

APM-UCD 015 REDLINE

UC Davis Academic Personnel Manual
DRAFT Proposed Revisions Spring 2017

General University Policy Regarding Academic Appointees
Section UCD-015, Procedures for Faculty Misconduct Allegations

Date: ~~xx/xx/17~~

Supersedes: ~~6/29/11~~

Responsible Department: Academic Affairs

Source Document: [UC APM-015](#)

[Exhibit A, Examples of Unacceptable Faculty Conduct](#)

[Exhibit B, Allegations of Misconduct Request for Review](#)

I. Purpose and Scope

A. Purpose

The University Faculty Code of Conduct is set forth in Academic Personnel Manual Section 015. [APM-015](#) Preamble and Parts I and II outline professional responsibilities and ethical principles and provide examples of unacceptable faculty conduct. ~~Part III outlines enforcement and sanctions. APM-016~~[The Faculty Code of Conduct applies to all faculty, including Academic Senate and non-Senate faculty. \(Non-senate faculty who are covered by a collective bargaining agreement are subject to the Faculty Code of Conduct to the extent specified in the applicable Memorandum of Understanding.\)](#) APM 015 Part III outlines enforcement and sanctions for [Senate faculty. APM-016 describes disciplinary procedures for Senate faculty. APM-016](#) Part I outlines the general policy governing faculty discipline, Part II outlines types of disciplinary sanctions, and Part III describes procedures for imposition of disciplinary sanctions. [Provisions concerning discipline, hearings, and appeals for non-Senate academic appointees are covered under Sections APM 150, APM-140, UCD-140, and/or any applicable collective bargaining agreement or memorandum of understanding.](#)

~~This section~~[UCD-015](#) presents UCD procedures to be used in addressing allegations of faculty misconduct, in accordance with ~~APM-015~~[APM-015](#).

As used herein, the term "Chancellor" includes the Vice Provost – Academic Affairs or anyone designated in writing to act on the Chancellor's behalf with regard to any specific allegations or complaint of faculty misconduct.

B. Scope

1. ~~Unless specified, This section the disciplinary procedures in this policy~~ cover Academic Senate ~~appointees~~[faculty](#) only.
2. In cases involving allegations of faculty misconduct in research, the preliminary assessment, inquiry, and investigation shall be conducted under UCD Policy & Procedure Manual Section [220-05, Integrity in Research](#). If disciplinary proceedings under [UCD-016](#) are warranted subsequent to a finding of research misconduct, such proceedings shall begin within 14 days after the Chancellor or Deciding Official (as defined in [PPM 220-05](#)) notifies the accused faculty member of the findings of the investigation.
3. [In cases involving allegations of faculty misconduct related to sexual harassment and/or sexual violence, complaints will be handled in accordance with UCD PPM 400-20 Sexual Harassment and Sexual Violence policy.](#)

4. The "informal disposition" options and procedures described below in II.C apply to all academic appointees/faculty, unless otherwise precluded by contract or policy.
5. Claims/Faculty grievances, or claims of violation of privilege or tenure rights not involving discipline (e.g., complaints regarding promotion and merit review actions), are governed by Academic Senate Bylaws 334 and 335.

C. Time Limits

In accordance with Academic Senate Bylaw 336, any Senate faculty disciplinary action must be commenced within 3 years after the Chancellor knew or should have known about the alleged violation of the Faculty Code of Conduct. For purposes of this section, if an administrator or employee in a supervisory role (e.g., program director, department chair, or dean) has actual knowledge about an alleged violation, then it will be conclusively presumed that the Chancellor should have known about the alleged violation. For purposes of this section, faculty discipline commences with the issuance of the notice by the Chancellor or the Chancellor's designee of proposed disciplinary action to the senate faculty member, for example, as under section II.F.1.b, below.

II. The Faculty Code of Conduct: Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

The Faculty Code (APM-015) applies to all Academic Senate and non-Senate faculty (as defined in APM-110). It sets forth the code of professional rights, responsibilities, and conduct of University faculty, and is intended to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

The Faculty Code is organized around the faculty member's relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. With respect to each of these relationships, the Faculty Code describes ethical principles that represent the highest professional ideals, as set forth in the Statement on Professional Ethics issued by the American Association of University Professors. The Faculty Code further describes and provides examples of types of unacceptable faculty conduct that are subject to University discipline because they "significantly impair the University's central functions." Campus experience and adjudicated cases, as well as evolving professional standards, inform determinations of what constitutes unacceptable faculty conduct. See Exhibit A for examples of unacceptable faculty conduct.

