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Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
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July 9, 2024

KATHERINE S. NEWMAN
PROVOST & EXECUTIVE VICE PRESIDENT

AMY K. LEE
DEPUTY PROVOST, SYSTEMWIDE ACADEMIC PERSONNEL

Re: Proposed Revisions to Academic Personnel Manual (APM) Section 016 (Faculty Conduct and the Administration of Discipline)

Dear Provost Newman & Deputy Provost Lee,

As requested by then-Vice Provost Haynes, I distributed for systemwide Senate review the proposed revisions to Academic Personnel Manual (APM) Section 016. All ten Academic Senate divisions and five systemwide committees ([UCAADE](#), [UCAAF](#), [CCGA](#), [UCPT](#), and [UCFW](#)) submitted comments. These comments were discussed at the Academic Council’s June 26, 2024 meeting and are attached for your reference. A summary follows, but we encourage you to read the enclosed feedback in its entirety. For reasons explained below, the comments from the University Committee on Privilege and Tenure (UCPT) are particularly salient.

The revisions to APM 016 sought to address the handling of simultaneous academic misconduct investigations and personnel actions. These revisions were proposed by UCPT because there is currently no systemwide policy governing such situations. As a result, campus administrations across the system have each developed their own set of procedures and practices, most notably putting “pauses” on personnel actions, with little or sometimes no information about these “pauses” coming to faculty impacted by them. UCPT was and remains deeply concerned about the lack of equity that this diversity of largely unwritten practices entails, as well as the threat to due process that comes from putting arbitrary and ungrievable pauses on personnel actions. In May 2023, Academic Council [endorsed UCPT’s proposed set of policy changes](#) on this matter and concurred with the notion that the absence of systemwide guidance has resulted in inconsistent procedures and practices across campuses. Council thus requested “a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide and end the ad hoc solutions currently being employed.”

However, Academic Council members strongly oppose the revisions to APM 016 as currently proposed. First, the policy does not align with Council’s May 2023 recommendations for the

timing of a no-fault pause. The Council recommended initiating the pause at the time formal charges are filed, except in the case of a faculty member being considered for tenure, where a pause would be allowable earlier, after a formal investigation was initiated. The proposed policy allows a pause at the start of a formal investigation of alleged misconduct for any faculty member, including those with tenure. This is tantamount to the presumption of guilt and conflicts with our intent to guarantee—or at least limit incursions on—due process. Moreover, the policy’s third paragraph (APM 016, page 3) appears to contradict the goal of providing consistent systemwide policy guidance and equity in this regard by delegating decision-making authority to campuses about “local procedures to address at what stage in existing local procedures the pause occurs.”

Council reiterates that for all cases except those involving tenure, it is more just, that is, in keeping with due process, to impose a pause only after a preliminary investigation is completed and the campus administration has filed disciplinary charges. Council also underlines that one of the key benefits of stated systemwide policies on concurrent misconduct cases and personnel actions—including how and when an administrator may pause a personnel action—is that a faculty member may then exercise their right to grieve whether standards to file disciplinary charges have been met.

The systemwide policy also should provide for an *automatic* pause instead of leaving it to the discretion of the chancellor or their designee. This will help ensure consistent application across campuses and prevent potentially discriminatory treatment of faculty members due to varying interpretations and decisions by administrators. Perhaps most importantly, there should be an automatic extension of appointment past the eighth year for untenured faculty under review at the time that misconduct investigations and procedures are underway. As written, the policy could allow a chancellor to deny tenure to an assistant professor simply by doing nothing if the investigative and disciplinary processes go beyond the eighth year, potentially leading to the faculty member’s dismissal.

In addition, the policy should incorporate explicit guidance on retroactive restitution to faculty members who are found not guilty of misconduct. That is, the policy should state that if no misconduct is found, any advancements will be granted in a timely fashion and appropriately backdated, and salary increases will be granted retroactively. Although not all harm can be undone in the cases where a respondent is found to be not guilty, such a provision will mitigate the damage to career as well as financial harm caused by pausing the advancement of faculty members who are ultimately exonerated.

In sum, the policy seems to have been revised without attention to Council’s well-delineated recommendations, and in many ways runs counter to the very goals that UCPT put forward in their request for and formulation of a policy in this area. In its current form, the policy is overly vague, harbors internal contradictions, and grants excessive authority to chancellors. The policy could lead to inconsistent implementation and decisions that harm faculty over minor or unsubstantiated allegations.

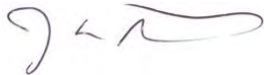
Academic Council strongly recommends further policy revisions that should include clear and specific guidelines regarding no-fault pauses, and provisions that ensure consistent and equitable treatment across campuses and minimize negative impacts on faculty career advancement. The

policy should protect the rights of faculty members to request a no-fault pause themselves if they feel it is necessary for a fair review, and the ability to grieve such cases if needed. For guidance, please consider the Council's May 2023 recommendations. You may also find it helpful to refer to the letter from the UCLA Committee on Privilege and Tenure (pp. 33-37) as further work is done on these proposed policy changes.

Council is concerned that communication around the development of a systemwide policy that the Academic Senate specifically requested appears to have broken down at various points. We nonetheless look forward to constructive and ongoing engagement on this and other proposed policy changes.

Thank you for the opportunity to opine. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Steintrager', with a stylized flourish at the end.

James Steintrager, Chair
Academic Council

Cc: Academic Council
UCPT
Chief of Staff Beechem
Associate Director Woolston
Senate Division Executive Directors
Senate Executive Director Lin



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

June 3, 2024

JAMES STEINTRAGER
Chair, Academic Council

Subject: Proposed Revisions to APM-016, University Policy on Faculty Conduct and Administration of Discipline

Dear Chair Steintrager:

On May 13, 2024, the Council of the Berkeley Division (DIVCO) discussed the proposed revisions to *Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline*, informed by written comments from the committee on Budget and Interdepartmental Relations (BIR). The committees on Faculty Welfare (FWEL) and Privilege and Tenure (P&T) had no comments, and the Committee on Panel of Counselors (POC) had no concerns with the revisions. DIVCO endorsed the attached comments. Please see attached.

The proposed revision adds a section entitled, “Pause on Academic Review Actions,” which includes a provision authorizing the Chancellor (or Chancellor’s designee) to impose a “no-fault pause” on “any current or future academic personnel action (e.g., for merit, promotion, or advancement)” related to a faculty member who is under “formal investigation of alleged misconduct.”

DIVCO agrees with the main points explained in the BIR letter:

1. Timing of the pause. The proposed revisions suggest imposing a no-fault pause at the beginning of a formal investigation of alleged misconduct by a faculty member. It may be more equitable to impose the pause after an investigation is completed and the campus administration filed disciplinary charges.
2. Automatic pause would be a more consistent approach, instead of at the discretion of the Chancellor or their designee (except in tenure cases).
3. There should be explicit language confirming that if there were no misconduct findings, any advancement and accompanying salary increases will be awarded retroactively.

I encourage you to read the enclosed committee comments.

Sincerely,



Maximilian Auffhammer,
Avicé M. Saint Professor
Professor of Agricultural & Resource Economics/Political Economy (ARE/PE)
Chair, Berkeley Division of the Academic Senate

Enclosure

cc: Amani Nuru-Jeter, Vice Chair, Berkeley Division of the Academic Senate
Jocelyn Surla Banaria, Executive Director
Rachel Morello-Frosch, Chair, Committee on Budget and Interdepartmental Relations
J. Keith Gilles, Co-Chair, Committee on Faculty Welfare
Nancy Wallace, Co-Chair, Committee on Faculty Welfare
Andrew Minor, Chair, Committee on Privilege and Tenure
Jennifer Chatman, Chair, Committee on Panel of Counselors
Will Lynch, Manager staffing Committee on Budget and Interdepartmental Relations
Patrick Allen, Senate Analyst, Committees on Faculty Welfare; Privilege and Tenure; and
Panel of Counselors

University of California, Berkeley

COMMITTEE ON BUDGET AND
INTERDEPARTMENTAL RELATIONS

April 30, 2024

CHAIR MAXIMILIAN AUFFHAMMER
BERKELEY DIVISION OF THE ACADEMIC SENATE

RE: Proposed Revisions to APM 016

We write regarding the proposed revisions to APM 016 (Faculty Conduct and the Administration of Discipline), which address the handling of simultaneous academic misconduct investigations and personnel actions. The proposal adds to APM 016 a section entitled, “Pause on Academic Review Actions,” which includes a provision authorizing the Chancellor (or Chancellor’s designee) to impose a “no-fault pause” on “any current or future academic personnel action (e.g., for merit, promotion, or advancement)” related to a faculty member who is under “formal investigation of alleged misconduct.”

We support the effort to establish consistency across the UC system in dealing with the difficult situation of faculty members who are undergoing review and are also under investigation for misconduct. A no-fault pause in academic-personnel actions seems to be a reasonable approach to such situations, as does the sequence of actions outlined in the second paragraph. We have three concerns, however, about ambiguities and elisions in the proposal.

1) Timing of the pause

The first paragraph begins by stating that the Chancellor or designee may impose a no-fault pause “[a]t the beginning of a formal investigation of alleged misconduct by a faculty member.” We think it is more equitable to impose the pause not when an allegation has been made and an investigation is ongoing, but after an investigation has been completed, and when the campus administration has filed disciplinary charges, in accordance with UC Senate Bylaw 336.C.1.a. We agree, however, that in tenure cases, the Chancellor or designee should have the discretion to impose a no-fault pause at an earlier stage in the process. For potential future discussions, not specifically relevant to APM 016, we note that there may be situations in which faculty members under investigation for disciplinary issues may wish to request a no-fault pause in their academic-personnel case. We note that in the original proposal drafted by the systemwide Committee on Privilege & Tenure (UCP&T) to address the issue of concurrent misconduct and personnel actions, the recommendation was that the no-fault pause be imposed “at the point in the disciplinary process when charges are filed in most cases,” with a modification for tenure cases. (See the letter from then-UCP&T Chair Julia Simon to then-Academic Senate Chair Susan Cochran, dated April 24, 2023). We do not think it advisable to follow the procedure in the third paragraph, which delegates to individual campuses decisions about “local procedures to address at what stage in existing

local procedures the pause occurs,” as this would generate uncertainties that are at odds with the goal of the proposed revisions to clarify when a pause should occur. Indeed, in her letter to Senate Chair Cochran, UCP&T Chair Simon explains that the absence of guidance in the APM on dealing with simultaneous academic-personnel actions and misconduct investigations has led to the problem of “personnel actions... being paused at different stages of the disciplinary process on different campuses.”

2) The need for an automatic pause

The first paragraph of the proposed new section in APM 016 states that the Chancellor or designee “may impose a no-fault pause.” The logic of the proposed policy is that a no-fault pause should occur when a faculty member is being investigated for misconduct. As written, the proposed revisions do not provide guidance or criteria to make clear how the Chancellor or designee should make their decisions across different cases. We think a more consistent approach would be an automatic pause, rather than a pause made at the discretion of the Chancellor or their designee (except in tenure cases, as noted above).

3) Confirmation of retroactive review actions and salary in cases with no misconduct findings

Finally, we recommend that the proposed revisions explicitly confirm that, should the faculty member whose review case has been paused be found not to have engaged in misconduct relevant to the assessment criteria for academic-personnel review actions, any advancement and accompanying salary increase will be awarded retroactively.

We thank you for the opportunity to comment on the proposed revisions to APM 016.



Rachel Morello-Frosch
Chair

RMF/wl



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June 12, 2024

James Steintrager
Chair, Academic Council

RE: Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

The proposed revisions to APM-016 were forwarded to all standing committees of the Davis Division of the Academic Senate. Ten committees responded: Academic Personnel – Oversight (CAP), Faculty Welfare (FWC), Privilege and Tenure (P&T), and Faculty Executive Committees of the College of Agricultural and Environmental Sciences (CAES), the College of Biological Sciences (CBS), the College of Engineering (COE), the College of Letters and Sciences (L&S), the School of Law (LAW), the School of Medicine (SOM), and the School of Veterinary Medicine (SVM).

Committees express concern regarding the proposed revisions, noting that they lack specificity, may blur the lines between the disciplinary and merit and promotion processes, and may result in discriminatory treatment. In addition, several committees comment on the absence of an explicit timeline for no-fault pauses, and question how faculty will be compensated for delayed advancement under the proposed section. P&T also provides helpful commentary on the provision that allows the Chancellor “to recommend to the President that the appointment [of an Assistant Professor] be extended beyond the eighth year,” which may result in a denial of tenure.

As CBS, CAES, COE, and SOM highlight, the investigative and disciplinary process can last for an indeterminate amount of time. P&T adds that this may lead to considerable delays in resolving merit and promotion actions, which may adversely affect the careers of faculty members. CBS, CAES, COE, and SOM urge the policyholders to establish a clear, specific timeline for campuses to follow regarding no-fault pauses. This may minimize negative impacts on faculty career advancement and provide faculty with a policy to point to if they feel compelled to file a grievance.

FWC, CBS, COE, SOM, and CAES note that it is unclear how lost salary and advancement will be compensated if a faculty member is not found in violation of any policy during an investigation. FWC recommends incorporating a clear statement indicating that once the no-fault pause has ended, the normative time to promotion is retroactively reinstated. CBS and FWC further suggest the establishment of a clear policy and/or specific guidelines on how to equitably handle paused merit advancement reviews.

P&T notes that the proposed section “will allow the Chancellor to deny tenure to a faculty member by doing nothing if the investigation goes beyond the eighth year.” The ambiguity of the proposed

section could thus deny tenure without imposing discipline or giving faculty a policy to file a grievance under. P&T further notes that, per [Regents Bylaw 40.3.\(c\)](#), if the investigation goes beyond the eighth year, the campus cannot release or deny tenure to a faculty member until the investigation and either the personnel review or campus disciplinary procedures are completed.

Committees also provide a few recommendations for the policyholders to consider incorporating at the systemwide level. FWC requests an explicit definition of the term “no-fault-pause,” and urges the policyholders to allow faculty members to request a no-fault pause, which may be beneficial if they feel they may not receive a fair merit review due to a pending matter. CAES and CBS suggest that the circumstances and criteria under which a no-fault pause can be implemented should be explicitly defined and justified. P&T recommends incorporating the specific date by which campuses must have their approved policies in the cover letter. CAES provides two recommendations: 1) rather than implementing a no-fault pause, it may be simpler to permit the retraction of an advancement, and 2) if the proposed section is adopted, implementation should be consistent and equitable across all UC campuses.

Lastly, committees recognize that “campuses will be responsible for developing the local procedures,” as CAP states, and provide additional suggestions for campus implementation. P&T and FWC recommend that the Vice Provost of Academic Affairs be responsible for handling no-fault pauses due to their direct oversight of merit and promotions. P&T adds that a progress update should be sent to the faculty member at the three-month mark of an investigation. P&T also suggests that extensions of the no-fault pause beyond six months may be permissible for just cause, however, any extension should require review by the Chancellor.

The Davis Division appreciates the opportunity to comment.

Sincerely,



Ahmet Palazoglu
Chair, Davis Division of the Academic Senate
Distinguished Professor of Chemical Engineering
University of California, Davis

Enclosed: Davis Division Committee Responses

c: Monica Lin, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

June 5, 2024

Ahmet Palazoglu

Chair, Davis Division of the Academic Senate

RE: Request for Consultation on the Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Ahmet:

The Committee on Privilege and Tenure – Investigative Subcommittee has reviewed the Request for Consultation on the Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline. While the revisions address the handling of simultaneous academic misconduct investigations and personnel actions, the concerns that the committee has aligned specifically with the Pause on Academic Personnel Review Actions and the Conclusion of the Pause. The committee discussion yielded the following conclusions:

Concerns:

- Lack of specificity: The revision lacks clarity regarding the duration of the pause and the criteria for determining its beginning and end along with identifying what office is responsible for administering the no-fault pause.
- Potential for delay: The absence of a defined duration for the pause could lead to considerable delays in resolving merit actions, potentially adversely affecting the careers of faculty members.
- The lack of specific timeline and details would make it nearly impossible for a faculty member to file a grievance on the basis of violation of this campus policy.
- Once the policy is approved, the specific date by which each campus must have the approved policy should be included in the cover letter.
- The policy will allow the Chancellor to deny tenure to a faculty member by doing nothing if the investigation goes beyond the eighth year. Thus, the policy could deny tenure without imposing discipline or giving faculty a policy under which to grieve denial of tenure.

