicable to Model B and Model C.

Model A-2: Is a combination of Model A and Model B, where the majority of the hearing panel would be from the home campus, and 1 or 2 panel members would be from other campuses.

Employee Investigation & Adjudication

Timeline Factors



Considerations Regarding Timeline Extensions



There are limited circumstances under which timelines may justifiably be extended without good cause, for example:

- the assigned investigator is on an approved leave (due to illness, jury duty, adoption of a child, etc)
- the assigned investigator left the University's employ and the case was transitioned to a new investigator
- the assigned investigator's workload impedes their ability to meet the time frame because they are assigned more than a full caseload.