002.015 - Faculty Conduct and the Administration of Discipline

FORMS & RESOURCES

- Formal Complaint Form & Instructions
- Charges Committee Membership

A. POLICY REFERENCES

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

B. OVERVIEW AND APPLICABILITY

1. At UCSC, the following serves to implement the University Policy on Faculty Conduct and the Administration of Discipline as approved by the Assembly of the Academic Senate and by The Regents. While the Faculty Code of Conduct ("the Code") applies to all faculty members, both Senate and non-Senate, these procedures apply exclusively to members of the Academic Senate (as listed in the Standing Order of The Regents (SOR) 105.1), including those titles defined as equivalent under SOR 103.3.

2. Senate faculty members holding administrative appointments may be subject to disciplinary action under the Code for professional misconduct in their administrative role that falls within the types of unacceptable conduct set forth in the Faculty Code of Conduct. In addition, administrative actions may also be taken (e.g., removal from the administrative position), which need not adhere to the disciplinary procedures outlined herein.

3. The following procedures apply only in those instances in which a member of the Academic Senate is charged with unacceptable conduct in alleged violation of the Faculty Code of Conduct. No faculty member's right to a hearing before the Academic Senate Committee on Privilege and Tenure under Academic Senate Bylaws 335, 336, 337 or SOR 103.9, shall be abridged in any way by these procedures.

4. Throughout these procedures, the party filing the formal complaint is referred to as the "complainant," and the Senate faculty member accused of violating the Faculty Code of Conduct is referred to as the "respondent."
5. In cases where a senate faculty member is alleged to have engaged in Prohibited Conduct under the UC Policy on Sexual Violence and Sexual Harassment (“SVSH Policy”), UCSC will adhere to the UC SVSH Investigation and Adjudication Framework for Senate and Non-Senate Faculty. At UCSC, the Charges Committee serves as the campus Peer Review Committee, as referenced in the Investigation and Adjudication Framework.

C. AUTHORITY

The responsibility and final authority to discipline faculty members lies with the Chancellor, and hence with the administration. There is to be no re-delegation of the Chancellor's authority to impose disciplinary sanctions within the terms of the University Policy on Faculty Conduct and the Administration of Discipline; and no such sanction shall be imposed except as a consequence of the processes set forth below, or, if applicable, the processes set forth in the UC SVSH Investigation and Adjudication Framework for Senate and Non-Senate Faculty. However, in any case of discipline of a Senate faculty member, the Chancellor will normally delegate to the Campus Provost/Executive Vice Chancellor ("Campus Provost") the authority to initiate disciplinary action.

D. DISCIPLINARY SANCTIONS

1. The following disciplinary sanctions are authorized in the University Policy on Faculty Conduct and the Administration of Discipline, and are listed in order of increasing severity: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. See APM - 016, Section II for a description of each of these sanctions.

2. In any disciplinary proceeding, the Chancellor may not impose a type of discipline more severe than that which was set forth in the written notice of intent to discipline to the respondent. However, more than one disciplinary sanction may be imposed for a single act of misconduct (e.g., written censure and a suspension).

3. The Campus Provost must initiate related disciplinary action by delivering the notice of intent to discipline to the respondent no later than three years after the Chancellor is deemed to have known about the alleged violation. The Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when the allegation is first reported to any academic administrator at the level of department chair or above or to the campus Title IX Officer.

4. There is no limit on the time within which a complainant may report an alleged violation.

E. SUBMITTING A FORMAL COMPLAINT

1. Allegations of violations of the Faculty Code of Conduct against a Senate faculty member, originating from any source, shall normally be addressed to the Campus Provost, and shall normally be accepted only on the basis of a written, signed complaint form from the complainant (see Appendix A for the Faculty Code of Conduct Complaint Form). It shall be the complainant's responsibility to draft the complaint in accordance
with the requirements described herein, and enumerated in Appendix A (see page 2) of these procedures.