Recommendations for campus procedures [UCD APM 016](#):

- Once revisions to APM 016 have been approved, the UCD APM 016 should be subsequently revised to align with the new section in APM 016 and outline the campus specific procedures.
- It is our committee's recommendation that the campus administrator responsible for handling the no-fault pause should be the campus administrator that oversees academic personnel (e.g. Vice Provost of Academic Affairs) due to their direct oversight of merit and promotions.
- Specifically, the committee recommends that the Vice Provost of Academic Affairs should determine the no-fault pause and notify the faculty in a timely manner of the progress of the no-fault pause throughout the investigation.
- The committee recommends that timely communications be sent to the faculty member during the investigation and that these be included in the UCD APM 016 procedures:
 - At the three-month mark, the Vice Provost of Academic Affairs should provide information about progress made.

- Extensions of the pause beyond six months may be permissible for just cause but should require review by the Chancellor.
- If the investigation goes beyond the eighth year, the campus cannot release the faculty member or deny tenure until the investigation is completed and either the personnel review or campus disciplinary procedures are completed.
 - Per Regents Bylaw 40.3.(c), “The termination of a continuous tenure appointment or the termination of the appointment of any other member of the faculty before the expiration of the appointee's contract shall be only for good cause, after the opportunity for a hearing before the properly constituted advisory committee of the Academic Senate.”

The Committee on Privilege and Tenure – Investigative Subcommittee appreciates the opportunity to comment on the Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline.

Sincerely,

A handwritten signature in blue ink that reads "Catherine VandeVoort". The signature is written in a cursive, flowing style.

Catherine VandeVoort
Chair, Committee on Privilege and Tenure – Investigative Subcommittee

May 31, 2024

Ahmet Palazoglu

Chair, Davis Division of the Academic Senate

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

The Committee on Academic Personnel – Oversight (CAP) has reviewed and discussed the Academic Senate request for consultation on the Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline. Since campuses will be responsible for developing the local procedures for the proposed “no-fault pause,” CAP members did not feel that there was enough information to comment on these revisions. CAP anticipates that more information about how this policy will be implemented at UC Davis will be forthcoming and plans to comment on these local procedures when they are ready for Senate review.

CAP appreciates the opportunity to comment.

June 11, 2024

Ahmet Palazoglu

Chair, Davis Division of the Academic Senate

RE: Request for Consultation – Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Ahmet:

The Committee on Faculty Welfare has reviewed the RFC – Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline and is supportive of the revisions. The draft policy states "The no-fault pause ... shall end when the investigative and disciplinary processes are concluded ... The academic personnel review process may then proceed according to campus procedures." The term "no-fault" is not defined, and the complex academic review process needs careful attention to ensure that a pause does not unjustly delay a faculty member's normative merit advancement progress.

Consider a hypothetical Professor step 3.0 who is on track for a 1.0 merit advancement in the 2024-25 review cycle. The action is paused during an investigation, which ultimately clears the individual of wrongdoing. However, the 24-25 cycle by this time is complete, and so the individual's merit action is deferred to the 25-26 cycle. A 1.0 step advancement is awarded for 25-26, retroactive (including salary) to 24-25. Nevertheless, the faculty member is delayed by one year in the three-year cycle of merit reviews at this rank and step.

Is this three-year cycle accelerated to two years in this case? If so, the 25-26 review should consider only accomplishments through 24-25, so the 25-26 accomplishments will be considered in the new cycle. Will the faculty member have discretion on this? Many more questions arise from this and other scenarios. We recommend that the term "no-fault" be defined more explicitly, with specific guidelines on how fairly to handle paused merit advancement reviews. The Vice-Provost for Academic Affairs likely has valuable advice for this.

The committee urges the policyholders to allow faculty members to request a no-fault pause, in addition to allowing imposition by the Chancellor. It may be beneficial to faculty who feel that they may not receive a fair merit review due to a pending matter and allow the faculty member to assess the risks of pausing or not pausing. Lastly, the committee recommends incorporating a clear statement indicating that once the no-fault pause is over, the normative time to promotion is retroactively reinstated.

Sincerely,



Karen L. Bales

Chair, Committee on Faculty Welfare

June 10, 2024

Ahmet Palazoglu
Chair, Davis Division of the Academic Senate

RE: Proposed Revisions to APM-016

Dear Ahmet:

The CBS FEC would like to express major issues with this proposed revision in current form.

We strongly feel it would impose punitive measures when no findings have yet been made regarding wrongdoing or policy violations without adequate details of the decision/imposition process, does not sufficiently guarantee an expedited/bounded timeline, and does not provide details of how lost salary and advancement will be made up when faculty are not found to have violated policy. The rationale/need for the situations where a no-fault pause would be imposed needs to be clear and specific. The current description does not specify why this revision is necessary not clarify what the justification for the no-fault pause would be. Investigations can take a long time and there is concern that an indeterminate length of time in a no-fault pause would be unfair to the faculty. The timeline should be constrained to minimize negative impact. There should be clear policy for the faculty will be compensated for “back pay” and delayed advancement via merit/promotion due to a no-fault pause.

See the attached comments for direct faculty responses below.

Sincerely,



Alex Nord
Associate Professor
Department of Neurobiology, Physiology and Behavior
Chair, College of Biological Sciences Faculty Executive Committee
University of California, Davis

COMMENTS:

In summary, the overwhelming majority of the Senate members in the College vehemently oppose the proposed change. Only 0.038% supported the action.

This amendment seems ill-considered and unnecessary.

The proposed revision is an affront to the fundamental tenet of innocent until proven guilty. In effect, this is preemptive punishment before any misconduct is proven. This revision is not only unnecessary but an overreach and expansion of administrative power.

These changes are clearly not necessary and they would create many unintended negative consequences.

I strongly disagree with the proposed policy. It is extremely punitive for faculty who are only 'accused' of violating the code of conduct and makes no remedy if a faculty is later found 'not guilty' of such conduct after having paused or delayed a promotion cycle. This is punitive for the faculty's income, which was harmed by the delayed promotion. Even worse, there is no stipulated time limit for the delayed promotion cycle or investigation, which may take YEARS. Further, there is no evidence such a policy is necessary. Current policy allows for faculty found to have violated the code of conduct to be punished by reduction of salary or demotion. Therefore, even if accused faculty successfully go through a promotion cycle prior to being found guilty of a violation, they can be retroactively punished in various ways under the current policy. This new policy is horrendous for faculty morale, excessively punitive, and should not be considered further in light of an already functioning disciplinary system.

The reason for this policy change is not explained. What is the need for it? What is inadequate about the current policy? Although described as "no-fault", such a pause can have negative consequences for someone's career. For this reason, I don't think it can be imposed before the investigation is concluded, otherwise it would violate the rules of due process.

I am against the proposed change because it could punish faculty (via delayed merit advancement) who are innocent of misconduct. What happened to "innocent until proven guilty"?

The changes proposed to APM016 will negatively impact faculty rights by allowing the the administration to define faculty in good standing. This will create arbitrary definition of who can be awarded faculty rights based on who and what the UC administration decides. Such changes will prevent faculty freedom of expression and will cause faculty who are defined to have "not good standing" to be excluded from having access to full rights. These changes are illegal and illegitimate and will degrade the future of scholarship and academic freedom

Given the short timeline we are operating on, I will do my best to be brief: The proposed changes give an impression of "guilty until proven innocent" by halting a faculty member's progress on their ladder, only allowing a restart when found innocent.

Time lost in progression will widen the gap between this innocent but accused faculty member, and their never-accused colleagues. A similar pattern is visible for entirely different reasons in female versus male faculty and the gap is hard to close once in effect.

A better solution appears to be to allow progression, and should the faculty be found guilty, to strip the merit/promotion that happened after the allegations came to light. If the misconduct occurred over a long time period, then perhaps reach into the period of misconduct and take more merits away from there.

I see no reason for there to be a pause in merits and promotions. Overall, I do not see the reason for this rule unless it's the "optics" of awarding a merit to faculty who stand accused. If the person's faculty unit feels there is a reason to not award the merit than they can vote it down, although it is true that colleagues may be unlikely to deny a merit based on yet-unjudged complaints. A problem is that there is no mechanism for "catching up" if the complaint is lacking merit. A reasonable option would be that if sufficient time has elapsed that the person be able to accelerate the next merit cycle to the next step to "catch up".

This is a bad idea that will make it even harder to retain top notch faculty. Why is the university spending time adding more regulations instead of solving the problems at hand (student/instructor ratio, strikes, budget holes, etc)?

I have various issues with the proposed revision of the APM-016. First and foremost, why is it necessary? I do not see the value of amending the manual. If a faculty is found guilty of violating the code of conduct, they can be demoted and even fired per APM-016. So, if they got a merit increase, a possible disciplinary sanction is to demote the faculty (but after due process). Why do we need to stop the merit process? What if we stop a merit action (no-fault pause) and the faculty is not guilty at the end of the investigation? They have been penalized because they lost at least one merit cycle. Is it fair? Lastly, why is the deadline for consultation so short, and why is it at a time when we are all busy grading and finishing the quarter?

Additional comment from the CBS Faculty: This is outrageous. Most simply, it is not needed. It presumes faculty are guilty until proved innocent and penalizes faculty for simply being accused of misconduct, undermining academic freedom. I cannot see that it serves any purpose other than to give administration a tool for strong-arming faculty into conforming, and to put pressure on faculty to settle any disputes/ accusations without a full defense, even in circumstances where they have not committed any misconduct.

I agree with much of the sentiment expressed by the CBS Faculty. All Faculty should be entitled to due process and as salary can be lost after due process is completed there doesn't appear to be a need for the proposed change.

This feels unnecessary. An allegation is not guilt. Merits should proceed during the investigation and if later found guilty, take the merit away if appropriate.

This amendment institutes a punishment before the subject has been found guilty of a crime, and in addition permits the investigation (and therefore the punishment) to continue ad infinitum. Who comes up with these really terrible ideas? Who is so vested in enhancing the Chancellor's ability to punish faculty at his whim? I wonder...

I don't see the need for this amendment. Isn't the national legal standard "innocent until proven guilty"? This amendment would penalize those found eventually not guilty. If the person is actually guilty, the merit can be stripped later on, as already stipulated in the manual.

I'm supportive of this. I think the risk of false positives is low.

This change is not necessary and will end up working punitively for faculty before any inquiry has concluded. We have seen faculty merit and promotion cases be derailed indefinitely under the current process, where it is not at all clear that such a prolonged disruption is proportional to the alleged misconduct. To be very clear, misconduct by faculty should have repercussions up to and including termination of employment, as has happened in the recent past in our college. I would support changes to make the process to accountability faster. This change however appears designed to hold back the merit/promotions progress before the process plays out. Another option is the proceed with merit/promotions as usual, but have the decision be conditional on the resolution of the case as communicated only at the conclusion of review by the letter from the Provost. But any difference in earnings between current and future earnings in a placeholder account, and pay out - with prevailing interest, if complaint is resolved without disciplinary consequences.

I am opposed the new proposed revision. All faculty are entitled to due process without being penalized before any allegation of misconduct is proven.

Given that faculty can lose salary ONCE "convicted," I see no reason to pause salary before adjudication.

I support the proposed changes.

A question to pass further up the chair...will the UC Davis APM include similar language for AF appointees?

Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

FEC: College of Letters and Science Committee Response

June 10, 2024

The College of Letters & Science Faculty Executive Committee (FEC) has reviewed and unanimously supports the revisions with no additional comment.

Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

FEC: College of Engineering Committee Response

June 10, 2024

The COE FEC discussed revisions to APM-016 at our 5/22/24 meeting. A number of concerns were expressed including:

- 1) that the wording of the policy seems to presume guilt of the accused faculty member
- 2) further details are needed on who can call for a no fault pause. Can the faculty member put in the request and who are the potential "chancellor designees". As worded the policy imposes the no fault pause only from administrative levels, not from faculty-centric position.
- 3) additional clarification is requested on if all financial ramifications of a pause would be restored to a faculty member, found to be in good standing after investigation, retroactive to the date of initiation of the pause. This includes merit and off-scale adjustment actions.
- 4) there was concern that no boundaries or time limit were defined on resolution of investigations and no fault pauses. This could leave a faculty member in limbo for excessively long duration.
- 5) The revision does not appear to address UCPT suggestions from prior review-- To establish procedures for grieving the imposition of the pause on an expedited basis. -and- To require the administration to provide a timeline for the anticipated conclusion of the disciplinary action and resumption of the personnel case.

Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

FEC: School of Law Committee Response

June 10, 2024

The FEC School of law submitted this proposal to the law school faculty for consideration. The faculty did not convey any opposition to the proposal.

Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

FEC: School of Medicine Committee Response

June 10, 2024

The School of Medicine FEC reviewed this item at their May 22 meeting, concurs with the response submitted by the College of Engineering - which is as follows.

A number of concerns were expressed including: 1) that the wording of the policy seems to presume guilt of the accused faculty member 2) further details are needed on who can call for a no fault pause. Can the faculty member put in the request and who are the potential "chancellor designees". As worded the policy imposes the no fault pause only from administrative levels, not from faculty-centric position. 3) additional clarification is requested on if all financial ramifications of a pause would be restored to a faculty member, found to be in good standing after investigation, retroactive to the date of initiation of the pause. This includes merit and off-scale adjustment actions. 4) there was concern that no boundaries or time limit were defined on resolution of investigations and no fault pauses. This could leave a faculty member in limbo for excessively long duration. 5) The revision does not appear to address UCPT suggestions from prior review-- To establish procedures for grieving the imposition of the pause on an expedited basis. -and- To require the administration to provide a timeline for the anticipated conclusion of the disciplinary action and resumption of the personnel case.



Faculty Executive Committee

Faculty of the College of Agricultural and Environmental Sciences
Academic Staff of the Division of Agriculture and Natural Resources
Office of the Dean and Director of Programs

June 10, 2024

Re: Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Palazoglu,

The College of Agriculture and Environmental Sciences (CA&ES) Faculty Executive Committee (FEC) has reviewed the request for consultation on the proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline.

The proposed changes to the APM-016 have raised significant concerns. The changes, as they stand, do not sufficiently safeguard faculty rights. The policy changes could be unnecessarily punitive, especially when no conclusive evidence of misconduct or policy breaches has been established. The lack of comprehensive details regarding the decision-making and imposition process and the absence of a guaranteed maximum timeline raise concerns. The added requirement to implement the faculty disciplinary process for any faculty member who is arrested is also troublesome. While there needs to be clarification about what the administration can or cannot do when there are disciplinary actions against faculty, the proposed APM 016 revisions are unsatisfactory.

It is unclear why a merit and promotion process would not proceed with a clause permitting any advancement to be retracted if the faculty member is found to have violated policy and that the violation should have prevented the advancement. This would seem to be a more straightforward and fair way to handle these situations.

Regardless, since investigations can be protracted, an indefinite no-fault pause could be unjust to faculty members. A timeline for the no-fault pause must be clearly defined and limited to limit adverse effects on faculty. Furthermore, while the title of the clause ("no-fault") suggests that they recognize the premise of innocent until proven guilty, in practice, the clause creates a practice of "punish until proven innocent." Moreover, the fact that the time frame is open-ended creates potential conflicts and inequities.

The proposed changes to APM 016 do not adequately address how faculty members, ultimately found innocent of policy violations, will be compensated for lost salary, potential grants, and missed professional opportunities. The circumstances under which a no-fault pause would be implemented must be explicitly

defined and justified. The current proposal does not clarify why such a revision is necessary, nor does it elucidate the rationale behind the no-fault pause.

Perhaps a more poignant problem with the proposed changes is that they blur the line between the disciplinary and merits and promotion processes. At present, there is no disciplinary sanction that prevents advancement. If a faculty member is found violating the APM they can have the matter reviewed by the Privilege and Tenure Committee (P&T). Following a campus hearing, P&T determines guilt and proposes discipline if necessary. However, suppose a merit or promotion action is held, and the faculty member is found in violation of the APM. In that case, the Committee on Academic Personnel (CAP) will be informed of this and decide if it impacts the merit or promotion action, making CAP a de facto disciplinary committee with the power to levy additional sanctions against a faculty member. APM 016 clearly states that the discipline cannot be more severe than initially proposed. If the proposed changes go into effect, denying a merit or promotion would serve as an additional discipline and violate APM 016. Discipline is the domain of P&T, and merits and promotions are the domain of CAP. This firewall should not be compromised.

