



# **Davis Division Academic Senate**

## **Request for Consultation Responses**

### **APM 015/016 and Senate Bylaw 336**

**November 8, 2016**

The University invites comments on Proposed Revised Academic Personnel Manual Sections:

- 015, The Faculty Code of Conduct
- 016, University Policy on Faculty Conduct and the Administration of Discipline

Proposed revisions add sexual violence and sexual harassment, as defined by University policy, as a form of Unacceptable Conduct to The Faculty Code of Conduct (APM - 015). Proposed amended language clarifies when the Chancellor is deemed to know about an alleged violation of The Faculty Code of Conduct (APM - 015). Proposed new language institutes a new timeline and deadline after the imposition of involuntary leave for the Chancellor to inform an accused faculty member of the reasons for the leave, the allegations being investigated, the anticipated date when charges will be brought, a statement concerning when the leave will end, and the faculty member's right to grieve the involuntary leave, to be handled by the Privilege and Tenure Committee on an expedited basis (APM - 016).

Also included for review is a set of proposed conforming amendments to Senate Bylaw 336 addressing procedures and timelines for Privilege and Tenure proceedings in discipline cases. The amendments are intended to align Bylaw 336 with the proposed APM revisions. The proposed amended language and explanatory notes in the margins were developed by the Senate participants in the Joint Committee.

# **CAP Oversight Committee**

**October 17, 2016 5:22 PM**

The Committee on Academic Personnel (CAP) has reviewed the proposed changes to APM 015-016, and considers them appropriate and reasonable in explicitly identifying sexual violence and sexual harassment as violations of the Faculty Code of Conduct. CAP does not anticipate any significant implications of these changes for the faculty merit and promotion process.

CAP has one comment concerning APM 015, Section IIIA, Article 3, which states that “The Chancellor must initiate related disciplinary action by delivering notice of proposed action to the respondent no later than three years after the Chancellor is deemed to have known about the violation.”

The imperative nature of this statement may create the impression that the opportunity for disciplinary action might expire if, for any reason, there was a failure to deliver notice within the stipulated three-year period. While the likelihood of such an occurrence may be considered small, CAP believes that not addressing this contingency may contribute to the perception of a “statute of limitations” in the handling of disciplinary actions.

# **Faculty Privilege and Academic Personnel Advisers**

**November 10, 2016 2:44 PM**

The Faculty Privilege and Academic Personnel Advisers reviewed the proposed changes to APM 015/016 and Senate Bylaw 336, we have nothing to add other than the changes seem constructive and reasonable.

# **Faculty Welfare**

**November 1, 2016 8:42 AM**

*Response continued on next page.*

UC DAVIS: ACADEMIC SENATE  
COMMITTEE ON FACULTY WELFARE

November 1, 2016

**RFC: Systemwide proposed revision of APM 15/16 and Senate Bylaw 336**

The committee on Faculty Welfare feels that the proposed changes to APM 015, APM 016, and Senate Bylaw 336 provide clearly stated and logical amendments. The committee supports the revisions.

## **FEC: College of Letters and Science**

**November 15, 2016 1:12 PM**

During our November 7<sup>th</sup> L & S FEC meeting, we discussed the proposed changes to the APM-015.

We thought that page 9 of the draft would benefit from some more clarification. It is stated that the Chancellor has three years to "initiate a disciplinary action." This seems like a really long time window. Could some wording be added that there should be a good faith effort to initiate an investigation in a timely matter?

Best,

Kristin

## **P&T Hearings**

**October 31, 2016 12:29 PM**

*Response continued on next page.*

**Committee on Privilege and Tenure – Hearings Subcommittee**  
**Request for Consultation Response: Proposed Revisions to UCD 015 and 016 and Academic Senate Bylaw 336**

The Privilege and Tenure (P&T) – Hearings Subcommittee (Subcommittee) has reviewed the proposed revisions of APM 015 and 016 and Academic Senate Bylaw 336 and would like to make the following comments:

Academic Senate Bylaw 336.B.3 currently states, "As a general guide, a prehearing conference (SBL 336.D.2) shall be scheduled within 30 calendar days and a hearing (SBL 336.D) shall be scheduled within 90 calendar days of the appointment of a hearing committee." Additional language has been proposed stating, "Ideally, a hearing should be scheduled within 90 days of the date on which the accused faculty member was notified of the intent to initiate a disciplinary proceeding."

It is unclear to the Subcommittee if "be scheduled" is equivalent to "held"? It is also unclear whether the language is referring to the timeframe within which the parties must agree to a hearing date (e.g., on March 10 we "scheduled" the hearing for May 10) or whether it is referring to the hearing itself. Moreover, this appears to be highly aspirational. Most hearings get scheduled much later than 90 days of notification to the faculty member due to the difficulty of balancing the schedules of the parties, the attorneys, and the panel members.

As the policy specifically states that there is not time limitation within which a charge can be filed, it is unclear to the Subcommittee if the policy applies to past faculty members who have either left or retired.

The Subcommittee appreciates the opportunity to review and provide feedback on these proposed revisions.

# **P&T Investigative**

**October 31, 2016 12:28 PM**

*Response continued on next page.*

**Committee on Privilege and Tenure – Investigative Subcommittee**  
**Request for Consultation Response: Proposed Revisions to UCD 015 and 016 and Academic Senate Bylaw 336**

The Privilege and Tenure (P&T) – Investigative Subcommittee has reviewed the proposed revisions of APM 015 and 016 and Academic Senate Bylaw 336 and would like to make the following comments:

APM 015-Part II.C.4 and Part II.C.5 currently specifies that unacceptable behavior includes forcible detention, threats of physical harm or harassment and discrimination, including harassment. Rather than adding a separate point that outlines sexual violence and sexual harassment as unacceptable behavior, the P&T Investigative Subcommittee recommends that sexual violence and sexual harassment be added into APM-015 Part II.C.4 and II.C.5.

APM-015 Part III.A.3 specifies that the Chancellor must initiate related disciplinary action by delivering notice of proposed action to the respondent no later than three years after the Chancellor is deemed to have known about the alleged violation. The P&T Investigative Subcommittee has significant concerns regarding the three year deadline and believes that the Chancellor should initiate disciplinary action no more than a year after the Chancellor is deemed to have known about the alleged violation. Waiting three years to initiate a disciplinary action can present a number of issues including but not limited to the loss of witnesses and evidence as well as having complainant and/or respondent worrying about a disciplinary action or potential hearing for longer than necessary.

In regards to Bylaw 336, the Subcommittee expresses the same concerns regarding the timeline by which a Chancellor can initiate disciplinary action and reiterates that the Chancellor should initiate disciplinary action no more than a year after the Chancellor is deemed to have known about the alleged violation.

The Subcommittee is also concerned that, in the current state of organization, mediation is not an option for the Privilege and Tenure committee during the hearings process. Mediation can often lead to a more favorable resolution for the Administration and the accused or grievant and can be a step towards early resolution. We suggest that the P&T administrative procedures should be modified so as to include the possibility of a mediation recommendation.

The Subcommittee appreciates the opportunity to review and provide feedback on these proposed revisions.