III. Informal and/or Formal Disposition

A. Submitting Allegations/Complaints of Misconduct

Any academic appointee, staff member, student, administrator, or other member of the University community may bring forward/report allegations of faculty misconduct or lodge/file a written complaint with the Chancellor alleging a violation of the Faculty Code (a form is provided as Exhibit B). (See APM-015, III.B.2.) Any administrator or employee in a supervisory role (e.g., program director, department chair, or dean) who becomes aware of conduct that may violate the Faculty Code of Conduct should report the conduct promptly to the Vice Provost – Academic Affairs.

Commented [SO1]: This is eliminated because it is redundant with the systemwide policy.

Commented [SO2]: This is intended to promote consistency and fairness in the review of faculty conduct concerns. The Vice Provost Academic Affairs makes every effort to address reports of misconduct at the department/school level when appropriate before proceeding to formal discipline.

B. Review of the Allegations/Complaint

4. The Chancellor will review the allegations/written complaint and may assign the matter for informal ~~review and inquiry, informal disposition, or disposition,~~ for a formal ~~preliminary investigation, or for formal investigation.~~ If ~~reviewed informally,~~ there is an informal inquiry but no informal disposition is reached, the results of the informal ~~review will inquiry may~~ be used to determine whether ~~additional review is necessary and if to assign the matter to a formal investigation and/or disciplinary hearing should be initiated.~~

C. Informal Inquiry

The Chancellor may assign one or more reviewers to conduct an informal inquiry to review the allegations. The informal inquiry may include obtaining relevant documents and interviewing witnesses. The reviewer(s) may report orally or in writing to the Chancellor at the conclusion of the informal inquiry. Following the informal inquiry, the Chancellor can select one of the options listed below (items D.1-4) or refer the matter to a formal investigation.

Commented [S03]: This clarifies existing practices and moves existing text to a new location.

D. Informal Disposition

4. Any allegation of faculty misconduct may be resolved by informal disposition either before formal disciplinary proceedings are instituted or thereafter. (See APM-015, III.B.4. and APM 150-32.a.) Informal disposition ~~includes~~ may include any of the following:
- a. Informal inquiry. The Chancellor will assign a reviewer to conduct an informal inquiry to review the allegations. Following the informal inquiry, the Chancellor can select one of the options listed below (items b-e) or one of the options listed in III.E below.
 - b.
 - 1. Informal written or spoken warning (an informal warning does not constitute an official disciplinary action, and does not require use of formal disciplinary procedures). (See APM-016, II.1.)
 - e2. Administrative actions outside the scope of faculty discipline. For example, as members of the University community, faculty members are subject to general rules and regulations of the University such as those pertaining to use of University facilities, parking, and health and safety.
 - e3. Negotiated agreement between the Chancellor and the accused, with or without the assistance of impartial third parties. A negotiated resolution is permissible and appropriate at any stage of these ~~disciplinary~~ procedures. ~~(once. If written charges are filed with the Committee on Privilege and Tenure, the Committee shall be notified if consult with the matter is resolved.)~~ may request that the Chancellor consult with the ~~Chair of the Committee before finalizing the negotiated agreement in accordance with Academic Senate Bylaw 336, Section C, Early Resolution.~~
 - e4. Mediated resolution, where mediation is acceptable both to the Chancellor and the faculty member accused of misconduct.

DE. Formal ~~Preliminary~~ Investigation

1. The Chancellor may appoint one or more individuals as investigators to conduct a formal ~~preliminary~~ investigation of the ~~charges~~allegations.
2. The Chancellor will inform the accused faculty member in writing of the complaint, including the specific ~~charges~~allegations and the name of the investigator~~(s)~~.
3. The ~~preliminary~~formal investigation shall be conducted according to guidelines~~guidance~~ provided by, and in consultation with, the Vice Provost – Academic Affairs.
4. The Office of Campus Counsel shall provide legal counsel to the investigator~~(s)~~ as necessary.
5. When appropriate, the investigator~~(s)~~ may make recommendations regarding the potential for informal resolution, including but not limited to, mediation ~~through campus Mediation Services~~with the assistance of a third-party mediator.
6. The investigator~~(s)~~ will report the results of the formal ~~preliminary~~ investigation to the Chancellor in writing.
 - a. The ~~preliminary~~formal investigation of the complaint shall consider the accused faculty member's defense if one is offered.
 - b. The investigator~~(s)~~ shall make a recommendation to the Chancellor as to whether there is sufficient evidence to indicate that there has been a violation of the Faculty Code or of established University policies.
 - c. ~~The investigator may, if warranted, suggest appropriate sanctions.~~
7. ~~The investigator, witnesses, and all those involved in the investigation have the obligation of confidentiality and are required to maintain in confidence personal information about others that they may have obtained during the process.~~