There is also concern that pausing an advancement based on allegations may be discriminatory. If pausing merit and promotion actions are based on allegations, it could put faculty at a disadvantage. Based on the record of society in general, false allegations are more likely made against people of color, women, and other non-traditional entities.

Also troubling is that each location can develop its own implementation rules. For example, another UC campus may decide that infraction X is irrelevant in a merit and promotion review, but UC Davis may say infraction X is relevant. That means an accused faculty member on another campus proceeds with the merit review, but a UCD faculty member does not. There should be consistent and equitable policies at all UC campuses.

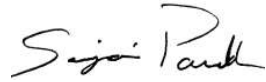
Additionally, the proposed changes mandate that any faculty member arrested for alleged unlawful behavior undergo the faculty disciplinary process. This implies that any faculty member arrested for any reason, innocent or not, will be subject to evaluation for campus discipline. These proposed changes would place additional stress and trauma on a faculty member for issues that may be false or irrelevant to university business. This change appears to be an overextension of the UC's jurisdiction.

Moreover, the revised policy must clearly define the link between arrest for unlawful behavior and university policy. For example, if someone is protesting some social issue (away from the university) and gets arrested, should they go through the faculty disciplinary process? The changes suggest they will have to go through disciplinary action at the university if the Chancellor decides there is some link, however weak, to university policy. This can infringe on freedom of speech, particularly if the individual only

represented themselves and not the university. Safeguards to protect faculty are missing from these revisions.

The CA&ES FEC urges reconsideration of the proposed changes and requests that revisions be provided to the Academic Senate for future consideration.

Sincerely,



Sanjai J. Parikh
Chair, CA&ES FEC Committee
Department of Land, Air and Water Resources

CC:

Neil McRoberts (Vice Chair), Plant Pathology
Nitin Nitin (Secretary), Food Science and
Technology / Biological and Agricultural
Engineering
Roger Baldwin. Wildlife, Fish and Conservation
Biology
Xiaoli Dong. Environmental Science and Policy
Kris Godfrey, CA&ES Dean's Office
Katrina Jessoe, Agricultural and Resource
Economics
Dan Kliebenstein, Plant Sciences

Bruce Linquist, Plant Sciences
Cindy Osorio, Undergraduate student
representative
Patricia Oteiza, Nutrition / Environmental
Toxicology
Alison Van Eenennaam, Animal Science
Luxin Wang, Food Science and Technology
Rachel Wang, Graduate student representative
Helene Dillard, CA&ES Dean
Sue Ebeler, CA&ES Associate Dean
Brenda Nakamoto, FEC Administrative Assistant

June 11, 2024

Jim Steintrager, Chair
Academic Council


Re: Proposed Revisions to APM 016: University Policy on Faculty Conduct and the Administration of Discipline

The Irvine Division Cabinet discussed proposed revisions to APM 016 at its meeting on June 4, 2024. The Council on Academic Personnel (CAP), Council on Faculty Welfare, Diversity, and Academic Freedom (CFW), and the Committee on Privilege and Tenure (CPT) also reviewed the proposal.

While CAP, CFW, and CPT were supportive of the proposed revisions, they provided some questions and comments for consideration as the revised policy is finalized. The Cabinet did not raise any additional questions or concerns, and some members thought the revisions represented a good step forward in handling those cases where there are academic personnel actions simultaneous with academic misconduct allegations.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Arvind Rajaraman, Chair
Academic Senate, Irvine Division

Enclosures: CAP, CFW, and CPT memos

Cc: Valerie Jenness, Chair Elect
Jisoo Kim, Executive Director
Gina Anzivino, Associate Director



May 30, 2024

**ARVIND RAJARAMAN,
CHAIR, ACADEMIC SENATE, IRVINE DIVISION**

RE: Systemwide Proposed Revisions to APM-016

Academic Council Chair Jim Steintrager forwarded for review proposed revisions to Academic Personnel Manual (APM) section 016: University Policy on Faculty Conduct and the Administration of Discipline. The proposed revisions address the handling of simultaneous academic misconduct allegations and personnel actions and are based on a May 2023 recommendation from the Academic Council and the University Committee on Privilege and Tenure.

The Council on Academic Personnel (CAP) discussed the Proposed Revisions to APM-016 by email, and respectfully submits the following comments and questions:

- CAP supports the proposal to pause the academic review while the investigative and disciplinary procedures are taking place.
- CAP was pleased to see that the proposed revisions address what happens if the investigative and disciplinary processes are not concluded by the beginning of the faculty member's eighth year of service at the rank of Assistant Professor.
- At the conclusion of the pause, would the time of the pause be ignored (similar to a leave), or would it increase the time of the review period?
- At the conclusion of the pause, will the proposed action be retroactive?
- At the conclusion of the pause, would the faculty member submit new case file materials at the next submission deadline?
- At the next review following the pause, the department letter should address the expectations for the faculty member during the pause – were expectations regarding research, teaching, or service modified or would the same level of accomplishments be expected?

The Council on Academic Personnel appreciates the opportunity to opine on this important topic.

Sincerely,



Alan L. Goldin, Chair
on behalf of the CAP membership

Cc: Valerie Jenness, Chair Elect, Academic Senate
Jisoo Kim, Executive Director, Academic Senate
Gina Anzivino, Associate Director, Academic Senate
Stephanie Makhlof, Senate Analyst, Academic Senate

May 20, 2024

**ARVIND RAJARAMAN, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

Re: Systemwide Proposed Revisions to APM-016

Academic Council Chair Jim Steintrager forwarded for review proposed revisions to Academic Personnel Manual (APM) section 016: University Policy on Faculty Conduct and the Administration of Discipline. The proposed revisions address the handling of simultaneous academic misconduct allegations and personnel actions and are based on a May 2023 recommendation from the Academic Council and the University Committee on Privilege and Tenure.

The Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) discussed this issue at its meeting on May 14, 2024, and submits the following comments:

1. This statement seems vague: “Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs.” It was suggested that departments and Deans be notified immediately of any pause and have the capability to address it at the faculty review stage. There is no point in faculty reviewing a file or having the dean’s office put forward a file and then be told that a pause was in place. There should be procedural transparency from the beginning to end of the review process.
2. A pause may signal something is amiss even though there have been no findings of fact. There should be an opportunity for opposition in placing a pause on a regular merit when a potential complaint has no relationship to a faculty member or other person’s teaching, research or service. If there is a cause for concern regarding faculty conduct, then perhaps a pause on acceleration would be appropriate.
3. Any decision regarding the progress or pause of a faculty member should be a step-by-step process made by faculty committee starting from the department level through to the Academic Senate. Transparency should be assured throughout the process.

Sincerely,



Lisa Naugle, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom



Committee on Privilege and Tenure

May 22, 2024

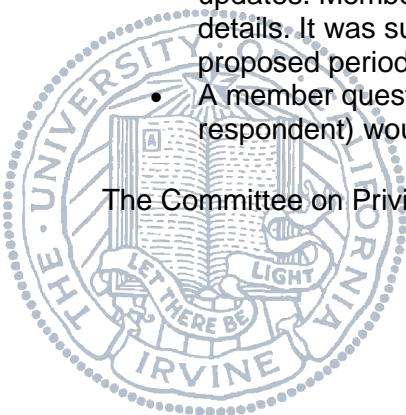
**ARVIND RAJARAMAN, CHAIR
ACADEMIC SENATE, IRVINE DIVISION**

RE: Systemwide Proposed Revisions to APM-016

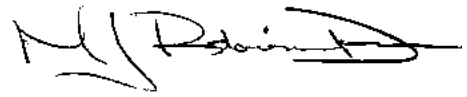
Academic Council Chair Jim Steintrager forwarded for review proposed revisions to Academic Personnel Manual (APM) section 016: University Policy on Faculty Conduct and the Administration of Discipline. The proposed revisions address the handling of simultaneous academic misconduct allegations and personnel actions and are based on a May 2023 recommendation from the Academic Council and the University Committee on Privilege and Tenure (UCPT). The Committee on Privilege and Tenure (CPT) discussed this issue at its meeting on May 13, 2024 and respectfully submits the following comments and questions:

- Members agreed that it is inequitable for faculty to be subject to different procedures depending on different UC campuses and appreciated that these revisions attempt to correct the inconsistency in current practices.
- Members also agreed that it seems necessary for the university to have the ability to respond to egregious cases with the implementation of a pause.
- Members were concerned that having one person make the decision for a pause (the Chancellor or their designee) was problematic. It was suggested that the Peer Review Committee (PRC) or equivalent body that includes Senate faculty representation should be consulted in these cases.
- Members commented that a pause can have a negative impact on careers and may be perceived as a “punishment” prior to any formal findings of misconduct. Relatedly, it was suggested that appropriate precautions be implemented to assure the confidentiality of any pause and who would be informed about it.
- Members questioned how the review would resume after a pause and agreed that it should be clarified whether the period of review be extended to cover the pause period as well.
- Members were unsure how this process is communicated to departments.
- It was suggested that any pause should be reviewed and “renewed” periodically (e.g., every 6 months) to ensure the pause does not go on indefinitely when there may be relevant updates.
- The revisions state that any faculty member under investigation would be given periodic updates. Members found this too vague and agreed that there should be more specific details. It was suggested that updates could be given in a way to coincide with the proposed period to review the pause (see comment immediately above).
- A member questioned whether both parties to an investigation (the complainant and respondent) would be subject to a pause, or it would be solely the respondent.

The Committee on Privilege and Tenure appreciates the opportunity to comment.



Sincerely,

A handwritten signature in black ink, appearing to read "M. Robinson-Dorn". The signature is stylized with a large initial "M" and a long horizontal stroke at the end.

Michael Robinson-Dorn, Chair
Committee on Privilege and Tenure

Cc: Valerie Jenness, Chair Elect
Jisoo Kim, Executive Director
Gina Anzivino, Associate Director
Julie Kennedy, CPT Analyst

June 14, 2024

James Steintrager
Chair, UC Academic Senate

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

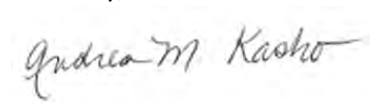
Dear Chair Steintrager,

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

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

Thank you for the opportunity to advise on this matter.

Sincerely,



Andrea Kasko
Chair
UCLA Academic Senate

Encl.

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

May 31, 2024

To: Andrea Kasko, Chair
UCLA Academic Senate

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

Dear Chair Kasko,

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

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

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

Sincerely,

Barry O'Neill, Chair
Committee on Academic Freedom

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

To: Andrea M. Kasko, Chair, Academic Senate

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

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

May 29, 2024

Re: Proposed Revisions to APM-016

The Committee on Privilege & Tenure (P&T) reviewed the proposed revisions to APM-016 (University Policy on Faculty Conduct and The Administration of Discipline) at multiple meetings. P&T strongly disagrees with this revision. It disregards the shared governance recommendations. It also makes the erroneous assumption that pausing a personnel case during an investigation is a “no harm” action and therefore adds neither standards for when a pause can be imposed nor a right to grieve the pause.

The proposal simply states that it is a response to the “need to revise APM - 016 to address the handling of simultaneous academic misconduct investigations and personnel actions.” It does not define or defend the assertion that it is a “need.” More significantly, it does not provide the background or any of the documentation that the Academic Senate submitted a proposal. This is troubling as UCPT put in considerable effort to consider the issue. Almost two years ago, in June, 2022, a workgroup presented an initial report to UCPT “Simultaneous Misconduct Charges and Merit and Promotion Considerations – Workgroup Report.” After getting feedback from UCAP and UCAF, UCPT resumed discussion of the proposal in February, 2023. In April, 2023, UCPT sent the Academic Council a proposal that incorporated the feedback. On May 9, 2023, Senate Chair Susan Cochran forwarded [a proposed addition to APM-016](#) which included “clear guidelines under which a personnel action could be paused,” indicating that the proposed language provided a “strong starting framework.” Suffice it to say that the proposed revisions differ in key places¹ from the UCPT proposal that was endorsed by Academic Council, thereby showing a significant disregard for shared governance.

P&T finds that the proposal to be a threat to faculty rights. First, the proposed revisions assume that there is no harm or violation of faculty rights in pausing personnel cases during

investigations. P&T members strongly disagree. **Pausing a personnel case is harmful to faculty.** First, investigations are lengthy. This was discussed in a recent Joint Senate-Administration Taskforce report.² Having to wait for the outcome of a personnel case is not only stressful, but there is reputational harm. It is unrealistic to expect that colleagues do not notice a long delay in receiving a merit or promotion. No visible advancement can also harm external career efforts such as grant review, invitations to speak, and society memberships. The revisions as they stand assume that moving forward with a merit or promotion during an investigation is harmful to the University. However, the statistics do not seem to support that.³

The UCPT proposal allowed that in **some** cases it might be harmful to the University to move forward with a personnel case before proceeding with a merit or promotion. Given that it **is** harmful to faculty to pause a personnel case and **not** always harmful to the University, a proposal should incorporate the following elements:

- The Administration should have the burden of defending why a pause to happen before the faculty have a right to a hearing.
- There should be standards for conditions that might merit a pause.
 - The Administration must make the case that the allegations, if true, is relevant to merit or promotion.
 - The Administration must make the case that the allegations, if true, meet the APM-016 standard for discipline.
- The revisions must support the right to an expedited grievance if a personnel case is paused.

Lastly, the proposal states that “Locations are responsible for developing procedures to implement this Section, including, but not limited to:

- local procedures to address at what stage in existing local procedures the pause occurs
- identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member
- identification of which campus office(s) have responsibility to give a faculty member under investigation periodic updates on the status of the investigation
- identification of which campus office(s) have responsibility to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.

P&T is concerned that this leaves far too much under local discretion without oversight. It is in direct contradiction to the UCPT recommendation, which was to provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide.

If you have any questions for us, please do not hesitate to contact me at dmessadi@dentistry.ucla.edu or via the Committee’s analyst, Marian Olivas, at molivas@senate.ucla.edu

- cc: Kathleen (Kathy) Bawn, Vice Chair/Chair-Elect, Academic Senate
 Jessica Cattelino, Immediate Past Chair, Academic Senate
 April de Stefano, Executive Director, Academic Senate
 Marian Olivas, Principal Policy Analyst, Academic Senate
 Members of the Committee on Privilege & Tenure

UCOP Proposal: Section II Pause on Academic review actions	Academic Council-UCPT Proposal
4/5/2024	4/2023
No-fault pause on any academic personnel action by Chancellor (designee) at the beginning of a formal investigation of alleged misconduct by a faculty member, ...	1 (a) The Chancellor or the Chancellor’s designee may impose a temporary no-fault pause <u>when disciplinary charges are filed with the Chair of the Divisional Committee on Privilege and Tenure according to Bylaws 336.C.1.a.</u> 2. with promotion to tenure rack, no-fault imposed when either a pending disciplinary action or ongoing investigation 3.if sanctions imposed, conclusions of proceedings should contain violation of COC and sanctions as part of review file AMP15: No disciplinary sanction shall be imposed until after the faculty member has had an opportunity for a hearing before the Divisional Committee on Privilege and Tenure, subsequent to a filing of a charge by the appropriate administrative officer, as described in Academic Senate Bylaw 336. AMP15: The Chancellor may not initiate notice of proposed disciplinary action unless there has been a finding of <i>probable cause</i> .