2. In short, the complainant must submit one Faculty Code of Conduct Complaint Form for each individual charged and explicitly identify the section(s) of the Faculty Code of Conduct alleged to have been violated. Faculty may be subjected to disciplinary action for any type of conduct which, although not specifically enumerated in the Code, meets the standard for unacceptable faculty behavior described by the Ethical Principles set forth in the Code. In the event there are multiple allegations against an individual, each allegation must be enumerated on the form. The complainant must describe the specific alleged conduct by the respondent that they believe violates each identified section of the Code. The complainant should submit with their form any documentation that may be helpful in reviewing their complaint, including any documentation that they reference on the form. All accompanying documentation must be labeled as to which allegation it is intended to support. The complainant must also include a written explanation of any attempts made to resolve the matter prior to the filing of the formal complaint.

3. The Campus Provost (or designee) shall review the complaint to ensure that it conforms to these requirements, and to a reasonable standard of conciseness and order. The Campus Provost (or designee) may also consult with the appropriate department chair and/or dean as necessary. The Campus Provost (or designee) may reject any complaint that does not meet the specific requirements set out in Appendix A, page 2 of these procedures. In this event, the complaint will be returned to the complainant who shall have the opportunity to correct the stated deficiencies, and then resubmit the complaint for consideration.

4. Once it has been determined that the complaint as submitted meets the requirements set out in Appendix A, page 2, the Campus Provost will normally notify the respondent in writing that a complaint has been filed against them, and will provide them with a copy of the complaint and any supporting documentation. In such circumstances the Campus Provost will provide the respondent with a reasonable opportunity to submit a written response to the complaint, and then will forward the complaint and any response to the Charges Committee for their consideration. In some instances the Campus Provost may determine that it is appropriate to forward a complaint directly to the Charges Committee for their consideration, without first providing notice and a copy to the respondent.

5. In some instances, the allegations of improper conduct will involve matters more properly reviewed as grievances by the Academic Senate Committee on Privilege and Tenure. Generally, a grievance action is initiated by a Senate faculty member who believes that they have suffered injury as the result of a violation of their faculty rights or privileges, and specifically requests that the administration take appropriate action to eliminate or mitigate the injury. Senate faculty complainants may contact the Academic Senate Office (see also the Academic Senate Committee on Privilege and Tenure website) for more information and referral to Privilege and Tenure Advisors, who can advise the complainant as to which process is most appropriate given the specific complaint.

F. APPOINTMENT TO THE CHARGES COMMITTEE
1. The Charges Committee is an administrative committee that is composed of at least three Academic Senate members, one of whom must have formerly served on the Academic Senate Committee on Privilege and Tenure. Nominations of Senate faculty members shall be provided to the Campus Provost by the Academic Senate Committee on Committees as requested. The Campus Provost shall select the membership from the list provided by the Committee on Committees.

2. Appointments to the Charges Committee normally shall be staggered for one to three year periods, to assure continuity from year to year, with the expectation that a term of service will be for more than one year. While the Charges Committee will normally convene during the academic year as needed, it may be necessary for the Campus Provost to call upon the Committee to serve during the summer period depending upon the nature of the complaint(s).

3. Staff will be assigned to assist the Charges Committee.

G. ROLE OF THE CHARGES COMMITTEE

1. On behalf of the Campus Provost, the Charges Committee conducts probable cause investigations of formal complaints brought against Academic Senate members charged with unacceptable conduct in violation of the Faculty Code of Conduct in order to determine whether there is sufficient evidence to warrant the initiation of a disciplinary action by the administration.

2. The Charges Committee will advise the Campus Provost, in accordance with the "Procedures for Implementing University Policy on Faculty Conduct and the Administration of Discipline":

   a. Whether any of the allegations in the formal complaint, if true, would constitute a violation of the Faculty Code of Conduct;

   b. If so, whether there is probable cause to warrant the initiation of disciplinary action by the administration (i.e., the probable cause standard means that the facts as alleged in the complaint, if true, justify the imposition of discipline and that the University can produce credible evidence to support the claim (see APM - 015, Part III.A.4); and

   c. If there has been a finding of probable cause, what specific disciplinary sanction(s) the Committee recommends (see Section C of these procedures and APM - 016 for the list of authorized sanctions).