EF. Action on the ~~Preliminary~~Formal Investigation Results

1. After reviewing the ~~preliminary~~formal investigation results, the Chancellor may pursue one or more of the following courses of action, in keeping with the seriousness of the case.
 - a. The Chancellor may determine if mediation or other informal disposition is appropriate (see II.C above), or if no further action is necessary. The Chancellor will inform the accused faculty member of this determination.
 - b. The Chancellor may determine that "probable cause" exists to proceed with faculty discipline, and may issue a written notice of proposed disciplinary action. In cases involving findings of sexual harassment or sexual violence, the Chancellor will seek advice from the Peer Review Committee¹ with regard to the proposed discipline prior to issuing the written notice. The written notice shall include a description of

Commented [SO4]: This language is moved to a different section.

¹ The Peer Review Committee is an administrative committee of faculty members to advise the Chancellor on recommended discipline and pre-hearing resolution.

the basis for the finding of probable cause and the proposed sanctions. In accordance with APM-015 and APM-016, the Chancellor may not issue a notice of proposed disciplinary action without a finding of probable cause. As used herein, the term "probable cause" means that:

- 1) The facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct; and
- 2) The Chancellor is satisfied that the University can produce credible evidence to support the claim.

~~2.~~ 2. Upon issuing a written notice of proposed disciplinary action, the Chancellor may initiate the ~~formal disciplinary hearing process pursuant to APM-016, following the procedures in Bylaw 336 and UCD-016,~~ discipline process pursuant to APM-016, following the procedures in Bylaw 336 and UCD-016. (For Non-Senate Faculty, APM 150 procedures apply, and the memorandum of understanding for represented faculty.)

~~2-3.~~ 2-3. In cases involving allegations of sexual harassment or sexual violence, UC policy requires complainants to be informed of the outcome of a formal investigation and how to obtain a redacted copy of the investigation report, as well as the outcome of any disciplinary process. ([UCD PPM 400-20 Sexual Harassment and Sexual Violence policy](#).)

FG. Confidentiality

All those involved in informal ~~review~~ inquiry and/or disposition, formal ~~preliminary~~ investigation, and/or formal disciplinary hearings, including investigators, accused faculty members, witnesses and Senate committee members, have the obligation of confidentiality and are required to maintain in confidence ~~personal~~ any information about others that they may have obtained during this process. Accused faculty members may consult confidentially with their personal representatives as needed to respond to the allegations.

H. Probable Cause

Nothing in this policy shall be construed as a limitation on the means by which the Chancellor may determine that probable cause exists to initiate notice of proposed disciplinary action under APM 015 Part III.A.4.

UC Davis Academic Personnel Manual
DRAFT Proposed Revisions Spring 2017

General University Policy Regarding Academic Appointees
Section UCD-015, Procedures for Faculty Misconduct Allegations

Date: xx/xx/17

Supersedes: 6/29/11

Responsible Department: Academic Affairs

Source Document: [UC APM-015](#)

[Exhibit A, Examples of Unacceptable Faculty Conduct](#)

[Exhibit B, Allegations of Misconduct Request for Review](#)

I. Purpose and Scope

A. Purpose

The University Faculty Code of Conduct is set forth in Academic Personnel Manual Section 015. [APM-015](#) Preamble and Parts I and II outline professional responsibilities and ethical principles and provide examples of unacceptable faculty conduct. The Faculty Code of Conduct applies to all faculty, including Academic Senate and non-Senate faculty. (Non-senate faculty who are covered by a collective bargaining agreement are subject to the Faculty Code of Conduct to the extent specified in the applicable Memorandum of Understanding.) APM 015 Part III outlines enforcement and sanctions for Senate faculty. [APM-016](#) describes disciplinary procedures for Senate faculty. APM-016 Part I outlines the general policy governing faculty discipline, Part II outlines types of disciplinary sanctions, and Part III describes procedures for imposition of disciplinary sanctions. Provisions concerning discipline, hearings, and appeals for non-Senate academic appointees are covered under Sections APM 150, APM-140, UCD-140, and/or any applicable collective bargaining agreement or memorandum of understanding. UCD-015 presents UCD procedures to be used in addressing allegations of faculty misconduct, in accordance with APM-015.

