

May 18, 2017

To: All faculty, Department Chairs, and Business Officers (via SBFACU-L, SBCHR-L, and SBADM-L)

From: Cindy Doherty, Director
Academic Personnel

Re: ACADEMIC PERSONNEL POLICY ISSUANCES

Issued by Provost and Executive Vice President Aimée Dorr, the following revised sections of the Academic Personnel Manual will be effective July 1, 2017.

APM 015 The Faculty Code of Conduct

APM 016 University Policy on Faculty Conduct and the Administration of Discipline

The revised policies and issuance letter are attached for your convenience. These documents can also be found online at: <http://www.ucop.edu/academic-personnel-programs/academic-personnel-policy/policy-issuances-and-guidelines/index.html>

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OFFICE OF THE PROVOST AND
EXECUTIVE VICE PRESIDENT FOR ACADEMIC AFFAIRS

OFFICE OF THE PRESIDENT
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Oakland, California 94607-5200

May 12, 2017

CHANCELLORS
LABORATORY DIRECTOR WITHERELL
ACADEMIC COUNCIL CHAIR CHALFANT
ANR VICE PRESIDENT HUMISTON

Dear Colleagues:

I am formally transmitting revised Section 015 of the Academic Personnel Manual (APM - 015), The Faculty Code of Conduct and revised Section 016 (APM - 016), University Policy on Faculty Conduct and the Administration of Discipline, effective July 1, 2017. The attached policies can be found online at: <http://ucop.edu/academic-personnel-programs/academic-personnel-policy/policy-issuances-and-guidelines/index.html>. The systemwide consultation process engaged to develop the policies consisted of Systemwide Review from September through December 2016. The revisions issued herein were approved by the Assembly of the Academic Senate on February 8, 2017 and by The Regents on March 15, 2017.

In addition to approving revisions to APM - 015 and APM - 016, the Regents approved amendments to Regents Policy 7401: The Faculty Code of Conduct and the Policy on Faculty Conduct and the Administration of Discipline. Regents Policy 7401 can be found online at: <http://regents.universityofcalifornia.edu/governance/policies/7401.html>.

The Assembly of the Academic Senate is expected to adopt conforming revisions to Senate Bylaw 336 (Privilege and Tenure: Divisional Committees – Disciplinary Cases) at their meeting on June 14, 2017.

Background

The University of California has been vigorously engaged in improving its prevention of and response to sexual violence and sexual harassment. As part of that effort, President Napolitano appointed the Joint Committee of the Administration and Academic Senate on Faculty Discipline to examine how the University of California manages proceedings for faculty respondents in cases alleging sexual violence or sexual harassment. The Joint Committee, co-chaired by then Academic Council Chair Hare and then Senior Vice President Vacca, included faculty with expertise in the Academic Senate bylaws and academic personnel policy, Title IX office staff deeply involved in the development of the Sexual Violence and Sexual Harassment Policy, undergraduate and graduate students

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representing student concerns, and me. To fulfill the President's charge, the Joint Committee examined the systemwide policies and Senate bylaws governing faculty conduct and the discipline process, among them APM - 015, APM - 016, and Senate Bylaws 335 and 336. The Joint Committee concluded that the existing policies and bylaws provided adequate authority and responsibility to investigate and sanction violations but it also recommended certain changes to strengthen and clarify the University's policies, bylaws, and processes. The President approved all of the Joint Committee's recommendations, including the proposed changes to the Academic Personnel Manual.

Following President Napolitano's approval of the recommendations, a Senate-Administration work group implemented the recommendations in proposed revisions and circulated the draft policies for a full 90-day Systemwide Review that resulted in strong support for the recommended changes. The Academic Council and the Assembly of the Academic Senate approved the amended language. Because authority for discipline derives ultimately from the Regents, the revisions were submitted to and approved by the Regents, who also approved amendments to Regents Policy 7401: The Faculty Code of Conduct and the Policy on Faculty Conduct and the Administration of Discipline.

Amendment of Academic Personnel Manual Section 015: The Faculty Code of Conduct

Section II. A, C, and D, Types of Unacceptable Conduct

The Joint Committee recommended that explicit language be added to APM - 015 to state that incidents of sexual violence and sexual harassment, as defined by University policy, are violations of the Faculty Code of Conduct. It was already clear that violations of the Sexual Violence and Sexual Harassment Policy could be addressed as violations of the Faculty Code of Conduct under existing language that prohibits serious violations of policy, but the Joint Committee felt that it was important to expressly name such incidents of sexual violence and sexual harassment. Given the organization of APM - 015, this entailed the addition of such language in three different places (in Sections A, C, and D).