	<p>AMP15: In cases where the Chancellor wants a disciplinary action to proceed, the Divisional hearing committee must hold a hearing and make findings on the evidence presented unless the accused faculty member settles the matter with the Chancellor prior to the hearing or the accused faculty member explicitly waives the right to a hearing.</p>
<p>if the Chancellor (or Chancellor’s designee) finds that <u>any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions</u>, they may impose a no-fault pause on any <u>current or future academic personnel action</u> (e.g., for merit, promotion, or advancement) of that faculty member</p>	<p>Misconduct being charged must have occurred during the period under review and have a direct bearing on research teaching or service (and are <u>relevant to the assessment criteria used for personnel actions</u>)</p>
<p>Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs, as well as identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member, to give a faculty member under investigation periodic updates on the status of the investigation, and to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.</p> <p>It is essential that the procedures be identical on every campus.</p>	<p>Provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide</p>
<p>The no-fault pause on any current or future academic personnel review action of the faculty member shall end when the investigative and disciplinary processes are concluded; in the event of a disciplinary process following a formal investigation, the no-fault pause shall end when a final decision is made whether to impose disciplinary sanctions.</p>	<p>Resumption of personnel action as soon as disciplinary proceedings are concluded with immediate communication to faculty member</p>
<p>If the investigative and disciplinary processes are not concluded by the beginning of the faculty member’s eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to</p>	

<p>recommend to the President that the appointment be extended beyond the eighth year in accordance with Regents Bylaw 40.3(c).</p>	
<p>Section III: Types of Disciplinary Sanctions</p>	
<p>Chancellor is authored to initiate involuntary leave with pay <u>prior to or at any time following</u> the initiation of a disciplinary action if actions pose a harm to University, impeding investigation, serious crime or felony.</p> <p>Suspension is disciplinary action; involuntary is precautionary action</p>	<p>Strict requirements for involuntary leave with pay exist.</p> <p>Do nt agree with prior to or at any time</p>
<p>The faculty member will receive confirmation from the Chancellor within 5 working days (or the Chancellor’s designee) that the no-fault involuntary leave is in place.</p>	<p><u>The faculty under review must be notified immediately that their personnel action has been paused, stating the stage at which the action was suspended.</u></p>
<p>Not addressed</p>	<ul style="list-style-type: none"> - provide a timeline to the P&T Committee for the anticipated conclusion of the disciplinary action and resumption of the personnel case - provide periodic updates at least every six months regarding the status of the case to the PMT committee -should not place materials into the personal files before the conclusion of the disciplinary proceedings
<p>Sections IV: Procedures for Imposition of Disciplinary Action</p>	
<p>Faculty may grieve decision through applicable faculty grievence procedures P and T handle on expedited basis.</p>	<p>A procedure for grieving the imposition of the pause should be established on an expedited basis.</p> <p>If ongoing investigation, faculty may grieve decision and seek review by P&T on an expediated basis</p>

² <https://dms.senate.ucla.edu/issues/document/?17475.JTF.Final.Report.25.October.2022.Public>

³ <https://equity.ucla.edu/accountability/#par>

UCLA MEMORANDUM

FACULTY EXECUTIVE COMMITTEE
College of Letters and Science

A265 Murphy Hall
Box 951571
Los Angeles, California 90095

To: Douglas M. Haynes, Vice Provost, Academic Personnel and Programs

Fr: Erin Debenport, Chair, College Faculty Executive Committee

Date: May 31, 2024

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

The College Faculty Executive Committee (FEC) at UCLA appreciated the opportunity to comment on the Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline. The report and its findings were discussed at the College FEC meeting held on May 17, 2024. This response consolidates the main ideas that our faculty shared.

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

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

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

Additionally, concerns were raised about the retroactive nature of actions if no wrongdoing is found. Specifically: (1) Would faculty merits and promotions be retroactively applied if an investigation finds no evidence of wrongdoing? Even retroactive merits potentially would have adverse tax consequences for faculty members and have an opportunity cost in terms of lost interest rates. And (2) Could the policy be exploited to control faculty for minor infractions, such as incomplete paperwork or controversial statements made in class?

Given the gravity of these concerns, members emphasized the potential unfairness and do not support the proposed revisions to Academic Personnel Manual (APM) Section 016.

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



SCHOOL OF EDUCATION & INFORMATION STUDIES
MOORE HALL, BOX 951521
LOS ANGELES, CALIFORNIA 90095-1521

TO: UCLA Academic Senate

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

DATE: May 30, 2024

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

Dear Faculty Executive Committee Chairs and Analysts,

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

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

Brief issue summary:

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

Please note:

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

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

FEC COMMENTS:

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



Luskin School of Public Affairs

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UCLA Luskin School of Public Affairs
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May 29, 2024

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

- FEC member 1: I would be concerned that an allegation would pause a junior faculty’s tenure clock and if they were found innocent of the allegation, the irreparable harm to their career if it interferes with them getting tenure. Is there a provision that could be put in place to protect pre-tenured faculty?
- FEC Member 2: I also question how this may affect faculty hiring who must go through academic personnel review as well. If a question is brought up prior to hiring and in this academic personnel review, what recourse would the candidate have in this process - would they even be able to participate at all in the review? This all seems a little too broad based at this point. There needs to be some specific reason to trigger a pause in that process; it says now it is up to the discretion of the Chancellor or their designee. That’s too ambiguous.
- FEC member 3:
 - This past year has yielded a lot of interpersonal conflict among faculty. For example, I heard at least six people in my department say they were planning to file a DEI complaint against other colleagues. Although I don’t know if these complaints happened, I worry that in the current climate, some faculty may be making unsubstantiated claims of faculty misconduct against each other. It is important for the policy to clarify what criteria the Chancellor will use to determine “that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions.” It’s important for this policy not to be weaponized by other faculty to harm someone’s career trajectory.
 - Another concern is how long the investigation process may take. Such investigations are generally very slow moving. It would be important to know, for context, the average length of time an investigation into faculty misconduct takes at UCLA, in order to assess whether such a measure is warranted. In other words, is the punishment unduly harsh given the alleged misconduct? This also goes back to the Chancellor’s decision-making criteria regarding which cases rise to the level of warranting a pause.

Sincerely,

Dr. Veronica Herrera
FEC Chair, 2023-2024
An Equal Opportunity Employer

To: Andrea M. Kasko, Chair, Academic Senate

From: Brett Trueman, Chair, Charges Committee

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

Date: May 30, 2024

Re: Proposed Revisions to APM-016

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

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

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

Charges agrees that such a pause is harmful to the faculty and any policy to impose a pause should carefully protect faculty rights. Pausing a personnel case when the faculty member under review is being investigated for misconduct suggests that the said faculty member has already been tarnished with wrong-doing when, in fact, no determination has been made at that time. There may be a small number of cases where the charges alleged against a faculty member are so serious that a pause may be warranted, but that cannot be laid down as a rule to be followed in all cases.

Discipline of faculty is a form of personnel review reserved for a separate process overseen by Charges and the Committee on Privilege and Tenure. Pausing a personnel case closely resembles a disciplinary action in that the person is effectively held back during that pause. At the risk of undermining existing structures and protections, this separation should be maintained unless the investigation involves an allegation that demonstrably will have a serious impact on teaching, research, service, and/or professional competence. Much more thought should be put into standards for identifying cases where research, teaching, and/or service might be so significantly impacted by a potential violation that it merits pausing a case. Once there are standards-based guidelines, the faculty should then have an appropriate avenue to grieve whether the pause was appropriate.

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

If you have any questions, please do not hesitate to contact me at brett.trueman@anderson.ucla.edu or via the Committee's analyst, Marian Olivas, at molivas@senate.ucla.edu.

To: Andrea Kasko, Chair, Academic Senate

From: Christopher Colwell, Chair, Council on Academic Personnel

Date: May 23, 2024

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

At its meetings on May 14 and 21, 2024, the Council on Academic Personnel (CAP) discussed the proposed revisions to APM-016 on University policy on faculty conduct and the administration of discipline. The proposal provides the Chancellor (or their designee) with the discretionary authority to “impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) where the faculty member is the subject a formal investigation.” While we recognize the legitimate interest in coordinating academic misconduct investigations and personnel actions, we believe the proposal undermines the norm of fundamental fairness reflected in the University’s bylaws and policies. Moreover, the proposal suffers from specific implementation flaws that compound the fairness concerns. The goal of aligning the personnel action process with misconduct investigations can be achieved through an alternative retrospective strategy: use of the existing disciplinary processes to “unwind” any personnel action affected by the misconduct.

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

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

¹ In cases involving allegation of sexual harassment or sexual violence, the Chancellor’s burden of proof is the preponderance of the evidence.

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

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

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

[T]here is a strong risk that the accused faculty member’s continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing, or in situations where the faculty member’s conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency.
- The proposal provides no requirement or means for mitigating the effects of the pause for faculty members ultimately cleared of alleged misconduct. At a minimum, financial impacts should give rise to a right of compensation. Other non-financial impacts will be more difficult, or even impossible, to address.

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

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

May 17, 2024

Andrea Kasko, Chair
Academic Senate

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

Dear Chair Kasko,

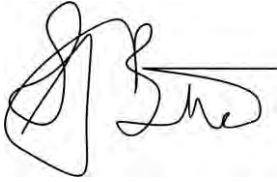
At its May 7, 2024, meeting, the Faculty Welfare Committee (FWC) reviewed and discussed the systemwide Proposed Revisions to APM-016, University Policy on Faculty Conduct and the Administration of Discipline.

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

1. Faculty should be considered innocent until proven guilty. FWC members felt this revision was a considerable overreach by the administration. Accused faculty are essentially being considered guilty until proven innocent. The FWC cannot support suspending the presumption of innocence.
2. Delay in faculty promotion and advancement. This new policy most negatively affects wrongly accused faculty, who undergo lengthy investigations and are found innocent. Misconduct investigations can last for years, such that exonerated faculty members would be unable to make up for the lost years in advancement. There needs to be more consideration about how to prevent this policy from having irrevocably damaging effects on faculty careers.
3. The current system of evaluating misconduct is too slow. The FWC also expressed concern that more needs to be done to protect the victims of faculty misconduct. Given that the current system is so slow, there needs to be another way of stopping a perpetrator from moving through administration.
4. DEI consideration. The FWC notes this policy is likely to have the most delirious effects on faculty – women, members of the LGBTQ+ community, and people of color - who are already most at risk for retaliation and delays to their advancement.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Butler', with a stylized flourish at the end.

Samantha Butler, Chair
Faculty Welfare Committee

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



May 2, 2024

To The Executive Board:

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

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

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

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

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

Cc:
Brian Kite, Dean, School of Theater, Film & Television



OFFICE OF THE ACADEMIC SENATE

Matt Hibbing, Chair of the Academic Senate

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UNIVERSITY OF CALIFORNIA, MERCED

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May 21, 2024

To: James Steintrager, Chair, Academic Council

From: Matt Hibbing, Chair, UCM Divisional Council

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

The proposed revisions to APM 016, University Policy on Faculty Conduct and the Administration of the Discipline, were distributed for comment to the Merced Division standing Senate Committees and School Executive Committees. The following committees offered comments for consideration.

- Committee on Academic Personnel (CAP)
- Committee on Academic Planning and Resource Allocation (CAPRA)
- Committee on Rules and Elections (CRE)
- Committee for Equity, Diversity, and Inclusion (EDI)
- Committee on Faculty Welfare and Academic Freedom (FWAF)
- Committee on Privilege and Tenure (P&T)

Committees raised several concerns about the proposed revisions to APM 016. All comments are appended to this memo.

As part of its commitment to upholding and ensuring fair assessment of academic personnel actions, DivCo echoes the committees' concerns and would like to address the implementation of several aspects of the proposed revisions, mainly the concept of a pause in the personnel process when there is a formal investigation of misconduct that is deemed relevant to such assessments by the Chancellor or their designee.

It is important to note the following key points regarding this pause:

1. The pause is not automatic and will be implemented by the administration only when there is a belief that the alleged misconduct is pertinent to the academic personnel process.

2. Mere allegations alone are not sufficient to trigger the pause. It will only occur after the administration has determined that there is probable cause, as outlined in APM 015 III A (4).¹

Pros

The implementation of this pause serves to mitigate rare but serious issues that may arise when there is a significant allegation related to teaching, service, or research against a faculty member undergoing personnel review. It ensures that appropriate actions are taken if a violation of policy is found during the review process, such as in cases of plagiarism.

The probable cause standard requires that the facts alleged in the complaint, if true, justify disciplinary action for a violation of the Faculty Code of Conduct and that the University can provide credible evidence to support the claim before any disciplinary action is initiated. While there have been concerns raised about the potential impact of false allegations on individuals' careers, it is crucial to emphasize that mere allegations do not automatically initiate this process. Initial fact-finding, likely conducted by the office of the Vice Provost for Academic Personnel, is necessary to establish probable cause as per APM 015.

Issues

Section II, p.3 of policy, first paragraph

“At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor’s designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or the Chancellor’s designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member. The faculty member will receive confirmation from the Chancellor (or the Chancellor’s designee) that the no-fault pause is in place.”

CAP wonders what constitutes the “beginning of a formal investigation”. Is it when the Vice Provost for Academic Personnel decides an investigation is needed, when an investigating officer is appointed, or when the investigation commences?

P&T has concerns regarding the timing, especially in the context of tenure reviews. They question whether initiating a pause at the start of a formal investigation is premature and if it could pose challenges due to varying investigation durations.

Clarification on Resumption of Personnel Cases After Pause

In discussions regarding the resumption of personnel cases following a pause, questions have been raised about the meaning of the "no-fault" aspect in cases. There is a perception that the results of personnel actions following a pause would be retroactive. However, this aspect has not been explicitly stated in the current documentation. The point raised by CAPRA regarding the

¹ APM 015 III A (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.

length of some of these cases is also deemed important. Therefore, it is necessary to clarify that when a case is resumed after a pause, it will be picked up from the point at which it was paused and considered retroactively. This information should be explicitly included in the document to avoid any confusion or misinterpretation. EDI also requests a definition of "no-fault" in the context of the pause on academic personnel review actions.

Section II-Pause on Academic Review Actions (p. 3 of the policy, second paragraph)

“If the investigative and disciplinary processes are not concluded by the beginning of the faculty member’s eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year in accordance with Regents Bylaw 40.3(c).”

[Regents Bylaw 40.3\(c\):](#)

“An Assistant Professor who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued after the eighth year unless promoted to Associate Professor or Professor. By exception, the President may approve appointment of an Assistant Professor beyond the eighth year for no more than two years.”

CAP inquires about the consequences if the Chancellor or President decides not to extend a faculty member’s appointment, leading to termination without a tenure hearing. CAP also notes that in May 2023, the Academic Council and UC Privilege and Tenure recommended² the inclusion of specific documents in personnel files. This element is missing in the proposed APM 016 revisions and should be addressed.

CAPRA notes that the provision³ allowing for appointment extension beyond the eighth year if investigative and disciplinary processes are not conducted by then does not account for the issues that may arise from halting a faculty member’s promotion based solely on allegations, rather than proven conduct. This also raises concerns about maintaining confidentiality around the allegations, as multiple faculty members outside the Committee on Privilege and Tenure would need to be informed of the allegations and the promotion pause. Confidentiality is crucial during these investigations, as rumors have the potential to spread and influence perceptions of cases, regardless of guilt or innocence. This is particularly pertinent in promotion and tenure cases.

Section II-Pause on Academic Review Actions, p. 3, third paragraph

“Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs, as well as identification of which campus office(s) have

² P 5, item 1.e <https://senate.universityofcalifornia.edu/files/reports/sc-kn-request-for-apm-language-to-address-simultaneous.pdf>

³ “If the investigative and disciplinary processes are not concluded by the beginning of the faculty member’s eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year in accordance with Regents Bylaw 40.3(c).”

responsibility to provide written confirmation of the no-fault pause to the faculty member, to give a faculty member under investigation periodic updates on the status of the investigation, and to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member's current or future academic personnel review actions.”

CAP recommends clearer guidance on when to implement a pause in the investigation process, highlighting the potential advantages and disadvantages of different stages for pausing. They raise concerns about confidentiality breaches if the pause occurs at the department stage and the potential complications if it happens at higher levels of review. Additionally, they question what happens if the disciplinary procedure starts later than intended and emphasize the importance of explicit procedures in such cases.

APM 015 III.B.9 states:

“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.”

CAP presumes that the pause mentioned in the APM only pertains to disciplinary cases initiated by the administration under Senate Bylaw 335, and not grievance cases brought by individual faculty under Senate Bylaw 336. CAP recommends this distinction should be clarified.

Concerns about the Administration's authority

- As CRE noted, the proposed revisions give the Administration (Chancellor or Chancellor's designee) the (new) power to pause current or future academic personnel actions in cases of alleged misconduct.
- CAPRA pointed out that the proposed revisions allow the Chancellor to deliver consequences to faculty based on allegations and not based on actual findings or disciplinary recommendations from P&T.
- CAPRA was also concerned that the threat of a delay to promotion could be used to pressure a faculty member to agree to a resolution that is not in their best interest.
- P&T raises concerns about the provisions for faculty in their eighth year of service, where the Chancellor's recommendation to extend a contract could impact a tenure candidate's right to a faculty review based on academic merits, potentially infringing on the academic freedom of untenured faculty.

General Observations/Concerns

CRE raises several concerns about the proposed revisions:

- Lack of consideration for peer judgment in pausing academic review actions.
- Potential negative impact on faculty members based on mere allegations of misconduct.
- Lack of clarity on retroactively dating favorable outcomes after an innocent verdict.
- Uncertainty on how activities during a pause review will be counted.
- Possibility of using delays as pressure tactics.
- Undefined meaning of “no-fault”.
- Lack of specificity on who can access information about imposed pauses and communication protocols.
- The existence of a pause, regardless of outcome, could harm faculty.