As used herein, the term "Chancellor" includes the Vice Provost – Academic Affairs or anyone designated in writing to act on the Chancellor's behalf with regard to any specific allegations or complaint of faculty misconduct.

B. Scope

1. Unless specified, the disciplinary procedures in this policy cover Academic Senate faculty only.
2. In cases involving allegations of faculty misconduct in research, the preliminary assessment, inquiry, and investigation shall be conducted under UCD Policy & Procedure Manual Section [220-05, Integrity in Research](#). If disciplinary proceedings under [UCD-016](#) are warranted subsequent to a finding of research misconduct, such proceedings shall begin within 14 days after the Chancellor or Deciding Official (as defined in [PPM 220-05](#)) notifies the accused faculty member of the findings of the investigation.
3. In cases involving allegations of faculty misconduct related to sexual harassment and/or sexual violence, complaints will be handled in accordance with [UCD PPM 400-20 Sexual Harassment and Sexual Violence](#) policy.

4. The "informal disposition" options and procedures, described below in II.C, apply to all faculty, unless otherwise precluded by contract or policy.
5. Faculty grievances, or claims of violation of privilege or tenure rights not involving discipline (e.g., complaints regarding promotion and merit review actions), are governed by Academic Senate Bylaws [334](#) and [335](#).

C. Time Limits

In accordance with Academic Senate Bylaw [336](#), any Senate faculty disciplinary action must be commenced within three years after the Chancellor knew or should have known about the alleged violation of the Faculty Code of Conduct. For purposes of this section, if an administrator or employee in a supervisory role (e.g., program director, department chair, or dean) has actual knowledge about an alleged violation, then it will be conclusively presumed that the Chancellor should have known about the alleged violation. For purposes of this section, faculty discipline commences with the issuance of the notice by the Chancellor or the Chancellor's designee of proposed disciplinary action to the senate faculty member, for example, as under section II.F.1.b, below.

II. Informal and/or Formal Disposition

A. Submitting Allegations/Complaints of Misconduct

Any academic appointee, staff member, student, administrator, or other member of the University community may report allegations of faculty misconduct or file a written complaint with the Chancellor alleging a violation of the Faculty Code (a form is provided as [Exhibit B](#)). (See [APM-015, III.B.2.](#)) Any administrator or employee in a supervisory role (e.g., program director, department chair, or dean) who becomes aware of conduct that may violate the Faculty Code of Conduct should report the conduct promptly to the Vice Provost – Academic Affairs.

- B. Review of the Allegations/Complaint. The Chancellor will review the allegations/written complaint and may assign the matter for informal inquiry, informal disposition, or for a formal investigation. If there is an informal inquiry but no informal disposition is reached, the results of the informal inquiry may be used to determine whether to assign the matter to a formal investigation.

C. Informal Inquiry

The Chancellor may assign one or more reviewers to conduct an informal inquiry to review the allegations. The informal inquiry may include obtaining relevant documents and interviewing witnesses. The reviewer(s) may report orally or in writing to the Chancellor at the conclusion of the informal inquiry. Following the informal inquiry, the Chancellor can select one of the options listed below (items D.1-4) or refer the matter to a formal investigation.

- D. Informal Disposition. Any allegation of faculty misconduct may be resolved by informal disposition either before formal disciplinary proceedings are instituted or thereafter. (See [APM-015, III.B.4. and APM 150-32.a.](#)) Informal disposition may include any of the following:
1. Informal written or spoken warning (an informal warning does not constitute an official disciplinary action, and does not require use of formal disciplinary procedures). (See [APM-016, II.1.](#))

2. Administrative actions outside the scope of faculty discipline. For example, as members of the University community, faculty members are subject to general rules and regulations of the University such as those pertaining to use of University facilities, parking, and health and safety.
3. Negotiated agreement between the Chancellor and the accused, with or without the assistance of impartial third parties. A negotiated resolution is permissible and appropriate at any stage of these procedures. If written charges are filed with the Committee on Privilege and Tenure, the Committee may request that the Chancellor consult with the Chair of the Committee before finalizing the negotiated agreement in accordance with Academic Senate Bylaw [336](#), Section C, Early Resolution.
4. Mediated resolution, where mediation is acceptable both to the Chancellor and the faculty member accused of misconduct.

