



# **Davis Division Academic Senate**

## **Request for Consultation Responses**

### **Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment, and Additional Revisions to APM 015**

**December 9, 2016**

The University invites comments on two items:

- Proposed revisions to the Presidential Policy on Nondiscrimination and Affirmative Action regarding Academic and Staff Employment (see first cover letter and redline/clean drafts); and
- Proposed revisions to Academic Personnel Policy Section 015, The Faculty Code of Conduct, APM 015 (see second cover letter and redline/clean drafts)
  1. \*Note: these revisions to APM 015 are proposed in addition to those already circulated for consultation. Systemwide will combine the outcome of both into one policy recommendation.

Proposed revisions modify language to comply with:

- California state law (AB 1433), by extending non-discrimination and non-harassment protections to individuals applying for or engaged in positions as “volunteers, unpaid interns and trainees;”
- the Office of Federal Contract Compliance Programs (OFCCP) Pay Transparency Rule, prohibiting certain employers from discharging or discriminating against employees and job applicants for discussing, disclosing or inquiring about compensation; and
- amendments to the California Fair Employment and Housing Act (FEHA), requiring employers to develop and distribute anti-harassment and discrimination policies with certain required elements.

# **Affirmative Action & Diversity**

**December 13, 2016 8:15 AM**

*Response continued on next page.*

December 9, 2016

**RFC: Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment, and Additional Revisions to APM 015**

The committee on Affirmative Action and Diversity reviewed the Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment, and Additional Revisions to APM 015 and has no comments on the overall changes at this time. The committee would like to point out one typo on page 6 of 10 in the Academic Freedom section. In the second paragraph, third line, change “provison” to “provision.”

# **CAP Oversight Committee**

**December 18, 2016 1:48 PM**

The Committee on Academic Personnel (CAP) has reviewed the revisions to the UC Policy – Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment document, and associated changes to the Faculty Code of Conduct

(APM 015, Part II, article C.5)

CAP finds the revisions adequate and appropriate in addressing recent amendments to the California Fair Employment and Housing Act (FEHA) and the Office of Federal Contract Compliance Programs (OFCCP) Pay Transparency Rule.

CAP does not foresee any untoward consequences of these revisions, and has no suggestions for changes.

# **Faculty Welfare**

**November 28, 2016 11:02 AM**

*Response continued on next page.*

November 28, 2016

**RFC: Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment, and Additional Revisions to APM 015**

In general, the committee on Faculty Welfare does not foresee issues in regards to faculty welfare, but would like clarification on item III section F of the policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment and how it relates to the rest of the document.

The proposed revisions seem to be broadening the scope of the policy by including the following changes in item I, Policy Summary: “The University prohibits discrimination against or harassment of any person employed; seeking employment; [providing services pursuant to a contract; or applying for or engaged in an unpaid internship, volunteer capacity, or training program leading to employment](#) with the University of California.” But, item III section F only specifies “faculty and other academic appointees, staff, and students...”

Since the overall policy expanded to include a wider range of the campus community, the committee recommends clarifying item III section F to include how Free Speech and Academic Freedom impacts all stated campus community members.

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

**November 15, 2016 1:14 PM**

# **P&T Investigative**

**December 5, 2016 9:08 AM**

*Response continued on next page.*



**Committee on Privilege and Tenure – Investigative Subcommittee**  
**Request for Consultation Response: Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment**

The Privilege and Tenure – Investigative Subcommittee has reviewed the proposed Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment and would like to submit the following comments including several concerns regarding the Free Speech and Academic Freedom section of the Policy.

As written, the Free Speech and Academic Freedom section of the Policy is not sensitive to the issues and beliefs that can arise on a college campus – particularly in the humanities field. The Subcommittee would also like to note that there is no reference to hate speech or previous court cases that have defined hate speech.

Additionally, the revised policy states that “freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.” However, the limits of freedom of speech and academic freedom are not clear and not enough information is provided to determine what is and is not free speech. The revised policy should reference federal and state laws and should include explanations as to what can and cannot be done. The Policy must provide more references and sources for additional information and guidance.

Lastly, members of the Subcommittee agree that there should not be a separate Sexual Violence Sexual Harassment (SVSH) Policy and that the information and text of the SVSH Policy should instead be included in the Nondiscrimination and Affirmative Action Policy. Members of the Subcommittee already made this suggestion in a previous request for consultation - the Systemwide review of the proposed revisions of APM 015 and 016 and Academic Senate Bylaw 336. While SVSH are obviously serious and intolerable situations that are seriously detrimental to the UC campuses climate and the well-being of UC personnel, we respectfully suggest that highlighting SVSH is short-sighted given the recrudescence of other discrimination and harassment incidents.

The Investigative Subcommittee appreciates the opportunity to review and provide feedback on this item.