3. As the types of unacceptable behavior listed in the Faculty Code of Conduct include violations of University policies governing the professional conduct of faculty (e.g., policies addressing non-Title IX harassment and discrimination, whistleblower protections, and research integrity, ), the Campus Provost, upon the recommendation of the Charges Committee, may determine that the fact-finding portion of the probable cause investigation should be assigned to an appropriate office/officer in order to utilize existing subject-area expertise and to avoid duplication of fact-finding procedures. In all such instances, the investigator's written report shall be forwarded to the Charges Committee for their use in advising the Campus Provost.
4. The Charges Committee serves as the Peer Review Committee as referenced in the UC SVSH Investigation and Adjudication Framework for Senate and Non-Senate Faculty.

H. PROCEDURES OF THE CHARGES COMMITTEE

1. The Charges Committee shall consider all complaints forwarded by the Campus Provost. However, a complaint will not be investigated if it is determined that the conduct, if it occurred as alleged, would not constitute a violation of the Faculty Code of Conduct. Should the Charges Committee determine that a complaint does not warrant investigation, it shall explain its reasoning in a written report to the Campus Provost.

2. The issue of conflict of interest, or the appearance of a conflict, must be considered. Conflict of interest (e.g., same department or program affiliation as complainant or respondent, or prior significant involvement in any aspect of the complaint under investigation) could lead to the recusal of a member of the Charges Committee from a specific complaint. In case of a member's recusal, the Campus Provost shall appoint an interim Committee member from the list of nominations provided by the Academic Senate Committee on Committees.

3. The Charges Committee may discuss procedural and interpretive questions with the Campus Provost (or designee), and with University Counsel at any stage of the investigation. In addition, the Charges Committee has the Campus Provost's authority to seek further information (normally in writing) from respondent or other individuals who may have relevant information. In the course of its investigation, the Charges Committee has authority to access and examine files and documents within the purview of the administration, including relevant personnel files and confidential documents therein. All confidential documents shall remain confidential within the Committee.

4. The Charges Committee should advise individuals that the University will do all in its power to assure that information will be kept confidential to the extent allowable by law and University policy.

5. Following its investigation of the formal complaint, the Committee shall write a final report to the Campus Provost. The report shall include the Committee's assessment of the evidence, a recommendation to dismiss the complaint or to initiate disciplinary action, and a recommendation of the type of disciplinary sanction(s) proposed, if any. These recommendations shall be based upon the probable cause standard (as described in Section G.2 above). It is expected that the Charges Committee will conclude its work within 90 calendar days from notification of the respondent unless an extension is granted by the Campus Provost.

I. DECISION TO INITIATE DISCIPLINARY ACTION OR TO DISMISS THE COMPLAINT; AND NOTIFYING THE COMPLAINANT

1. Upon receipt of the Committee's report pursuant to either section H.1 or H.5, the Campus Provost, acting on behalf of the Chancellor, will decide whether to dismiss the complaint
or to initiate a disciplinary action against the respondent. At this stage, in addition to the Committee's recommendation on the appropriate disciplinary sanction, the Campus Provost may consider previous disciplinary actions against the respondent to determine the appropriate level of sanction to propose. The Campus Provost shall notify the Charges Committee, in writing, of the action they intend to take in response to the Committee's recommendation(s).

2. The complainant shall be kept informed of the procedural status of their complaint prior to the Campus Provost’s determination of whether to dismiss the complaint or to initiate disciplinary action, including of any unanticipated procedural delays.

3. Once the Campus Provost has decided whether to dismiss the complaint or to initiate disciplinary action, the complainant shall be informed whether or not probable cause was found that the respondent's conduct violated the Faculty Code of Conduct; and if so, that appropriate disciplinary procedures will be followed. Precautions will be taken to safeguard the confidentiality of investigative and disciplinary proceedings, and information about the outcome, may be shared with complainant(s) to the extent allowable by State law and University policy.

J. INFORMING THE RESPONDENT OF THE INTENT TO DISCIPLINE

1. If the Campus Provost decides to initiate disciplinary action, a letter of intent to discipline, along with a copy of the Charges Committee report, shall normally be presented to the respondent by the Campus Provost in the presence of the Chair of the Committee on Privilege and Tenure. The Chair of Privilege and Tenure shall also be provided with a copy of the letter of intent and the report of the Charges Committee.