E. Formal Investigation

1. The Chancellor may appoint one or more individuals as investigators to conduct a formal investigation of the allegations.
2. The Chancellor will inform the accused faculty member in writing of the complaint, including the specific allegations and the name of the investigator(s).
3. The formal investigation shall be conducted according to guidance provided by, and in consultation with, the Vice Provost – Academic Affairs.
4. The Office of Campus Counsel shall provide legal counsel to the investigator(s) as necessary.
5. When appropriate, the investigator(s) may make recommendations regarding the potential for informal resolution, including but not limited to, mediation with the assistance of a third-party mediator.
6. The investigator(s) will report the results of the formal investigation to the Chancellor in writing.
 - a. The formal investigation of the complaint shall consider the accused faculty member's defense if one is offered.
 - b. The investigator(s) shall make a recommendation to the Chancellor as to whether there is sufficient evidence to indicate that there has been a violation of the Faculty Code or of established University policies.

F. Action on the Formal Investigation Results

1. After reviewing the formal investigation results, the Chancellor may pursue one or more of the following courses of action, in keeping with the seriousness of the case.
 - a. The Chancellor may determine if mediation or other informal disposition is appropriate (see II.C above), or if no further action is necessary. The Chancellor will inform the accused faculty member of this determination.

- b. The Chancellor may determine that "probable cause" exists to proceed with faculty discipline, and may issue a written notice of proposed disciplinary action. In cases involving findings of sexual harassment or sexual violence, the Chancellor will seek advice from the Peer Review Committee¹ with regard to the proposed discipline prior to issuing the written notice. The written notice shall include a description of the basis for the finding of probable cause and the proposed sanctions. In accordance with APM-015 and APM-016, the Chancellor may not issue a notice of proposed disciplinary action without a finding of probable cause. As used herein, the term "probable cause" means that:
 - 1) The facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct; and
 - 2) The Chancellor is satisfied that the University can produce credible evidence to support the claim.
2. Upon issuing a written notice of proposed disciplinary action, the Chancellor may initiate the discipline process pursuant to [APM-016](#), following the procedures in Bylaw [336](#) and [UCD-016](#). (For Non-Senate Faculty, APM 150 procedures apply, and the memorandum of understanding for represented faculty.)
3. In cases involving allegations of sexual harassment or sexual violence, UC policy requires complainants to be informed of the outcome of a formal investigation and how to obtain a redacted copy of the investigation report, as well as the outcome of any disciplinary process. ([UCD PPM 400-20 Sexual Harassment and Sexual Violence policy](#).)

G. Confidentiality

All those involved in informal inquiry and/or disposition, formal investigation, and/or disciplinary hearings, including investigators, accused faculty members, witnesses and Senate committee members, have the obligation of confidentiality and are required to maintain in confidence any information about others that they may have obtained during this process. Accused faculty members may consult confidentially with their personal representatives as needed to respond to the allegations.

H. Probable Cause

Nothing in this policy shall be construed as a limitation on the means by which the Chancellor may determine that probable cause exists to initiate notice of proposed disciplinary action under APM-015 Part III.A.4.

¹ The Peer Review Committee is an administrative committee of faculty members to advise the Chancellor on recommended discipline and pre-hearing resolution.

UC Davis Academic Personnel Manual
DRAFT Proposed Revisions Spring 2017

General University Policy Regarding Academic Appointees
Section UCD-016, Procedures for [Academic Senate](#) Faculty Discipline

Date: x/xx/17

Supersedes: 6/29/11

Responsible Department: Academic Affairs

Source Document: UC APM-016

I. Purpose, Scope, and Definitions

A. Purpose

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

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

B. Scope

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

C. ~~Definitions~~Disciplinary Sanctions

1. ~~Disciplinary Sanctions. Discipline is defined to include~~

1. Types of Sanctions: Disciplinary sanctions are limited to the following actions:

- written censure;
- reduction in salary;
- demotion;
- suspension;
- denial or curtailment of emeritus status; and,
- dismissal from the employ of the University.

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

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

2. Conditional Waiver of Sanctions: Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, or other act to make whole injury caused by the faculty member's professional misconduct or to prevent future misconduct. If the imposition of a disciplinary sanction is waived, the subsequent failure to perform the required act or otherwise comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the underlying sanction without an additional hearing.