Additionally, Section C has been revised, as proposed in another parallel Systemwide Review (November 2016 to February 2017) of the Presidential Policy on Nondiscrimination and Affirmative Action Regarding Academic and Staff Employment, to reflect recent amendments to the California Fair Employment and Housing Act (FEHA). Revisions to APM - 015 add the California FEHA-related protections to existing language regarding non-discrimination and anti-harassment under Title VII of the Civil Rights Act. The new language is not added to Sections A and D since the language concerns individuals seeking employment, volunteer, or training positions with the University (which is covered in Section B); Section A concerns teaching and students and Section D concerns colleagues.

Section III. A and B, Enforcement and Sanctions

The Joint Committee also recommended language to clarify a section of policy that sets forth the Chancellor's responsibilities in responding to an alleged violation of the Faculty Code of Conduct and initiating disciplinary action. Revised language clarifies four details:

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1) when the Chancellor is deemed to have known about an allegation of misconduct, particularly an allegation of sexual violence or sexual harassment; 2) when the Chancellor must initiate any related disciplinary action; 3) how the related disciplinary action is communicated to the respondent; and 4) that there is no time limit for reporting an alleged violation. The proposed revision also includes a technical correction to update “informal disposition” to “early resolution,” language that is contained within Section III.B.

Amendment of Academic Personnel Manual Section 016: University Policy on Faculty Conduct and the Administration of Discipline

The Joint Committee also proposed language to revise APM - 016. Changes to the language regarding involuntary leave provide greater flexibility to use involuntary leave with pay when the Administration determines that the faculty member’s presence would cause immediate and serious harm to the University community. Current policy allows the Chancellor to place the faculty member on involuntary paid leave; however, within ten working days after imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave and initiate disciplinary procedures by bringing charges against the faculty member on leave. The ten-working-day timeline has proven to be untenable, as a credible investigation cannot be completed in such a short time in order to file disciplinary charges with the Committee on Privilege and Tenure.

Section II, Types of Disciplinary Actions

Proposed revisions to APM - 016 recommended by the Joint Committee institute a new timeline that is practical, that can be applied consistently, and that is fair to the respondent. This new timeline imposes a five-working-day deadline after the imposition of involuntary leave for the Chancellor to inform the faculty member of the reasons for the leave, the allegations being investigated, the anticipated date when charges will be brought (if substantiated), a statement concerning when the leave will end, and the faculty member’s right to grieve the involuntary leave. This separates the notification required for involuntary leave from the filing of charges and the beginning of the formal disciplinary process.

Analysis of Systemwide Review

Academic Personnel and Programs received comments from nine of the ten campus Academic Affairs/Academic Personnel offices. Three of the nine campuses indicated that they had no further comments on the proposed revisions. Some reviewers submitted line edits that were, for the most part, incorporated in the drafts submitted to the Assembly of the Academic Senate and the Regents for approval. Some offered alternative conceptual approaches and others offered suggestions for revising the Faculty Code of Conduct with procedural language.

Academic Council indicated that ten Academic Senate divisions and five systemwide committees submitted comments. Although Senate reviewers found the proposed amendments helpful, some requested that additional amendments be made.

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Here is a summary of the amendments to APM - 016, Section II language recommended during Systemwide Review that were made as a result of the campus and Senate comments:

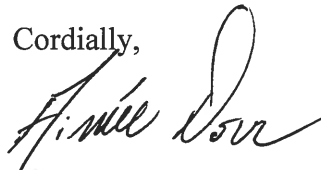
- (1) Former language stated that “A Chancellor is authorized to initiate involuntary leave with pay prior to the initiation of a disciplinary action...” Newly approved language is amended to state “A Chancellor is authorized to initiate involuntary leave with pay prior to, *or at any time following*, the initiation of a disciplinary action...”
- (2) Proposed language would have changed the authority of the Regents to the President, in rare and egregious cases, to suspend the pay of a faculty member placed on involuntary leave pending a disciplinary action. Campus and Senate reviewers were opposed to this change; thus, the approved language retains the authority of the Regents to act in such circumstances.