2. In the event the Campus Provost and the Chair of Privilege and Tenure determine that this method of delivery is not practicable (e.g., the respondent is unavailable or refuses to attend the requested meeting), the letter and report may be sent by email to the respondent’s UCSC email address and by overnight delivery service, using a proof of service form, with copies of the letter and report provided to the Chair of Privilege and Tenure at the same time.

3. These shall be the only two means by which the proposed discipline shall initially be communicated to the respondent, with no other formal or informal notification from the administration to the respondent prior to delivery of this letter. At this stage, the name of the respondent, the nature of the charges, and the proposed discipline shall be confidential information, limited to the Chair of Privilege and Tenure, and not made known to any other members of that Committee.

4. The letter of intent to discipline shall include a statement of the charges and the proposed disciplinary sanction(s). It shall also inform the respondent that they have 14 calendar days to respond to the letter in writing, either by informing the Campus Provost that they accept the proposed sanction, or by informing the Chair of Privilege and Tenure that they waive the right to a hearing. The letter of intent to discipline shall inform the respondent that absent any such written response, a formal hearing shall be conducted before the Committee on Privilege and Tenure as specified by Academic Senate Bylaw 336. The
letter of intent to discipline will also state the deadline by when a hearing, if any, shall commence.

5. If the respondent chooses to accept the proposed disciplinary sanction(s), the Chancellor shall report to the entire Committee on Privilege and Tenure for informational purposes, and without using the respondent's name, a statement of the charges, and the accepted sanction(s).

K. NEGOTIATED RESOLUTION

1. As an alternative to formal disciplinary procedures, the respondent and the administration may explore a negotiated resolution at any point in the disciplinary process. Upon written agreement by both the Campus Provost and the respondent, proposed disciplinary sanction(s) may be waived on the condition that the respondent performs some specified action(s) designed to address the violation and/or to prevent future harm or continued violation. 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 remedy the harm caused by the respondent.

2. Respondents who are interested in pursuing a negotiated resolution may negotiate directly with the administration or may request the involvement of the Chair of Privilege and Tenure. Respondents should contact the Campus Provost or the Chair of Privilege and Tenure to discuss this option further or to propose a negotiated resolution.

3. If a negotiated resolution is reached with the administration at any point in the disciplinary process (with or without the involvement of the Chair of Privilege and Tenure), the Chancellor shall report to the entire Committee on Privilege and Tenure for informational purposes, and without using the respondent's name, a statement of the charges, and the negotiated resolution.

L. RESPONDENT'S RIGHT TO A HEARING BEFORE DISCIPLINARY ACTION IS IMPOSED

1. Within five working days from the time the letter of intent to discipline is delivered to the respondent, the Chair of Privilege and Tenure shall make known to the respondent the right to a hearing pursuant to Academic Senate Bylaw 336 before disciplinary sanctions can be imposed by the Chancellor. The Chair shall also provide general information about the nature of Privilege and Tenure hearings. In addition, the Chair shall provide information about the options available to the respondent, including accepting the proposed disciplinary sanction(s), negotiating a resolution directly with the administration, or negotiating a resolution with the involvement of the Chair.

2. Unless the respondent waives the right to a hearing by notifying the Chair of Privilege and Tenure in writing within 14 calendar days of receipt of the Campus Provost's letter of intent to discipline, a formal hearing shall be conducted before the Committee on Privilege and Tenure according to the procedures and timelines specified by Academic Senate Bylaw 336.

3. The Committee on Privilege and Tenure (or properly constituted hearing panel subcommittee) will hear the case and will report its findings and recommendations to the
Chancellor. The University must prove its case against the respondent by clear and convincing evidence. The clear and convincing evidence standard is a higher standard than the probable cause standard used by the Charges Committee during its investigation. See APM - 015 and Academic Senate Bylaw 336 for more information on the conduct of disciplinary hearings before the Committee on Privilege and Tenure.

4. If the respondent waives the right to a hearing, their name shall not be made known to the members of the Committee on Privilege and Tenure. Absent such a waiver, the respondent's name shall necessarily be made known to the Committee members.