3. Letter of Censure: In cases where a disciplinary sanction is imposed, the written notice to the faculty member will be in the form of a Letter of Censure, conveyed by the Chancellor. The Letter of Censure shall contain a brief description of the censured conduct and the sanction(s) imposed (if any) in addition to the Letter of Censure. The Letter of Censure must be delivered confidentially to the recipient and maintained in a designated personnel file or files indefinitely or for a lesser period of time specified in the letter.

4. Retention of the Letter of Censure: In all cases, a copy of the Letter of Censure will be retained in a separate confidential file in the Office of Academic Affairs. If the censured conduct is relevant to the faculty member's performance in (1) teaching, (2) research and other creative work, (3) professional activity, or (4) University and public service, a copy of the Letter of Censure may be placed in the personnel review file in accordance with APM 160, Appendix B and APM 200-30.

2. Due Process. University procedures afford safeguards against arbitrary or unjust disciplinary actions, including provision for hearings and appeal. Senate faculty members may accept the disciplinary sanctions as proposed by the Chancellor, or they may request a hearing before the Committee on Privilege and Tenure of the Davis Division of the Academic Senate. Non-Senate faculty discipline and due process rights are outlined in APM-150.

3. Faculty Conduct Standards. These UCD procedures are to be used in relation to proposed disciplinary sanctions that arise due to a violation of the University Faculty Code

Commented [S01]: This text is from APM 016 – existing policy, added to the UCD policy for guidance.

Commented [S02]: This is current practice and consistent with APM 016 text on letters of censure which states letters must be "maintained in a designated personnel file or files indefinitely or for a lesser period of time specified in the writing."

of Conduct in accordance with APM-015, APM-016, and Academic Senate Bylaw 336.

~~D. Time Limits~~

~~Any faculty disciplinary action must begin within 3 years after the Chancellor knew or should have known about the alleged violation of the Faculty Code.~~

Commented [SO3]: This section is in UCD 015.

II. Initiating the Discipline Process

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

1. When faculty misconduct allegations result in a finding of probable cause, as outlined in UCD-015, III.EF.1.b-b, the Chancellor may issue a written charges to the faculty member including notice of ~~proposed disciplinary action containing and proposed~~ sanction(s) as described in APM-016, II, and a full statement of the facts underlying the charges. This ~~The notice-written charges~~ will include notice of the faculty member's right to request a hearing with the Committee on Privilege and Tenure.
2. Within 15 calendar days after receipt the date of the written ~~notification- charges~~ from the Chancellor ~~of the proposed sanctions~~, the faculty member will notify the Chancellor in writing whether he or she accepts ~~those the proposed disciplinary findings and~~ sanction(s). If the faculty member accepts the proposed sanction(s), the Chancellor will report the findings and the accepted sanction(s) to the Committee on Privilege and Tenure for information.
3. If the faculty member does not accept the proposed disciplinary sanction(s), he or she may inform the Chancellor in writing of a request that the Committee on Privilege and Tenure conduct a formal hearing in accordance with the procedures described in III below, or may reach prior settlement with the Chancellor or waive the right to a hearing.
4. If the faculty member does not accept the proposed disciplinary sanction(s) or does not respond within 15 calendar days, the Chancellor will ~~report send a copy of the proposed sanctions the charges~~ to the Committee on Privilege and Tenure.
 - a. Consistent with the prehearing procedures for disciplinary actions as described in Senate Bylaw 336, the charges shall be in writing and shall contain notice of proposed disciplinary ~~action-sanction(s)~~ and a full statement of the facts underlying the charges. Upon receipt of the charges, the Chair of the Divisional Privilege and Tenure Committee shall promptly deliver a copy to the accused faculty member or send it by registered mail to the accused's last known place of residence.
 - b. The accused shall have 21 calendar days from the date of the receipt in which to file an answer in writing with the Committee. The Committee shall provide a copy of the answer to the Chancellor. Upon receipt of a written application, the Chair of the Committee may grant a reasonable extension of time for filing of an answer.
 - c. The Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. The Committee shall evaluate the case and establish time frames for all subsequent procedures. With the consent of both the accused and the administration, the Committee may refer the case for mediation (Bylaw 336.C). If either the accused or the administration objects to mediation, the

Committee shall appoint a hearing committee ([Bylaw 336.D](#)). As a general guide, a prehearing conference ([Bylaw 336.D.2](#)) shall be scheduled within 30 calendar days and a hearing ([Bylaw 336.D](#)) shall be scheduled within 90 calendar days of the appointment of a hearing committee. The accused shall be given, either personally or by registered mail, at least 10 calendar days' notice of the time and place of the hearing. The Chancellor or Chair of the Committee on Privilege and Tenure may for good reason grant an extension of any of these time limits.