Recommendations to Revise APM - 015 or APM - 016 in Addition to Those Proposed During Systemwide Review

Senate reviewers took the opportunity to comment on other provisions within APM - 015 and APM - 016 in addition to those proposed during Systemwide Review of the policies and, therefore, outside of this policy initiative. The Regents, during their March 15, 2017 discussion, also requested a review of additional, related issues in the policies. A separate consultation process will be required to consider additional changes to these policies, beginning next academic year.

I wish to thank all members of the University community for their efforts to revise these important policies. Your contributions and commitment are deeply appreciated.

Cordially,



Kimée Dorr, Provost

Executive Vice President for Academic Affairs

cc: President Napolitano
President's Advisory Group
Executive Vice Chancellors/Provosts
Joint Committee of the Administration and the Academic Senate Members
Executive Vice President Nava
Interim Senior Vice President Lohse
Vice President Duckett
Vice President Ellis
Vice President Holmes-Sullivan
Vice Provost Gullatt
Chief of Staff Grossman
Systemwide Title IX Coordinator Salvaty

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Vice Provosts/Vice Chancellor of Academic Personnel/Academic Affairs
Academic Personnel Directors
Deputy General Counsel Woodall
Senior Counsel Chin
Deputy/UCOP Compliance Officer Lane
Executive Director Baxter
Executive Director Peterson
Director Chester
Director Henderson
Director Lee
Director Lockwood
Manager Donnelly
Manager Smith
Academic HR Manager Jordan
Human Resources Policy Analyst Ramarino

This policy is the Faculty Code of Conduct as approved by the Assembly of the Academic Senate on June 15, 1971, and amended by the Assembly on May 30, 1974, and with amendments approved by the Assembly on March 9, 1983, May 6, 1986, May 7, 1992, October 31, 2001, May 28, 2003, June 12, 2013, and February 8, 2017 and by The Regents on July 18, 1986, May 15, 1987, June 19, 1992, November 15, 2001, July 17, 2003, July 18, 2013, and March 15, 2017. In addition, technical changes were made September 1, 1988 and June 11, 2010.

Additional policies regarding the scope and application of the Faculty Code of Conduct and the University's policies on faculty conduct and the administration of discipline are set forth in APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline.

**The Faculty Code of Conduct as Approved
by the Assembly of the Academic Senate**

(Code of Professional Rights, Responsibilities,
and Conduct of University Faculty,
and University Disciplinary Procedures)

Preamble

The University seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom. Effective performance of these central functions requires that faculty members be free within their respective fields of competence to pursue and teach the truth in accord with appropriate standards of scholarly inquiry.

The faculty's privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty's special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members.

It is the intent of the Faculty Code of Conduct 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.

Part I of this Code sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty's pursuit of the University's central functions.

Part II of this Code elaborates standards of professional conduct, derived from general professional consensus about the existence of certain precepts as basic to acceptable faculty behavior. Conduct which departs from these precepts is viewed by faculty as unacceptable because it is inconsistent with the mission of the University. The articulation of types of unacceptable faculty conduct is appropriate both to verify that a consensus about minimally acceptable standards in fact does exist and to give fair notice to all that departures from these minimal standards may give rise to disciplinary proceedings.

In Part II a clear distinction is made between statements of (1) ethical principles and (2) types of unacceptable behavior.

1. **Ethical Principles**

These are drawn primarily from the 1966 *Statement on Professional Ethics* and subsequent revisions of June, 1987, issued by the American Association of University Professors. They comprise ethical prescriptions affirming the highest professional ideals. They are aspirational in character, and represent objectives toward which faculty members should strive. Behavior in accordance with these principles clearly precludes the application of a disciplinary sanction. These Ethical Principles are to be distinguished from *Types of Unacceptable Faculty Conduct* referred to in the following paragraph. The *Types of Unacceptable Faculty Conduct*, unlike the Ethical Principles, are mandatory in character, and state minimum levels of conduct below which a faculty member cannot fall without being subject to University discipline.

2. **Types of Unacceptable Faculty Conduct**

Derived from the Ethical Principles, these statements specify examples of types of unacceptable faculty behavior which are subject to University discipline because, as stated in the introductory section to Part II, they are “not justified by the Ethical Principles” and they “significantly impair the University’s central functions as set forth in the Preamble.”