M. POST-HEARING PROCEDURES

1. Normally the Chancellor shall have final authority to determine which type(s) of disciplinary sanction to impose, if any, following review of the Committee on Privilege and Tenure's hearing report and recommendations. However, in accordance with APM 016 Part II.5 and 6, only the President shall have final authority to impose a denial or curtailment of emeritus status, and only the Regents shall have final authority to impose dismissal on a Senate member with tenure or security of employment.

2. Normally, the Chancellor shall make a final decision within 28 days of receipt of the hearing report. However, in cases where the misconduct includes a violation or violations of the UC Policy on Sexual Violence or Sexual Harassment, the Chancellor shall make their final decision within 14 calendar days of receipt of the hearing report, in accordance with the Investigation and Adjudication Framework for Senate and Non-Senate Faculty.

3. In cases where the Chancellor's tentative decision regarding the imposition of discipline on a Senate member disagrees with the recommendation of the hearing panel, the Chancellor shall inform the Chair in writing that they may disagree, and ask if the Chair and/or the whole hearing panel would like to meet with the Chancellor prior to a final decision.

N. ALTERNATE DELEGATION OF CHANCELLORIAL AUTHORITY

In the event the Campus Provost is recused from a disciplinary case at any stage, the Chancellor may delegate authority at that stage for that case to a person or persons whom the Chancellor judges to be appropriate. Without abridging the privacy rights of all persons involved in a disciplinary process, and in order to avoid a conflict of interest or role, or the appearance of a conflict of interest or role in the designation of a delegate, the Chancellor will discuss the choice of the appropriate designee with the Chair of the Academic Senate.

O. RECORDS RETENTION

Upon final resolution of the formal complaint, the complaint file will be maintained in the Academic Personnel Office. The complaint file shall include the following: the original formal complaint and all accompanying documentation; any additional materials relied upon by the
Charges Committee during its investigation; the Charges Committee’s final report; the Campus Provost's written notice of intent to initiate disciplinary action, if any; a copy of the Committee on Privilege and Tenure's hearing report, if any; and, a copy of the Chancellor's letter communicating the final decision or recommendation to the President and/or the Board of Regents, if any.

P. INVOLUNTARY LEAVE

1. The Campus Provost may initiate involuntary leave with pay prior to, or at any time following, the initiation of a disciplinary action if it is found that there is a strong risk that the respondent's continued assignment to regular duties or presence on campus will cause immediate and serious harm to the campus community or impede the investigation of their alleged wrongdoing, or in situations where the respondent's conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency.

2. Such action does not represent the imposition of a disciplinary sanction; however, the respondent's violation of the terms of the involuntary leave without written permission from the Campus Provost may create independent grounds for disciplinary action.

3. The Campus Provost must confirm such involuntary leave in writing within 5 (five) working days after the imposition of involuntary leave, including the reasons for the involuntary leave, the allegations being investigated, and the anticipated date when charges will be brought, if substantiated. The leave document shall include the following statements: (1) the Campus Provost has the discretion to end the leave at any time if circumstances merit; (2) the involuntary leave will end either when the allegations are resolved by investigation or when disciplinary proceedings are concluded and a decision has been made whether to impose disciplinary sanctions; and (3) the faculty member has the right to contest the involuntary leave in a grievance proceeding that will be handled on an expedited basis, if so requested by the faculty member.

4. In rare and egregious cases, the 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 Chancellor's power to suspend the pay of a faculty member who is absent without authorization and fails to perform their duties for an extended period of time, pending the resolution of the faculty member's employment status with the University.

5. The faculty member may grieve the Campus Provost’s decision to place them on involuntary leave to the Committee on Privilege and Tenure. The Committee on Privilege and Tenure shall handle such grievances on an expedited basis if so requested by the faculty member, and may recommend reinstatement of pay and back pay in cases where pay status was suspended.

Q. GRIEVANCES

1. If the respondent believes that their rights have been violated at any stage during the disciplinary process, or that there is evidence of malfeasance or inappropriate behavior by Committee members or the administration, they may file a grievance. with the Committee on Privilege and Tenure.