5. Once having notified the Committee on Privilege and Tenure, the Chancellor and the accused may still attempt to resolve the disciplinary charges informally through negotiations and reach early resolution. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures. ~~If a negotiated resolution is reached after formal disciplinary charges have been filed with the Committee on Privilege and Tenure, the Chancellor will consult with the Chair of the Committee before finalizing the settlement.~~
6. ~~Where a settlement resolving disciplinary charges is entered into after a matter has been referred to the Committee on Privilege and Tenure, the Chancellor will consult with the Chair of the Committee~~ may request that the Chancellor consult with the Chair of the Committee before finalizing the settlement.

Commented [SO4]: This section is in UCD 015 – no need to repeat.

Commented [SO5]: Edits to make this consistent with Bylaw 336 and UCD 015.

III. Procedures for Conducting Faculty Disciplinary Hearing

- A. Procedural Privileges and Protections. In connection with hearings before the Committee on Privilege and Tenure and any hearing panel thereof, an accused faculty member will be entitled to all procedural privileges and protections specified in the Standing Orders of The Regents and in the provisions of the Academic Senate Manual that implement such Orders, including [APM-015](#) and [APM-016](#), as well as privileges and protections set forth in [Bylaw 336](#), [Davis Division Bylaw 87.E](#), [UCD-015](#), and [UCD-016](#).
- B. ~~Interim Suspension~~Involuntary Leave. ~~At any time prior to the imposition of discipline, while charges are pending against a faculty member, the Chancellor may impose~~ involuntary leave ~~interim suspension with pay, including suspension from teaching duties, if it is found that there is a strong risk when there is a high probability~~ that the faculty member's continued assignment to his or her duties would cause immediate and serious harm to the University community, or would impede the investigation into wrongdoing, or when the conduct represents a serious crime or felony that is the subject of investigation by law enforcement. ~~In rare and egregious cases, a Chancellor may be authorized by special action of The Regents to suspend the pay of a faculty member on involuntary leave pending a disciplinary action. This is in addition to the University's authority to presume that a faculty member has resigned if the faculty member is absent from academic duty for 30 calendar days without an approved leave in accordance with the procedures set forth in APM 700-30.~~
- C. Scheduling the Hearing. Every effort shall be made to conform to a reasonable time frame in the implementation of all procedures. Consistent with [Bylaw 336.B.3](#), the Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. Consistent with [APM-015, III.B.7](#), a hearing should commence within 90 days of the date on which the accused faculty member has been notified of the intention to initiate a disciplinary proceeding. A faculty member who is entitled to a hearing should not be permitted thereafter to delay imposition of discipline by

Commented [SO6]: Edits to make this consistent with existing policy in UC APM 016.

refusing to cooperate or being unavailable for a scheduled hearing. A hearing shall not be postponed because the faculty member is on leave or fails to appear.

- D. Confidentiality. All investigations and hearings will be treated as confidential and open only to those persons directly concerned. Accused faculty members may consult confidentially with their representatives as needed to respond to the allegations. The Chancellor will share with the complainant(s) information about an ongoing disciplinary proceeding, including the outcome, to the extent allowed by State law and University policy.
- E. Representation/Presentation of Evidence. Consistent with Bylaw [336](#), the Chancellor, the accused, and/or their representatives shall be entitled to be present at all sessions of the hearing panel when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- F. Burden of Proof. At the hearing, the Chancellor has the burden of proving the allegations by clear and convincing evidence.
- G. Evidentiary Rules. The technical legal rules regarding evidence and witnesses shall not apply, including the rule against hearsay.
 - 1. The hearing panel may call witnesses or make evidentiary requests at its discretion and may require that all witnesses affirm the veracity of their testimony.
 - 2. No evidence other than that presented at the hearing shall be considered by the hearing panel or have weight in the proceedings, except that the panel may take notice of any judicially noticeable facts that are commonly known. The panel shall give notice and a reasonable opportunity for objection before such facts are considered part of the record.
 - 3. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter.
- H. Record of Proceedings. The hearing shall be recorded by video or audio tape-recorder or other suitable electronic means. The hearing panel may, at its discretion, use a certified court reporter (cost paid by the administration).
- I. Findings of Fact, Conclusions, and Recommendations for Action. As provided by [Bylaw 336](#), the hearing panel shall promptly make written findings of fact and conclusions, supported by a statement of reasons based on the evidence, as well as any recommendations for action. The Divisional Committee on Privilege and Tenure shall not recommend the imposition of a sanction more severe than that in the notice of proposed disciplinary action ([APM-015, III.A.5](#)).
- J. Notice of Findings and Recommendations. Copies of the findings, conclusions, and recommendations of the Committee on Privilege and Tenure hearing panel will be transmitted to the accused faculty member, to the Chancellor, to the Chair of the Davis Division Committee on Privilege and Tenure, and to the Chair of the University Committee on Privilege and Tenure.
- K. Confidentiality/Release of Findings/Record. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The hearing panel may, with the consent of the accused, authorize release of the findings,