EDI seeks clarification on various aspects of the proposed revisions:

- Definition of "no-fault" in the context of the pause on academic personnel review actions.
- Concerns about safeguarding faculty members found not guilty against setbacks in merit evaluations and promotion processes, and guidance on potential avenues for accelerations.
- Unclear if Assistant Teaching Professors are included in the policy and emphasize the importance of equitable treatment across all ranks and titles.
- Process for academic review after investigations conclude, including timing and effectiveness of any rank or step changes.
- Clarity on what happens if investigations extend past the eighth year for Assistant Professors and the Chancellor's role in recommending appointment extensions.

FWAF shares the following concerns:

- No-fault pauses may have negative consequences for faculty members, affecting their career advancement, research productivity, mental health, and sense of belonging on campus. Even if the faculty member is unaware of the pause, these impacts can still occur. This is especially true if the pause extends the faculty member's appointment beyond their eighth year.
- The criteria for implementing a no-fault pause should be clearly defined. The current revisions lack clarity on the circumstances and allegations that would warrant such a pause.
- Measures should be implemented to prevent the misuse of no-fault pauses to harm faculty members.
- In cases of allegations, FWAF believes that institutions should bear the burden of conducting timely investigations, rather than placing it on the faculty member. This approach prioritizes the presumption of innocence and may result in providing job security to a faculty member accused of misconduct until proven guilty.

The Merced Division thanks you for the opportunity to review these proposed revisions to APM 016.

Cc: Divisional Council
P&T Chair Amussen
Systemwide Senate Executive Director Lin
Systemwide Senate Assistant Director LaBriola
UCM Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PERSONNEL (CAP)
SEAN MALLOY, CHAIR
smalloy@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

May 6, 2024

To: Matt Hibbing, Senate Chair

From: Sean Malloy, Chair, Committee on Academic Personnel (CAP)

Re: Proposed Revisions to APM 016 (Faculty Conduct and the Administration of Discipline)

CAP reviewed the proposed revisions to APM 016 and has several comments.

Section II -- Pause on Academic Review Actions

“At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor’s designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or the Chancellor’s designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member. The faculty member will receive confirmation from the Chancellor (or the Chancellor’s designee) that the no-fault pause is in place.”

CAP inquires what constitutes “the beginning of a formal investigation?” Is it the determination by the Vice Provost for Academic Personnel (VPAP) that such an investigation is warranted? Is it the appointment of an investigating officer? Or is it the date the actual investigation begins?

“Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs, as well as identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member, to give a faculty member under investigation periodic updates on the status of the investigation, and to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.”

CAP recommends that more guidance is needed on the question of what stage to implement the pause, as there are pros and cons to whichever stage is chosen. If the pause is placed at the department stage, then the department will be notified that there is an investigation which breaches confidentiality. If the pause is placed after the department stage (i.e. at higher levels of review), this may require a re-writing of the case analysis and a new vote in the department. What if the disciplinary procedure begins at some point *after*

the stage when it was supposed to occur? Does it get frozen at the current stage? This may require redoing the previous stages in case of findings of guilt. This needs to be explicit, at least in the local procedures.

“If the investigative and disciplinary processes are not concluded by the beginning of the faculty member’s eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year in accordance with Regents Bylaw 40.3(c).”

CAP notes that Regents Bylaw 40.3(c) reads:

“An Assistant Professor who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued after the eighth year unless promoted to Associate Professor or Professor. By exception, the President may approve appointment of an Assistant Professor beyond the eighth year for no more than two years.”

CAP inquires what happens if the Chancellor does not recommend, or the President declines to extend, the appointment. That means the faculty member would be terminated without ever having a tenure hearing. The [May 2023 recommendation](#) from the Academic Council and the University Committee on Privilege and Tenure included language regarding the importance of including particular documents in personnel files. This is not mentioned in the proposed APM 016 revisions and needs to be addressed.

Item 1.e. of the May 2023 recommendation reads “If the disciplinary proceedings conclude with the imposition of sanctions, the communication of the conclusion of disciplinary proceedings will also contain a notification of the violation of the faculty code of conduct and of the imposed sanctions. These violations and sanctions will become part of the personnel review file. Consistent with APM 015 III.B.9, the contents of these records will be shared with Senate and administrative officers with a need to know in accordance with State law and University policy, including the department chair, and they might be taken into consideration during the resumed personnel action. If this information becomes available after a department has already issued its recommendation on the personnel action, the new material may be handled in accordance with APM 220.80.h.”

CAP notes that APM 015 III.B.9 reads: “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.”

CAP presumes based on the wording is that the pause only applies to Disciplinary cases (Senate Bylaw 335) brought by the administration and *not* grievance (Senate Bylaw 336) cases brought by individual faculty even though both can be handled through the Committee on Privilege & Tenure. However, CAP recommends this be clarified.

We appreciate the opportunity to opine.

cc: Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PLANNING AND RESOURCE ALLOCATION
KARA MCCLOSKEY, INTERIM CHAIR
kmcloskey@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

May 6, 2024

To: Matt Hibbing, Senate Chair

From: Kara McCloskey, Interim Chair, Committee on Academic Planning and Resource Allocation (CAPRA)

Re: Proposed Revisions to APM 016

CAPRA reviewed the proposed revisions to APM 016 - University Policy on Faculty Conduct and the Administration of Discipline.

The proposed revision include: "At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor's designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or Chancellor's designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member." Although there is a caveat that "If the investigative and disciplinary processes are not concluded by the beginning of the faculty member's eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year", this does not address the confounding problems that can and will arise from "pausing" a faculty members potential for promotion on the sole basis of allegations (not based on actual conduct, just allegations of conduct). This also impacts confidentiality around said allegations since multiple faculty outside P&T will need to be made aware of the allegations and "pause" in promotion.

1. This policy allows the Chancellor to deliver consequences to faculty based on allegations and not based on actual findings or disciplinary recommendations from P&T.
2. Many of these cases take multiple years to resolve, this is a very bad precedent and could delay promotion over multiple years even if eventually found not responsible or not guilty.
3. This connects multiple documents that are supposed to be confidential.
4. The threat of a delay to promotion could be used to pressure a faculty member to agree to a resolution that is not in their best interest.

We appreciate the opportunity to review.

cc: Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON RULES AND ELECTIONS (CRE)

UNIVERSITY OF CALIFORNIA, MERCED

May 3, 2024

To: Matthew Hibbing, Chair, Divisional Council

From: Committee on Rules and Elections (CRE)

Re: Proposed Revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline

The Committee on Rules and Elections (CRE) evaluated the proposed revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline and offers the following comments.

The proposed revisions to APM-016 – University Policy on Faculty Conduct and the Administration of Discipline involve inserting a new Section II – Pause on Academic Review Actions. The inserted material gives the Administration (Chancellor or Chancellor's designee) the (new) power to pause current or future academic personnel actions in cases of *alleged* misconduct.

CRE has several concerns about the new section as written:

1. There is no consideration of peer judgement in making the decision to pause an academic review action.
2. The mere *allegation* of misconduct could be enough to cause a faculty member to miss out on a year or more at the rank and/or step that the personnel action would lead to.
3. In cases where the pause ends after an accused faculty member has been found to be innocent of the alleged misconduct, there is no indication that a favorable outcome of the personnel action will be retroactively dated to account for the time lost to the pause.
4. If a faculty member remains active during a paused review, to which review period will those activities be counted?
5. The threat of a delay to a personnel action could be used to pressure a faculty member to agree to a resolution that is not in their best interest.
6. The meaning of "no-fault" is not defined.
7. The policy does not specify or limit who has access to information about the existence of, and justification for, an imposed pause. When and how is the imposition of a pause communicated to the faculty member's Department Chair and academic review committee? The mere fact that there is a pause, regardless of outcome, can be potentially damaging to the faculty member.

We thank you for the opportunity to review and comment.

CC: CRE Members
Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE FOR EQUITY, DIVERSITY AND INCLUSION (EDI)

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

May 6, 2024

To: Matthew Hibbing, Chair, Divisional Council

From: [Committee for Equity, Diversity and Inclusion \(EDI\)](#)

Re: Proposed Revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline

The Committee for Equity, Diversity and Inclusion evaluated the proposed revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline and offers the following comments.

EDI seeks clarification on the following points:

1. EDI requests a clear definition of “no-fault” and believes the policy would benefit from a definition of what constitutes "no-fault" in the context of the pause on academic personnel review actions.
2. EDI believes it is essential to address how faculty members who are found not guilty will be safeguarded against setbacks in their merit evaluations and promotion processes. Will these individuals be provided guidance on potential avenues for acceleration that could alleviate concerns regarding prolonged delays in merit and promotion advancement?
3. While the policy references Assistant Professors in Year 8, are Assistant Teaching Professors also included? It is important to also consider the implications for Assistant Teaching Professors. Ensuring equitable treatment across all ranks and titles will promote fairness and consistency in academic personnel procedures.
4. How does the academic review process proceed after the investigation concludes? Would this be continued immediately, or synced up with the yearly review cycle? Would any change to rank or step be effective immediately, or effective the following year?
5. Section II (page 6) states, "the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year in accordance". What specifically happens if the investigation goes past the eighth year for Assistant Professors? Are there circumstances in which the Chancellor would not recommend the appointment to be continued or is the expectation that this would always be recommended?

We thank you for the opportunity to review and comment.

Cc: EDI Members
Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON FACULTY WELFARE AND ACADEMIC FREEDOM (FWAF)

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

May 3, 2024

To: Matthew Hibbing, Chair, Divisional Council

From: [Committee on Faculty Welfare and Academic Freedom \(FWAF\)](#)

Re: Proposed Revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline

The Committee on Faculty Welfare and Academic Freedom evaluated the proposed revisions to APM 016 – University Policy on Faculty Conduct and the Administration of Discipline and offers the following comments.

FWAF notes the following concerns with the proposed revisions:

1. No-fault pauses are not equivalent to no-harm pauses. Pauses to personnel review actions can harm faculty in several ways including their career advancement, research productivity, mental health, and feeling of campus acceptance. This is true even in cases when the individual may not be aware of the pause. However, it is particularly true when individuals are made aware of the pause, as would happen if the pause requires that the faculty member's appointment be extended beyond their eighth year.
2. The conditions that would need to be met to invoke a no-fault pause should be clearly explicated. The current proposed revisions are ambiguous regarding what circumstances and allegations would justify a no-fault pause.
3. Safeguards should be taken to ensure that the use of a no-fault pause are not weaponized in ways that would harm the faculty member.
4. As a general point, FWAF feels that in instances of allegations, given the presumption of innocence, it is the burden of the institution, not the faculty member, to carry the risks of untimely investigations. This is true even if it increases the likelihood of granting security of employment to a faculty member who is subsequently found to have engaged in faculty misconduct.

We thank you for the opportunity to review and comment.

Cc: FWAF Members
Senate Office



OFFICE OF THE ACADEMIC SENATE
SUSAN AMUSSEN, CHAIR, COMMITTEE ON PRIVILEGE AND TENURE

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

April 30, 2024

Re: [P&T Comments on the Proposed Revisions to APM 016- University Policy on Faculty Conduct and the Administration of Discipline](#)

Dear Senate Chair Hibbing,

The Committee on Privilege and Tenure (P&T) met on April 25, 2024, to discuss the proposed revisions to APM 016-University Policy on Faculty Conduct and the Administration of Discipline. The revisions aim to address the handling of simultaneous academic misconduct investigations and personnel actions.

In general, P&T thinks these revisions are not only essential but also logical. Our primary concerns revolve around the intricate nuances of timing, particularly in the context of tenure reviews.

Notably:

1. Is initiating the pause at the commencement of a formal investigation premature? Given the varying durations of formal investigations, does this early initiation pose a potential challenge?
2. We are even more concerned by the provisions relating to faculty who are in the 8th year of service as assistant professors or equivalent. Section II of the policy (“Pause on Academic Review Actions”) states that the “Chancellor is authorized to recommend to the President” an extension of the contract (p.13 of the document). This renders the Chancellor’s action voluntary, as is indeed the subsequent President’s action on that recommendation. By simply not recommending such an extension, the Chancellor holds the power to deprive a tenure candidate of the right for faculty review based on their academic merits. Such a scenario could significantly impinge on the academic freedom of untenured faculty.

Thank you for the opportunity to opine on this important subject.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Amussen".

Susan Amussen
Chair, Committee on Privilege and Tenure

CC: The Committee on Privilege and Tenure



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

SANG-HEE LEE
PROFESSOR OF ANTHROPOLOGY
RIVERSIDE, CA 92521-0217
TEL: (951) 827-4390
EMAIL: SANG-HEE.LEE@UCR.EDU

June 14, 2024

James A. Steintrager, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Proposed Revisions to Academic Personnel Manual (APM): APM 016 - Faculty Conduct and the Administration of Discipline

Dear Jim,

On June 10, 2024 the UC Riverside Academic Senate Executive Council discussed the proposed revisions along with the comments received by local Senate standing and faculty executive committees responding to the task to review.

Executive Council, like others, expressed concerns that the rationale for the proposed revisions was not clear in the proposal documents.

Some standing committee did not comment or have objections to the proposal, while others had significant comments.

The Committee on Academic Personnel suggested the following:

- 1) Clearly articulating the triggering circumstances is essential, specifically outlining when the Chancellor or their designee may impose a no-fault pause on an academic personnel action, ensuring clarity and transparency for the subsequent process.
- 2) CAP suggested consultation with Senate representatives, such as the Committee on Privilege and Tenure, before a no-fault pause is imposed.
- 3) CAP was concerned with the 8th-year Assistant Professor provision. Under the proposed revision, it is possible for an Assistant Professor's extension to be denied by the President while undergoing the investigative and disciplinary processes, leading to the faculty member losing their position, only to be later exonerated. CAP believed that the extension for an 8th-year Assistant Professor should be automatic such that the above unfair outcome will not take place.
- 4) CAP suggested explicitly codifying retroactive merit and promotion for the paused

academic personnel cases that are eventually cleared of academic misconduct.

In addition to these comments and suggestions, some CAP members expressed preference for the current system that keeps the investigative/disciplinary process and the merit/promotion process independent of each other. These CAP members believed that it is possible to retain this independence while meeting the goals of the proposed revisions to APM 016. For example, the administration may choose not to make the final decision on a personnel case until the parallel investigative/disciplinary process reaches its conclusion. Alternatively, disciplinary sanctions can be expanded to include reversing/undoing positive personnel review outcomes if academic malfeasance is determined at the conclusion of the investigative process.

The executive committee of the College of Humanities, Arts and Social Sciences, though welcoming of the proposed revisions also stated serious concerns that are included herewith:

The committee agreed that there are times when the handling of academic misconduct investigations and personnel actions coincide, and that this can create a variety of problems for the accused faculty member and review bodies alike. We thus welcome policy clarifications and improvements, which the current proposal aims to do. However, as detailed below, we have several concerns with the proposed revisions.

1) We are concerned about having the Chancellor determine that a no-fault pause will be instituted because we see a structural conflict similar to that pointed out by the Faculty Senate several years ago regarding the problems of the VPAP and VPAR being the same person. Our understanding is that under the current policy, many allegations of misconduct would not even be shared with the Chancellor during the initial inquiry and will never reach the Chancellor if determined to be unsubstantiated. Following the principle that knowledge of an accusation can itself lead to negative bias, it seems inappropriate to formalize a process where the final arbiter of key personnel actions such as promotion and tenure will automatically learn about alleged wrongdoing (they would have to know in order to institute the pause) when the investigation has not even occurred. More generally, how would the proposed policy protect the faculty member from a retaliatory action by the Administration?

2) As a default, we believe the fairest approach is for a personnel review to proceed normally and a misconduct allegation to be reviewed separately. This ensures, among other things, that if the respondent is found to *not* be responsible for misconduct, there will be no delay in realizing a merit, advance, or promotion that they earned through the normative review process. (The proposed change is silent on what would happen with such a delay, and this is a problem; there are real effects to delayed promotions and delayed salary increases, even if made retroactive.) We recognize, however, that there are situations where a no-fault pause might be desired by **both** the faculty member as well as the Administration. Provided that the faculty member has the prerogative to choose to pursue this option (with the Chancellor learning about the request only after the faculty member has made it), we believe this would be acceptable.