conclusions, and recommendations to other individuals or entities, to the extent allowed by law.

- L. Reconsideration by Hearing Panel. The hearing panel may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances not reasonably discoverable at the time of the hearing that might significantly affect the previous decision.

IV. Authority

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

UC Davis Academic Personnel Manual
DRAFT Proposed Revisions Spring 2017

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

Date: x/xx/17

Supersedes: 6/29/11

Responsible Department: Academic Affairs

Source Document: UC APM-016

I. Purpose, Scope, and Definitions

A. Purpose

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

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

B. Scope

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

C. Disciplinary Sanctions

1. Types of Sanctions: Disciplinary sanctions are limited to the following actions:
 - written censure;
 - reduction in salary;
 - demotion;
 - suspension;

- denial or curtailment of emeritus status; and,
- dismissal from the employ of the University.

([APM-016, Section II](#), Types of Discipline).

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

2. **Conditional Waiver of Sanctions:** Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, or other act to make whole injury caused by the faculty member's professional misconduct or to prevent future misconduct. If the imposition of a disciplinary sanction is waived, the subsequent failure to perform the required act or otherwise comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the underlying sanction without an additional hearing.
3. **Letter of Censure:** In cases where a disciplinary sanction is imposed, the written notice to the faculty member will be in the form of a Letter of Censure, conveyed by the Chancellor. The Letter of Censure shall contain a brief description of the censured conduct and the sanction(s) imposed (if any) in addition to the Letter of Censure. The Letter of Censure must be delivered confidentially to the recipient and maintained in a designated personnel file or files indefinitely or for a lesser period of time specified in the letter.
4. **Retention of the Letter of Censure:** In all cases, a copy of the Letter of Censure will be retained in a separate confidential file in the Office of Academic Affairs. If the censured conduct is relevant to the faculty member's performance in (1) teaching, (2) research and other creative work, (3) professional activity, or (4) University and public service, a copy of the Letter of Censure may be placed in the personnel review file in accordance with APM 160, Appendix B and APM 200-30.

II. Initiating the Discipline Process

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

1. When faculty misconduct allegations result in a finding of probable cause, as outlined in [UCD-015, II.F1.b](#), the Chancellor may issue written charges to the faculty member including notice of proposed sanction(s) as described in [APM-016, II](#), and a full statement of the facts underlying the charges. The written charges will include notice of the faculty member's right to request a hearing with the Committee on Privilege and Tenure.
2. Within 15 calendar days after the date of the written charges from the Chancellor, the faculty member will notify the Chancellor in writing whether he or she accepts the proposed disciplinary sanction(s). If the faculty member accepts the proposed sanction(s), the Chancellor will report the findings and the accepted sanction(s) to the Committee on Privilege and Tenure for information.

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

III. Procedures for Conducting Faculty Disciplinary Hearing

- A. Procedural Privileges and Protections. In connection with hearings before the Committee on Privilege and Tenure and any hearing panel thereof, an accused faculty member will be entitled to all procedural privileges and protections specified in the Standing Orders of The Regents and

in the provisions of the Academic Senate Manual that implement such Orders, including [APM-015](#) and [APM-016](#), as well as privileges and protections set forth in [Bylaw 336](#), [Davis Division Bylaw 87.E](#), [UCD-015](#), and [UCD-016](#).

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

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

IV. Authority

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