3) There is a lack of clarity with regards to the proposed revisions. For example, the faculty member will be given “periodic updates” on the status of the investigation. We request more specificity here: How often, and through which means of communication? Where there is ambiguity, there is the higher potential for inequity.

4) We are concerned that the policy is potentially open to manipulation. For example, an Assistant Professor who knows they will not get tenure could possibly extend their appointment by creating a situation at the opportune window to beget a no-fault pause. Similarly, the policy could be manipulated to delay an anticipated “unsatisfactory” quinquennial review, which is driven by the principle that a tenured faculty member *must* be reviewed at least every five years.

Ultimately, the CHASS Executive Committee agreed that there are many serious problems with the proposed revisions, which are vague, without clear motivation, and potentially incongruent with existing policies of due process. We thus do not recommend that they go forward, though we would welcome clarification about what is motivating this proposed change. We are open to revisiting possible revisions once we understand why they are needed, who is requesting them, and how the details we outline above will be addressed.

The executive committee of the College of Natural and Agriculture Sciences asked if a review being paused means that it’s not being approved and discussed how plagiarism might be addressed with the changes to APM 016. As well as inquired about what “No-fault” meant in this process and questioned when “no-fault” would end and what it exactly meant and requested a detailed definition of “No Fault”.

The Committee on Faculty Welfare commented about timeliness and remedy after a pause is lifted:

1) There are no assurances in the proposed revisions that investigative and disciplinary processes will be conducted in as expeditious a manner as possible. A faculty member who was accused of misconduct yet eventually exonerated may still have been subjected to a protracted (and distressing) investigation that disadvantaged their research, teaching, and service abilities.

2) If a faculty member accused of misconduct is exonerated and the academic personnel review for this faculty member then proceeds after the final disciplinary decision is made and the no-fault pause is lifted, what remedy is provided to the faculty member to account for the prolonged pause and delay in the review of their academic personnel file? Will the exonerated faculty member be compensated for the deleterious impact the investigative and disciplinary process, along with the no-fault pause on their academic personnel review, may have had on their research, teaching, service, and physical/mental well-being—not to mention exorbitant lawyer costs?

The Committee on Privilege and Tenure was generally supportive but suggested language explicitly stating that paused personnel actions will have a retroactive effective date if the pause causes a delay past the review period.

The Committee on Charges’ comments were mixed. While some members supported the proposed changes, others expressed concern about pausing merit and promotion reviews, particularly during the early stages of formal investigations. Stating that pausing personnel actions at the beginning of a potentially lengthy process can unfairly impact faculty, especially those up for tenure consideration. This action should be undertaken with the utmost caution, and specific language should be added to ensure paused personnel actions have a retroactive effective date if the pause delays the review beyond the designated review period and it is ultimately determined that the faculty review should proceed.

The Committee also offered additional comments that should be addressed when UCR develops its own local policies:

- 1) The Committee recommends including a consultation process with the appropriate Senate committee before the Chancellor decides to pause a review.
- 2) Further clarification is needed on what defines the beginning of a formal investigation process and what determines which charges are evaluated through a formal investigation.
- 3) Emphasis should be placed on ensuring confidentiality of faculty who are undergoing investigations with paused reviews. It was not clear to the committee how confidentiality will be maintained in the department if the faculty is not coming up for review.
- 4) Finally, the Committee recommends that there be extensive Senate consultation when coming up with the implementation procedures on campus

The Committee on Diversity, Equity, and Inclusion responded that the proposed changes seem reasonable, and that it is important that potential faculty misconduct be investigated and taken into consideration before any merit, promotion or retention actions for the same individuals be taken.

Thank you for the opportunity to comment.

Sincerely yours,



Sang-Hee Lee
Professor of Anthropology and Chair of the Riverside Division

CC: Monica Lin, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office

Office of the Academic Senate
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490 Illinois Street, 5th Floor
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Steve Hetts, MD, Chair
Errol Lobo, MD, PhD, Vice Chair
Thomas Chi, MD, Secretary
Kathy Yang, PharmD, MPH, Parliamentarian

June 12, 2024

James Steintrager
Chair, Academic Council
Systemwide Academic Senate
University of California Office of the President
1111 Franklin St., 12th Floor
Oakland, CA 94607-5200

Re: Proposed Revisions to Proposed Revisions to APM 016, Faculty Conduct and the Administration of Discipline

Dear Chair Steintrager:

The San Francisco Division of the Academic Senate is pleased to comment on the proposed amendments concerning APM 016 – the University Policy on Faculty Conduct and the Administration of Discipline.

As we understand it, these revisions would:

- **Pause on Academic Personnel Review Actions:** At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor's designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or Chancellor's designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member.
- **Conclusion of the pause:** The pause will end when the investigative and disciplinary processes are concluded. In the event of a disciplinary process following a formal investigation, the pause will end when a final decision is made whether to impose disciplinary sanctions. The academic personnel process may then proceed according to campus procedures.
- **Assistant Professors in Year 8:** If the investigative and disciplinary processes are not concluded by the beginning of the faculty member's eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year, in accordance with Regents Bylaw 40.3(c).

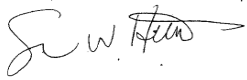
On the whole, the UCSF is now largely mirror the standard practice that has been in place at UCSF for quite a while now, as we are thankful that the objectionable parts of the proposal from early versions have been removed.

We also appreciate the clause that locations are responsible for developing implementation procedures, which will addresses 1) the stage in existing local procedures the pause occurs; and 2) identify the offices that have responsibility for providing written confirmation of the pause to the respondent, giving a respondent periodic updates on the status of the investigation, and for notifying relevant administrators of the beginning and end of the pause.

Therefore, we are happy to endorse the proposed amendments as written.

Thank you for the opportunity to opine on the revisions to this APM. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Hetts", with a long horizontal flourish extending to the right.

Steven Hetts, MD, 2023-25 Chair
UCSF Academic Senate

Enclosures (3)

Cc: Malini Singh, Chair, Clinical Affairs Committee (CAC)
Elizabeth Rogers, Chair, Committee on Faculty Welfare (CFW)
Spencer Behr, Chair, Committee on Rules & Jurisdiction (R&J)

Clinical Affairs Committee (CAC)
Malini Singh, MD, MPH, MBA, Chair

June 19, 2024

Steven Hetts, MD
Division Chair
UCSF Academic Senate

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

Dear Chair Hetts:

The Clinical Affairs Committee (CAC) appreciates the opportunity to thoroughly review the Systemwide Review of Proposed Revisions to the Academic Personnel Manual (APM) Section 016, which pertains to the University Policy on Faculty Conduct and the Administration of Discipline. In particular, CAC has focused its attention on Section II – Pause on Academic Review Actions (page 13) of APM 016. After careful consideration, CAC is in agreement with this policy and recognizes its value.

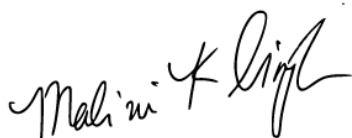
CAC has approached the examination of this policy by considering the potential scenario in which a faculty member, who has been granted a no-fault pause on their advancement, is subsequently found not to be at fault and is not subject to any disciplinary measures. In light of this perspective, CAC has identified several areas within the APM that require clarification.

Firstly, CAC requests clarification on whether a faculty member who has experienced a pause in their advancement for a significant duration, such as one year, would be eligible for accelerated advancement or any alternative mechanisms designed to facilitate their progress and make up for the time lost during the pause.

Secondly, CAC seeks guidance on how the salary and benefits of a faculty member, which may be linked to their advancement, would be handled in the event of a no-fault pause. It is logical to assume that if the pause itself is deemed to be without fault, appropriate measures should be taken to either forgive the pause or compensate for it, ensuring that the individual's salary and benefits are not adversely affected.

Thank you for your attention to these matters. Should you require further clarification or have any additional questions, please do not hesitate to reach out to either myself or CAC analyst Sophia Root (sophia.root@ucsf.edu).

Respectfully,



Malini Singh, MD, MPH, MBA, Chair
Clinical Affairs Committee Chair

Cc: Todd Giedt, UCSF Academic Senate Executive Director
Sophia Bahar Root, UCSF Academic Senate Analyst

Committee on Faculty Welfare
Elizabeth Rogers, MD, Chair

June 3, 2024

Steven Hetts, MD
Division Chair
UCSF Academic Senate

Re: APM 016 Systemwide Review – University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Hetts:

The Committee on Faculty Welfare (CFW) writes to comment on the proposed amendments concerning APM 016 – the University Policy on Faculty Conduct and the Administration of Discipline.

As we understand it, these revisions would:

- *Pause on Academic Personnel Review Actions:* At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor's designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or Chancellor's designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member.
- *Conclusion of the pause:* The pause will end when the investigative and disciplinary processes are concluded. In the event of a disciplinary process following a formal investigation, the pause will end when a final decision is made whether to impose disciplinary sanctions. The academic personnel process may then proceed according to campus procedures.
- *Assistant Professors in Year 8:* If the investigative and disciplinary processes are not concluded by the beginning of the faculty member's eighth year of service at the rank of Assistant Professor (or a combination of equivalent titles), the Chancellor is authorized to recommend to the President that the appointment be extended beyond the eighth year, in accordance with Regents Bylaw 40.3(c).

CFW met with VPAA Brian Alldredge, who informed us that he is quite satisfied with the amendments as currently drafted, which now largely mirror the standard practice that has been in place at UCSF for quite a while now. We are thankful that the objectionable parts of the proposal from early versions have been removed, which included 1) a mandatory requirement to wait until formal charges were filed to institute the pause; 2) an earlier stipulation that the VPAA had to ask the Senate for a no-fault pause, which would have opened up a confidential investigation; and 3) different processes with respect to the pause for Senate and non-Senate faculty.

We also appreciate the clause that locations are responsible for developing implementation procedures, which will address 1) the stage in existing local procedures the pause occurs; and 2) identify the offices that have responsibility for providing written confirmation of the pause to the respondent, giving a respondent periodic updates on the status of the investigation, and for notifying relevant administrators of the beginning and end of the pause.

Therefore, we are happy to endorse the proposed amendments as written.

Thank you for the opportunity to comment on this important APM. Please contact me or our Senate analyst Todd Giedt (todd.giedt@ucsf.edu) if you have questions about CFW's comments.

Sincerely,

Elizabeth Rogers, MD
Committee on Faculty Welfare Chair

cc: Todd Giedt, Senate Executive Director
Sophia Bahar Root, Senate Analyst
Cat Mosti, Committee on Faculty Welfare Vice Chair

Committee on Rules and Jurisdiction

Spencer Behr, MD, Chair

June 19, 2024

Steven Hetts, MD
Division Chair
UCSF Academic Senate

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

Dear Chair Hetts:

The Committee on Rules and Jurisdiction (R&J) appreciates the opportunity to opine on the Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline.

Having conducted a thorough and meticulous review, the R&J committee is pleased to express its support for the proposed revisions, which seek to effectively address the complex issue of simultaneous academic misconduct investigations and personnel actions. R&J firmly believes that these revisions will significantly enhance the integrity and transparency of the disciplinary process.

Furthermore, after consultation with the Committee on Academic Personnel (CAP), R&J found that the amended policy accurately reflects the current practices observed at UCSF. This alignment is crucial in ensuring continuity and consistency within the institution's academic review and advancement procedures.

If there is anything R&J can do to support these efforts locally or systemwide, please let me and our committee's analyst Sophia Root (sophia.root@ucsf.edu) know.

Sincerely,



Spencer Behr, MD
Committee on Rules and Jurisdiction Chair

cc Todd Giedt, UCSF Academic Senate Executive Director
Kristie Tappan, UCSF Academic Senate Senior Public Policy Analyst
Sophia Bahar Root, UCSF Academic Senate Analyst



OFFICE OF THE ACADEMIC SENATE

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FAX: (858) 534-4528

June 18, 2024

Professor James Steintrager
Chair, Academic Senate
University of California
VIA EMAILRe: Divisional Review of Academic Personnel Manual (APM) Section 016, University Policy on
Faculty Conduct and the Administration of Discipline

Dear Chair Steintrager,

The proposed revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline were distributed to San Diego Divisional Senate standing committees and discussed at the June 10, 2024 Divisional Senate Council meeting. Given the concerns stated below, the San Diego Divisional Senate Council opposed the proposal and offered the following comments for consideration. The Council opined that additional work is needed to clarify the intent of the proposed revisions and the process.

Concerns were raised regarding the implementation and timing of the no-fault pause. It was suggested that further clarification be added to define when the no-fault pause would start, specifically, when a formal investigation begins, and when it would end, namely when the disciplinary process is concluded. Additionally, the distinctions for the “informal” vs. “formal” stages of the disciplinary process could be clarified. There was concern that a no-fault pause could be imposed indefinitely unless specified time frames or a maximum duration is added to the policy. The policy lacks clarity on how a no-fault pause affects subsequent review periods. Specifically, it is unclear whether the faculty member can initiate the next review file or if the pause will also delay the next review.

Concerns regarding equity in the decision-making process were also noted. The policy grants the Chancellor or a designee sole authority to determine which cases warrant a no-fault pause. To improve transparency and accountability, it was suggested that clearer criteria and a more open decision-making process for initiating a pause be established. Reviewers also recommended that a committee of Senate faculty be formed to review allegations before a pause is initiated, ensuring a more equitable and consistent approach. Reviewers pointed out a potential inconsistency in the policy, as disciplinary actions are the sole authority of the Chancellor. However, the proposed Section II allows a designee of the Chancellor to determine whether a no-fault pause is imposed.

Reviewers noted that while the pause is considered ‘no fault,’ it could still have significant implications for a faculty member’s career advancement, particularly in tenure and promotions cases or if the faculty member is exonerated. Without a concrete definition of the relevant misconduct types that warrant a pause, there is a concern that allegations could be misused to deliberately hinder a colleague’s career advancement. As written, the policy may not be sufficient to guarantee that the effect of the delay on a faculty member’s salary and career advancement will be erased, especially if they are exonerated.

Additionally, some view the no-fault pause as an additional penalty on top of any sanctions resulting from the disciplinary process. Some reviewers felt strongly that any effects of the delay should be nullified once the disciplinary sanction is imposed and that the policy could be strengthened with an explanation of how a career trajectory could potentially be rectified after the pause is lifted.

The responses from the Divisional Committee on Academic Personnel and Committee on Privilege and Tenure are attached.

Sincerely,

John A. Hildebrand
Chair
San Diego Divisional Academic Senate

Attachments

cc: Olivia A. Graeve, Vice Chair, San Diego Divisional Academic Senate
Lori Hullings, Executive Director, San Diego Divisional Academic Senate
Monica Lin, Executive Director, UC Systemwide Academic Senate

May 31, 2024

JOHN HILDEBRAND
Academic Senate, San Diego Division

SUBJECT: Review of the Proposed Revisions to APM 016: University Policy on Faculty
Conduct and the Administration of Discipline

The Committee on Academic Personnel (CAP) appreciates the opportunity to provide comments on the proposed revisions to APM 016: University Policy on Faculty Conduct and the Administration of Discipline. The committee discussed the proposal at its May 08, 2024, meeting. The revisions formally introduce a no-fault pause to the academic personnel review process for faculty members under formal investigation for alleged misconduct, starting at the investigation's onset. This pause is currently practiced informally at several campuses. Per the revised policy, the academic review process will resume once the investigative and disciplinary processes are concluded. The revisions also include provisions to extend an Assistant Professor's probationary period if the investigation occurs during their final probationary year. While CAP supports the no-fault pause in these circumstances, additional considerations must be addressed in the final policy. CAP's recommendations and concerns are summarized below.

CAP strongly advocates for the addition of a maximum duration or "sunset clause" to prevent indefinite delays in academic reviews. Specified timeframes will be essential to ensure the timely resolution of misconduct investigations and will prevent faculty members from being left in limbo while the University is conducting its investigations. Without clear timeframes established in policy, CAP members opined that there may be potential for grievances related to the prolonged academic review processes in these cases.

Allegations of faculty misconduct can be damaging even if not proven, making a rigorous and fair review process crucial. Some CAP members expressed concern that a pause in a faculty member's academic review could obstruct tenure and promotion processes. Some CAP members were of the opinion that there is a risk that allegations could be used maliciously to stall a colleague's career, in particularly because the criteria and process for types of alleged misconduct that warrant a pause to be lacking. The policy would be strengthened with a concrete definition of relevant misconduct types applicable under this policy, perhaps as an appendix.

Finally, there was some concern about equity in the decision-making process. The policy, as written, gives the Chancellor or a designee sole discretion to decide which cases may warrant a pause to the review process which presents an equity problem. CAP recommends clearer criteria and a more transparent decision-making process for initiating a pause. Some members suggested establishing a committee to review allegations and decide on pauses, ensuring due process.

CAP appreciates the opportunity to provide feedback on the proposed revisions to APM 016 and hopes that these concerns are addressed in the final policy.



Wendy M. Campana, Chair
Committee on Academic Personnel

Cc: O. Graeve
L. Hullings

June 3, 2024

JOHN HILDEBRAND

Chair, San Diego Divisional Academic Senate

SUBJECT: Review of the Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline

Dear Chair Hildebrand,

The Committee on Privilege and Tenure (CPT) reviewed the proposed revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline at its May 9, 2024, meeting. While the Committee opined that a pause in campus review of a personnel action is permissible in principle, the Committee did not endorse the proposed revisions. The Committee raised several concerns about the proposed language, implementation, and impacts on faculty subject to a no-fault pause.

Timing of no-fault pause

1. The beginning and ending of a pause need to be described in language readily understood by faculty. The revisions state that a no-fault pause starts “[a]t the beginning of a formal investigation of alleged misconduct...” Further clarification is needed to define what action constitutes the beginning of a formal investigation and when the disciplinary process ends and the no-fault pause is lifted. Additional precision in defining the disciplinary process is needed to educate faculty, who are largely unaware of such distinctions as “informal” vs. “formal” stages of the process. It is important for faculty to be informed of the potential timeline of a no-fault pause.
2. Language should be included about time limits for the entire length of a pause to prevent the Administration from imposing a no-fault pause of an indefinite duration.
3. The proposed revisions do not address what happens if the pause goes into the faculty member’s next review period. It is not clear if the faculty member can begin the next review or if the pause will also delay the next review.

Application of APM-016

1. The discretion given the Chancellor leaves open the possibility of unequal application of the no-fault pause across cases. The proposal states that the “Chancellor or Chancellor’s designee may impose a no-fault pause...” As written, no standards are provided to guide when the Chancellor (or designee) would apply a no-fault pause. Clearer criteria are needed than “if the Chancellor (or Chancellor’s designee finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions.”
2. According to APM-016, disciplinary actions such as reduction in salary, demotions, and suspensions are imposed by the Chancellor and that authority *may not be redelegated* [italics added]. Yet, the proposed Section II allows a designee of the Chancellor (i.e. a subordinate) to determine whether a no-fault pause is imposed. CPT is troubled by the

inconsistency in this policy concerning the redelegation of authority for actions that should not be redelegated.

3. CPT felt strongly that consultation with Senate faculty should be required prior to the Chancellor (or designee) suspending review of an academic personnel action. Moreover, this consultation procedure should be made explicit in the proposal.

Corrective actions after the no-fault pause

1. The Committee finds the “no-fault pause” descriptor to be potentially inaccurate—it is not necessarily “no-fault”. In situations where an accused faculty member is exonerated, a pause in review means that all subsequent reviews after the pause is lifted may be delayed and this could have an impact on the faculty member’s longer-term career trajectory. The Committee proposes that in these cases, the faculty member should be guaranteed a retroactive payment of any salary increase awarded in the career review for the period beginning with the original effective date of the proposed career-review action, along with any subsequent increases in pay that became delayed. As written, the proposed revisions are not sufficient to guarantee that the effect of the delay on a faculty member’s salary and career advancement will be erased.
2. The no-fault pause may impose a sanction on top of the sanction imposed by the disciplinary procedure. In cases where the outcome of a disciplinary case is to impose discipline, whatever sanctions are imposed will be in addition to the impacts to salary and career advancement caused by the no-fault pause. The Committee felt strongly that the no-fault pause should not be treated as an additional sanction, and any effects of the delay need to be erased once the disciplinary sanction is imposed or taken as a credit towards any disciplinary sanction that is imposed.

Sincerely,

Philip G. Roeder, Chair
Committee on Privilege and Tenure

cc: Olivia Graeve, Senate Vice Chair
Lori Hullings, Senate Executive Director
J. Coomer, Senate Analyst



June 18, 2024

To: Jim Steintrager, Chair
Academic Senate

From: Susannah Scott, Divisional Chair
Academic Senate

A handwritten signature in black ink that reads 'Susannah R. Scott'.

Re: Proposed Revisions to Academic Personnel Manual (APM) 016 - University Policy on Faculty Conduct and the Administration of Discipline

The Santa Barbara Division distributed the Proposed Revisions to Academic Personnel Manual (APM) 016 regarding the University Policy on Faculty Conduct and the Administration of Discipline to the Committee on Privilege and Tenure (P&T), Charges Advisory Committee (CAC) and the Charges Officer, Committee on Academic Personnel (CAP), Council on Faculty Welfare (CFW), Committee on Diversity and Equity (CDE), and the Faculty Executive Committees (FECs) of the College of Letters and Science (L&S), the College of Engineering (ENGR), Bren School of Environmental Science and Management (BREN) and the Gevirtz Graduate School of Education (EDUC). CAP and the CCS, BREN, and EDUC FECs opted not to opine.

Though none of the reviewing groups express opposition to the proposed policy change, and CFW finds both the no-fault pause and the tenure clock extension provision to be appropriate additions to the policy, there are nevertheless a number of questions and significant issues that will require resolution before the changes can be implemented. Their responses are summarized below, with each individual memo attached for your review.

P&T points out the incompatibility of the stated goal of the proposed policy to create uniformity in practices between campuses with the vagueness of its language in many key areas and the expectation that individual campuses develop their own local procedures. These concerns have the potential to lead to inconsistent and/or inequitable handling of simultaneous academic personnel and disciplinary cases. The committee enumerates essential details missing from the description of the "no-fault pause" process, such as timing and duration and documentation and notification requirements. A full list is available in their attached memo. Several other groups also ask for clarity on the basic parameters of the "no-fault pause," including defining the circumstances under which its implementation would or would not be appropriate.

A common theme among the reviewing group responses is the potential impact of the "no-fault pause" on the accused faculty member, particularly where the alleged misconduct is

found to be unsubstantiated. CAC observes that the new language lacks guidance on the appropriate stage at which a pause would be applied, aside from a general reference to the beginning of a “formal investigation.” The committee recommends that cases become eligible for pause only after a finding of probable cause. Since an investigation into potential misconduct may last for periods that may extend up to several years, CDE and the L&S and ENGR FECs express worries about the damage that may be done to a faculty member in terms of earnings and/or career advancement. Both groups identify the need for language regarding mitigation efforts in the event a faculty member is found not to be at fault (e.g., retroactive pay or other reparations), and the ENGR FEC expresses several concerns about implementation details. CDE calls attention to the potential for differential impacts of delayed pay increases for faculty.

The L&S FEC further highlights two May 2023 [recommendations](#) from the Academic Council and the University Committee on Privilege and Tenure that were not included in the proposed new language, and are reproduced below.

(c) The Chancellor’s designee shall provide a timeline to the Divisional Committee on Privilege and Tenure for completion of the disciplinary action and periodic updates at intervals of no longer than 6 months.

(f) Once the personnel action has resumed, its effects are retroactive, as if the personnel action had taken place according to the original schedule. Any teaching, service, or research performed during the no-fault pause period will not be taken into account during the resumed personnel action (they are rather going to count toward the following review period).

The FEC asserts that there “would be significant value in formally incorporating” both of these recommendations into the new language.

Finally, P&T emphasizes that the APM should set forth clear and consistent procedures across the campuses to ensure equity and fairness. We thank you for the opportunity to comment.

June 13, 2024

To: Susannah Scott, Chair
Academic Senate

From: Miguel Eckstein, Chair
Committee on Privilege and Tenure

Re: Proposed Changes to Academic Personnel Manual (APM) 016

The Committee on Privilege and Tenure (P&T) has considered the proposed changes to Academic Personnel Manual (APM) 016 regarding the University Policy on Faculty Conduct and the Administration of Discipline.

The proposed policy changes establish a mechanism for managing simultaneous misconduct allegations and academic personnel actions. Part of the impetus for these changes is to provide guidance to the campuses and “promote systemwide uniformity.”¹ Bearing that in mind, P&T feels that the new language in Section II is overly vague, and that combined with the expectation that each location develop its own implementation procedures, there is a substantial risk of inconsistent practices. Further, members express concern about the extent to which local administrative authority and discretion could lead to inconsistencies in policy implementation both within and between the campuses.

P&T finds that general description of the “no-fault pause” process lacks critical details, such as a definitions of the terms “formal investigation” and “no-fault,” the point at which (or period within which) the pause could occur, guidance on the determination of an allegation’s relevance to the assessment criteria for academic personnel review, written documentation requirements for faculty notification of the commencement of the pause, periodic status updates, and conclusion of the pause, associated requirements for administrator notifications, the appointment process for administrative designees, the time limit for investigations, and the impact of related appeals or grievances.

As much as possible, the APM should set forth clear and consistent procedures across the campuses to ensure equity and fairness.

¹<https://senate.universityofcalifornia.edu/files/reports/sc-kn-request-for-apm-language-to-address-simultaneous.pdf>

June 12, 2024

To: Susannah Scott, Divisional Chair

From: Dick Startz, Charges Officer

Re: Proposed Changes to Academic Personnel Manual (APM) 016

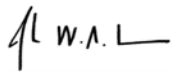
The Charges Advisory Committee (CAC) has considered the proposed changes to Academic Personnel Manual (APM) 016 regarding the University Policy on Faculty Conduct and the Administration of Discipline. The proposed changes relate to simultaneous misconduct allegations and personnel actions.

The proposed new language makes reference to the imposition of a no-fault pause on any current or future academic personnel action at the beginning of a formal investigation of alleged misconduct by a faculty member. CAC notes that the term "formal investigation" is not well defined and may be open to interpretation or vary by campus. CAC recommends that the pause only be applied at the point probable cause has been established. At UCSB this would mean after a probable cause finding by an Ad Hoc Charges committee, although the process is different on some other campuses.

**Academic Senate
Santa Barbara Division**

May 21, 2024

To: Susannah Scott, Divisional Chair
Academic Senate

From: John W.I. Lee, Chair 
Council on Faculty Welfare, Academic Freedom and Awards

Re: Proposed Revisions to Academic Personnel Manual (APM) 16 - University Policy on
Faculty Conduct and the Administration of Discipline

At its meeting of May 8, 2024, the Council on Faculty Welfare, Academic Freedom and Awards (CFW) discussed the proposed revisions to Academic Personnel Manual (APM) 16 - University Policy on Faculty Conduct and the Administration of Discipline. CFW recognizes this policy has been under review for some time and that earlier drafts did not include the no-fault pause. CFW finds both the no-fault pause and the tenure clock extension provision to be appropriate additions to the policy, so that faculty do not have their tenure cases derailed. These proposed changes will improve the current procedures.

CC: Shasta Delp, Executive Director, Academic Senate

**Academic Senate
Santa Barbara Division**

May 8, 2024

To: Susannah Scott, Divisional Chair
Academic Senate

From: Jean Beaman, Chair
Committee on Diversity & Equity



Re: Proposed Revisions to Academic Personnel Manual (APM) 016 - University Policy on Faculty Conduct and the Administration of Discipline

At its meeting of May 6, 2024, CDE reviewed the proposed revisions to Academic Personnel Manual (APM) 016 - University Policy on Faculty Conduct and the Administration of Discipline, and has the following comments.

The Committee would like more clarification regarding “no-fault pause” included in the policy, along with an explanation of how the pause operates and its implications on the merit review process.

Given the slow pace of investigations on campus, the Committee worries about possible issues stemming from the “no-fault pause” and wanted confirmation that merit raises will be given retroactively if conduct allegations are found to be unsubstantiated. Receiving a delayed pay increase could be seen as a form of punishment itself. Delayed pay increases will affect people of different groups differently. Is there data to show who commonly faces these conduct investigations? The Committee would like to see a commitment included in the policy to process any retroactive earnings paid expeditiously in order to not penalize faculty further.

CC: Shasta Delp, Executive Director, Academic Senate

May 14, 2024

To: Susannah Scott
Chair, Academic Senate

From: Jeffrey Stopple
Chair, L&S Faculty Executive Committee 

Re: Campus Review of Proposed Revisions to Academic Personnel Manual (APM) 016 -
University Policy on Faculty Conduct and the Administration of Discipline

At its meeting on May 9, 2024, the Faculty Executive Committee of the College of Letters and Science (FEC) reviewed proposed revisions to APM 016 dealing with policy on Faculty Conduct and the Administration of Discipline. These revisions focus on situations where a faculty member in the middle of a merit advancement case is accused of a serious conduct violation. The revised policy creates the potential to “pause” an advancement case during the conduct investigation. We note that the proposal is described as being based on recommendations from Academic Council and the University Committee on Privilege and Tenure issued in May 2023.

Although the committee in general supported this revision and appreciated the clarity it could provide in situations when conduct issues are raised in the middle of merit review, there was some concern regarding situations where conduct investigations extend over multiple years. Viewing that such investigations are often lengthy and complex, it seems likely that the proposed merit pause could extend indefinitely, possibly impacting the faculty member in a significant way even if the conduct investigation does not result in any negative findings or disciplinary action.

In particular, we note the following language which was included in the May 2023 recommendations from Academic Council and Privilege and Tenure that called for these revisions is not included at all in the proposed revisions to APM 016 being considered now:

(c) The Chancellor's designee shall provide a timeline to the Divisional Committee on Privilege and Tenure for completion of the disciplinary action and periodic updates at intervals of no longer than 6 months.

(f) Once the personnel action has resumed, its effects are retroactive, as if the personnel action had taken place according to the original schedule. Any teaching, service, or research performed during the no-fault pause period will not be taken into account during the resumed personnel action (they are rather going to count toward the following review period).

Our committee supports the above recommendations, and feels there would be significant value in formally incorporating them into the final APM 016 language.

Thank you for the opportunity to comment.

cc: Pierre Wiltzius, Executive Dean of the College and Dean of Science
Michael Miller, AVC and Dean of Undergraduate Education
Charlie Hale, Dean of Social Sciences
Daina Ramey Berry, Dean of Humanities and Fine Arts

May 30, 2024

TO: Susannah Scott
Divisional Chair, Academic Senate

FROM: Chris Bates, Chair
College of Engineering, Faculty Executive Committee

DocuSigned by:
Chris Bates
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RE: Proposed Revisions to Academic Personnel Manual (APM) 016 – University Policy on Faculty Conduct and the Administration of Discipline,

The College of Engineering FEC met on Thursday, May 2nd, Thursday, May 16th, and Thursday, May 30th and reviewed the Proposed Revisions to Academic Personnel Manual (APM) 016 – University Policy on Faculty Conduct and the Administration of Discipline.

The committee has concerns about cases where faculty are found to have no-fault and damage has been done to their earnings and/or career pathway. The committee could not find explicit language regarding reparations. In Section IV, there is implicit language regarding remedies but this section is disconnected from Section II where the new proposed policy is written. The university should be cognizant of the loss of earnings or career advancement in the case of the faculty member being absolved of wrongdoing and have a mitigation strategy in place.

It was unclear to the committee how the policy applies to different issues such as accusations of plagiarism versus alleged classroom misconduct, as they could be fundamentally different in the absolute and further magnified based on the timing of the issue, i.e., if the accused faculty member is being considered for tenure.

The committee discussed if the consequences should come before the pause or after the pause. One committee member suggested a hybrid approach, whereby a faculty member is allowed to go through the process as scheduled, but rewards are not given until the results of the investigation are determined.

Another suggestion was that a pause in teaching should be treated similarly to a sabbatical or a leave and not held against the faculty member.



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SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

June 20, 2024

JAMES STEINTRAGER
Chair, Academic Council

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

Dear James,

The Santa Cruz Academic Senate has reviewed your request for feedback on the proposed changes to APM 016 – Faculty Conduct and the Administration of Discipline. Our Committees on Academic Personnel (CAP), Faculty Welfare (CFW), and Privilege and Tenure (CPT) have opined. The UCSC Senate appreciates the need to formulate a policy for situations where a faculty member may be undergoing personnel review at the same time that they are involved in an investigation of misconduct. Although the proposed policy would address such situations, our division has raised a number of concerns and questions about the proposed revisions.

Responding committees noted the lack of clear explanation of the purpose of the proposed changes. This, unfortunately, appears to follow a pattern of recent proposed policy changes. The absence of the explanation makes the review process less efficient. We understand the proposed revisions would allow the Chancellor, or a Chancellor's designee, to impose a no-fault stay on any ongoing or future personnel action of a faculty member who is under a formal investigation for alleged misconduct. The pause decision will be made at the beginning of the investigation, and will last until the investigation, or, if applicable, the following disciplinary process, is concluded. The proposed policy states that the pause may be imposed if “the Chancellor (or Chancellor’s designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions”.

A pause in personnel action might have real and lasting financial consequences for a faculty member. If a promotion or merit increase is delayed, the faculty member will lose the associated pay increase for the duration of the delay. If the faculty member is close to retirement, all future retirement payments will be reduced. In either case, this amounts to financial punishment imposed on faculty before they are found guilty of any misconduct. In the case that misconduct is confirmed, the proposed policy adds a financial punishment to the existing disciplinary actions. Either scenario is

unacceptable. To remedy this, the policy should include a clear mechanism for repairing any financial harm caused by the pause that goes beyond what would have happened without the pause imposition.

It is possible that a no-fault pause might be in the faculty member's interest. For example, if the faculty member believes that alleged misconduct might adversely and unfairly influence pending personnel actions. A mechanism for such a faculty member to request a no-fault pause should be possible. Further, CFW suggested that the decision to place a pause in any situation, should be made in consultation with the program chair and dean, who are more familiar with the specific circumstances of the case.

In the April 24, 2023 letter from the University Committee on Privilege and Tenure (UCP&T) endorsed by the Academic Council¹, Chair Simon wrote that some campuses were imposing pauses in academic personnel reviews even though there was no such provision in the APM. UCP&T proposed to allow for these pauses, but *with safeguards, none of which CPT noted are included in the proposed revision to APM 016*:

1. The no-fault pause could be imposed when disciplinary charges were filed, not before. The letter states, “currently, some administrations pause actions as soon as investigations are opened.”
2. The misconduct being charged must have occurred during the period under review.
3. Materials about disciplinary action (if the misconduct occurred during the period under review and had a direct bearing on the criteria for assessment) could only be inserted in the personnel review file after the conclusion of disciplinary proceedings.

In the absence of these safeguards, we consider the proposed revision to APM 016 as regularizing pauses in personnel reviews that can damage the integrity of the review process.

With regard to timing, CAP noted that more guidance is needed on the question of when a pause in the personnel review process should be implemented. There are pros and cons to any stage chosen. For example, if the pause occurs at the department level, then confidentiality may be breached. And if it occurs later in the process, then initial departmental, senate, or administrative recommendations may need to be revised. In addition, a definitive answer is needed for what constitutes “the beginning of a formal investigation.” Is it the determination by the VPAA that such an investigation is warranted? Is it the appointment of an investigating officer? Or is it the date the actual investigation begins? In order to comment comprehensively on the proposed revision, it is essential to first work out the local procedures to enact this policy (see “Model Communication,” “Locations are responsible for developing implementation procedures”). The details of the “procedures to implement...” (page 3, paragraph 3) should be developed before we implement the new APM 016.

A more definitive resolution is additionally needed to address cases that extend beyond the tenure period. Rather than stating that the Chancellor is authorized to recommend an extension in such cases, a better option might be to require that the appointment in such cases be extended beyond the eighth year to ensure that the review can take place once the disciplinary process is completed.

¹ Academic Council Chair Cochran to Provost and Executive Vice President Newman, 5/09/23, Re: Request to Update the APM to Address Simultaneous Academic Misconduct Investigations and Personnel Actions: <https://senate.universityofcalifornia.edu/files/reports/sc-qn-request-for-apm-language-to-address-simultaneous.pdf>

Due to the concerns above, the Santa Cruz Division does not support the proposed revisions to APM 016. It is critical that any “pause” in the personnel review process be undertaken with explicit assurances of no harm to faculty who are investigated and eventually vindicated. That said, if the proposed change in policy does moves forward, in order to reduce potential harm caused by the pause, the effects of such a pause should be reviewed on a regular basis while the investigation continues. For example, semiannual, or annual review should be mandated.

Sincerely,



Patty Gallagher, Chair
Academic Senate, Santa Cruz Division

cc: Maureen Callanan, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Kimberly Helmer, Chair, Committee on Career Advising
Alexander Sher, Chair, Committee on Faculty Welfare
Onuttom Narayan, Chair, Committee on Privilege and Tenure
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Matthew Mednick, Executive Director, Academic Senate



UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE

Irene Tucker, Chair
irenet@uci.edu

ACADEMIC SENATE

University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

June 12, 2024

ACADEMIC SENATE CHAIR JAMES STEINTRAGER

Dear Chair Steintrager,

I am writing today in my role as Chair of the Systemwide Committee on Privilege and Tenure. At your request, at our meeting on May 24, 2024, our committee discussed the proposed revisions to APM-016 regarding the creation of a mechanism for pausing personnel actions when there is a concurrent misconduct action. Our 2022-23 UCPT committee, under the leadership of then-chair Julia Simon, drafted the original proposal for revisions with the goal of standardizing and making legible the practices for managing concurrent promotion and misconduct actions. Because there exists no formal policy for managing the concurrent actions, practices vary widely from campus to campus and afford what we understand to be unfairly broad discretion to the judgment of individual administrators. Personnel actions are paused at different stages of the disciplinary process, and faculty members are often not informed that their personnel actions have been paused. In the absence of any policy for the management of concurrent actions, faculty members are likely to encounter difficulties knowing the status of either action. Moreover, sans any explicit policy, faculty lack any procedural grounds for filing a grievance regarding the handling of a paused personnel action. While the proposed language gives the chancellor of the relevant campus discretionary authority to extend an assistant professor's appointment beyond the eighth year if an investigation is still ongoing, we think such an extension should be made mandatory rather than left to the discretion of the individual chancellors. Affording the chancellor such discretion would leave in place the possibility that relevant administrators might "run out the tenure clock" and effectively use an ongoing disciplinary investigation as an instrument for dismissing untenured faculty without required disciplinary or academic review. We also recommend that the language we originally proposed with regard to this issue be re-introduced to the version under review:

"Regardless of the status of the investigation or the disciplinary action, a temporary pause of a personnel action concerning the promotion to tenure rank will be automatically lifted at the beginning of the 8th year of service at the rank of Assistant Professor (or a combination of equivalent titles) unless the President has approved appointment of an Assistant Professor (or equivalent title) beyond the eighth year in accord with Board of Regents' Bylaw40.3(c)."

Because the impetus behind UCPT's drafting of and advocacy for the APM-016 revisions was to create a reliable and transparent systemwide policy, we were dismayed to see that the version of the policy being considered by the Systemwide Senate assigns the development of procedures for managing concurrent merit and misconduct actions to the discretion of individual campuses. The draft of Section II, Paragraph 3 reads as follows:

“Locations are responsible for developing procedures to implement this Section, including, but not limited to, local procedures to address at what stage in existing local procedures the pause occurs, as well as identification of which campus office(s) have responsibility to provide written confirmation of the no-fault pause to the faculty member, to give a faculty member under investigation periodic updates on the status of the investigation, and to notify relevant administrators of the beginning and end of a no-fault pause on the faculty member’s current or future academic personnel review actions.”

While the second half of this provision gestures toward the particular concerns UCPT articulated in our original proposal, the fact that the development and implementation of procedures are assigned to individual UC campuses means that the goals of equity and transparency that a standardized systemwide policy would have afforded are entirely absent from the proposed revisions. This provision also fails to provide guardrails that would protect faculty rights. Pausing a personnel case during an investigation (as opposed to when a case reaches the hearing stage) could delay it for months and even years and, in many cases, would be harmful to faculty. Faculty need systemwide standards for when a case could be paused and systemwide recognition of the right to grieve if those standards are not met. It is in the context of this need for transparency and equity that we reaffirm our commitment to advocating that the UC administration adopt a systemwide policy regarding the handling of concurrent personnel and misconduct actions rather than assigning the responsibility for developing such administrative practices to individual campuses.

In the hope that you will take into account our expressed concerns as you revisit your draft, I am including the list of the goals we enumerated in our previous letter advocating for the policy revision:

- 1) To provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide and end the ad hoc solutions currently being employed.
- 2) To provide clear guidelines for circumstances in which personnel actions may be paused. These will include:
 - a. A temporary no-fault pause may be imposed at the point in the disciplinary process when charges are filed in most cases. Currently, some administrations pause actions as soon as investigations are opened.
 - b. The misconduct being charged must have occurred during the period under review and have a direct bearing on research, teaching, or service.
- 3) To require that the faculty member under review be notified that their personnel action has been paused.
- 4) To establish procedures for grieving the imposition of the pause on an expedited basis.
- 5) To require the administration to provide a timeline for the anticipated conclusion of the disciplinary action and resumption of the personnel case.
- 6) To require the administration to provide periodic updates (at least every 6 months) on the status of the case to divisional Privilege and Tenure committees.
- 7) To prevent the insertion of materials into personnel files before the conclusion of disciplinary proceedings.

We hope that we have persuasively made the case for a systemwide policy. Committee members are available and open to discussing the issues further with the relevant parties. Please let me know if you have any questions or if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Irene Tucker', written in a cursive style.

Irene Tucker
UCPT Chair, 2023-25

c: Steven Cheung, Academic Senate Chair
Monica Lin, Academic Senate Executive Director
Michael LaBriola, Academic Senate Assistant Director
UCPT Members



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)

Farrell Ackerman, Chair
fackerman@ucsd.edu

ACADEMIC SENATE

University of California
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June 19, 2024

JAMES STEINTRAGER, ACADEMIC SENATE CHAIR

Dear Chair Steintrager,

UCAF has reviewed the proposed revisions to APM-016 concerning University Policy on Faculty Conduct and the Administration of Discipline. We recognize the value of developing explicit and equitable procedures for situations of the identified sort. There are only a few comments we would like to make about the revisions.

First, the policy seems to either provide Chancellors with a lot of decision-making powers or reinforce powers that they already have as evident in the following:

At the beginning of a formal investigation of alleged misconduct by a faculty member, if the Chancellor (or Chancellor's designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions, the Chancellor (or the Chancellor's designee) may impose a no-fault pause on any current or future academic personnel action (e.g., for merit, promotion, or advancement) of that faculty member.

Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm.

Presumably, the intention is that this power is intended to be balanced by

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

There appears to be a fair bit of indeterminacy concerning potential criteria that could be used in determining whether specific *alleged misconduct is relevant to the assessment criteria for academic personnel review actions*. It would be good to specify what recourse faculty have if they disagree about the relevance of *their behavior to assessment criteria* and also to specify what types of *specified action(s)* can be recommended.

UCAF believes that it would be useful to specify how the following will be guaranteed and what mechanism is envisioned to ensure that such consultation is not merely performative, rather than fully collaborative?

It is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate.

UCAF would like to see a stronger commitment to substantive consultation with divisional Senates than suggested by the mere qualifier, *as are appropriate*. This seems particularly important since the proposal is explicitly designed to be flexible across campuses, instead of mandating systemwide procedures, and relies on the development of campus specific procedures. Faculty assessments should be kept as close as possible to faculty structures with contributions from the Chancellors: the Senate should be a central figure in matters concerning faculty.

Finally, in line with the preceding suggestions for explicit constraints on Chancellor and, more generally, administrative oversight as well as keeping the policy sensitive faculty concerns, we believe the policy should include an affirmative duty of the administration to pursue the misconduct case expeditiously, and a right of the faculty member to appeal to a Senate committee (such as CAP or P&T) if the administration keeps the personnel action pause in place longer than necessary.

Sincerely,



Farrell Ackerman
Chair, UCAF



Sean Gailmard
Vice Chair, UCAF

c: Steven Cheung, Academic Senate Vice Chair
Monica Lin, Academic Senate Executive Director
Michael LaBriola, Academic Senate Assistant Director
UCAF Members



COORDINATING COMMITTEE ON GRADUATE AFFAIRS (CCGA)

Dean J. Tantillo, Chair
deanjtantillo@ucdavis.edu

ACADEMIC SENATE

University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

June 6, 2024

ACADEMIC SENATE CHAIR JAMES STEINTRAGER

Dear Chair Steintrager,

Throughout the month of May, CCGA reviewed the Proposed Revisions to APM 016 (Faculty Conduct and the Administration of Discipline).

The committee feels that if the faculty member in question is exonerated by the investigation and the no-fault pause has put their merit/promotion behind schedule, then the personnel action should be retroactive. This is critical and, while it may have been intended, it is not incorporated in the document as now written. CCGA believes that it is important not to punish a faculty member by delaying a merit increase/promotion because of a charge that is found to be baseless.

CCGA appreciates the opportunity to opine on this proposed revision. Please let me know if you have any questions.

Sincerely,

Dean J. Tantillo
Chair, CCGA

c: Steven Cheung, Academic Senate Vice Chair
Monica Lin, Academic Senate Executive Director
Michael LaBriola, Academic Senate Assistant Director
CCGA Members



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
John Heraty, Chair
heraty@ucr.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

June 20, 2024

**JAMES STEINTRAGER, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Revisions to APM 016 (Faculty Conduct and Administration of Discipline)

Dear Jim,

The University Committee on Faculty Welfare (UCFW) has discussed the proposed revisions to APM 016 (Faculty Conduct and Administration of Discipline); we do not support the current proposal. First, the proposal places too much authority in the chancellor's (designate) hands when peer review should be preferred. Second, the threshold at which investigation should begin is vague, and yet consistency in definition, interpretation, and application is required. Third, the financial and reputational damage caused by pausing a merit review due to allegations, rather than formal charges, could be irreparable. Fourth, equity issues could worsen since not all instructors have access to the charges/Privilege and Tenure review process.

Finally, we note, as we have before, the lack of justification for the proposed revisions. The problem being solved is unclear.

Thank you for your attention to this important matter.

Sincerely,

John Heraty, UCFW Chair

Copy: UCFW
Monica Lin, Executive Director, Academic Senate
Steven W. Cheung, Academic Council Vice Chair



UNIVERSITY COMMITTEE ON AFFIRMATIVE ACTION, DIVERSITY AND INCLUSION

Assembly of the Academic Senate Jennifer Burney, Chair
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1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

June 20, 2022

JAMES STEINTRAGER
CHAIR, ACADEMIC COUNCIL

**RE: PROPOSED REVISIONS TO APM 016, FACULTY CONDUCT AND THE
ADMINISTRATION OF DISCIPLINE**

Dear Chair Steintrager,

UCAADE discussed the proposed revisions to APM016 in our meetings on 18 April and 6 June 2024. The committee appreciated that the proposed policy change aims to address an important issue that has reverberated across all campuses – i.e., that at present there is no mechanism for communication between administrative disciplinary proceedings and the faculty review process except in the most extreme cases.

The proposed revisions aim to find a new balance between fairness (i.e., not unknowingly promoting – and perhaps tenuring – someone who has violated conduct rules) and due process (i.e., keeping disciplinary matters confidential and not ‘punishing’ an individual by delaying review and promotion until and unless found responsible). The committee agreed that the present system is biased too far away from fairness: many UCAADE members could point to specific examples on their own campuses whereby the proposed revisions would have helped by appropriately pausing review/promotion while a disciplinary investigation was taking place. However, the committee unanimously agreed that caution is critical whenever any due process tradeoffs are on the table.

Specifically, the committee was concerned about consistency in application and emphasized that for this particular set of issues, differential implementation across the 10 campuses would be extremely problematic. The committee thus believes that it is in everyone’s interest to elaborate implementation guidelines more clearly at the system level. Shared principles around the following issues are needed:

- Conditions under which the pause is implemented: The discretionary nature of the pause as proposed is perhaps understandable – automatic pauses could easily be weaponized

– but the committee believed that clear guidelines need to be developed to guide use of such pauses, such that the mechanism is applied consistently both within and across campuses.

- Degree and scope of transparency around any pause: How is communication handled, respecting both the individual and the review and investigation processes?
- End of pause: In either case (found responsible or not), there is some ambiguity about how the pause is officially ended and what transpires. When is a review restarted for someone found responsible for a disciplinary violation? Conversely, procedures for redress and arbitration should be made clear, and back-pay due to lost wages from any pauses where an individual is not found responsible should be guaranteed.

Finally, the committee wished to emphasize that much of the impetus for the proposed revisions stems from the ‘black box’ nature of present OPHD, Title IX, and other disciplinary investigations. Much complementary good would be achieved by streamlining these processes on each campus. This is much needed on its own but would also reduce the need to implement the proposed pauses.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Burney".

Jennifer Burney
Chair, UCAADE

cc: UCAADE