The Ethical Principles encompass major concerns traditionally and currently important to the profession. The examples of types of unacceptable faculty conduct set forth below are not exhaustive. It is expected that case adjudication, the lessons of experience and evolving standards of the profession will promote reasoned adaptation and change of this Code. Faculty may be subjected to disciplinary action under this Code for any type of conduct which, although not specifically enumerated herein, meets the standard for unacceptable faculty behavior set forth above. It should be noted, however, that no provision of the Code shall be construed as providing the basis for judging the propriety or impropriety of collective withholding of services by faculty. Rules and sanctions that presently exist to cover such actions derive from sources external to this Code.

Part III of this Code deals with the enforcement process applicable to unacceptable faculty behavior. That process must meet basic standards of fairness and must reflect significant faculty involvement. In order to guide each campus in the development of disciplinary procedures that comply with this policy and Senate Bylaws, Part III provides an outline of mandatory principles to which each Division must adhere and discretionary principles which are strongly recommended.

Part I – Professional Rights of Faculty

In support of the University's central functions as an institution of higher learning, a major responsibility of the administration is to protect and encourage the faculty in its teaching, learning, research, and public service. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to the faculty, include, for example:

1. free inquiry, and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. freedom to address any matter of institutional policy or action when acting as a member of the faculty whether or not as a member of an agency of institutional governance;
5. participation in the governance of the University, as provided in the Bylaws and Standing Orders of The Regents and the regulations of the University, including
 - (a) approval of course content and manner of instruction,
 - (b) establishment of requirements for matriculation and for degrees,
 - (c) appointment and promotion of faculty,
 - (d) selection of chairs of departments and certain academic administrators,
 - (e) discipline of members of the faculty, and the formulation of rules and procedures for discipline of students,
 - (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and

- (g) determination of the forms of departmental governance;
- 6. the right to be judged by one's colleagues, in accordance with fair procedures and due process, in matters of promotion, tenure, and discipline, solely on the basis of the faculty members' professional qualifications and professional conduct.

Part II – Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

This listing of faculty responsibilities, ethical principles, and types of unacceptable behavior is organized around the individual faculty member's relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. Since University discipline, as distinguished from other forms of reproof or administrative actions, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition, or its consequences, the following general principle is intended to govern all instances of its application:

University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions as set forth in the Preamble. To the extent that violations of University policies mentioned in the examples below are not also inconsistent with the ethical principles, these policy violations may not be independent grounds for imposing discipline as defined herein. The *Types of Unacceptable Conduct* listed below in Sections A through E are examples of types of conduct which meet the preceding standards and hence are presumptively subject to University discipline. Other types of serious misconduct, not specifically enumerated herein, may nonetheless be the basis for disciplinary action if they also meet the preceding standards.

A. Teaching and Students

Ethical Principles. "As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom." (AAUP Statement, 1966; Revised, 1987)

The integrity of the faculty-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Whenever a faculty member is responsible for academic supervision of a student, a personal relationship between them of a romantic or sexual nature, even if consensual, is inappropriate. Any such relationship jeopardizes the integrity of the educational process.

In this section, the term student refers to all individuals under the academic supervision of faculty.

Types of unacceptable conduct:

1. Failure to meet the responsibilities of instruction, including:
 - (a) arbitrary denial of access to instruction;
 - (b) significant intrusion of material unrelated to the course;
 - (c) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;
 - (d) evaluation of student work by criteria not directly reflective of course performance;
 - (e) undue and unexcused delay in evaluating student work.
2. Discrimination, including harassment, against a student on political grounds, or for reasons of race, color, religion, sex, sexual orientation, gender, gender expression, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as state military and naval service, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.

3. Sexual violence and sexual harassment, as defined by University policy, of a student.
4. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of disability.
5. Use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons.
6. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.
7. Entering into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future¹, academic responsibility (instructional, evaluative, or supervisory).
8. Exercising academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship.

B. Scholarship

Ethical Principles. “Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

Violation of canons of intellectual honesty, such as research misconduct and/or intentional misappropriation of the writings, research, and findings of others.

¹ A faculty member should reasonably expect to have in the future academic responsibility (instructional, evaluative, or supervisory) for (1) students whose academic program will require them to enroll in a course taught by the faculty member, (2) students known to the faculty member to have an interest in an academic area within the faculty member’s academic expertise, or (3) any student for whom a faculty member must have academic responsibility (instructional, evaluative, or supervisory) in the pursuit of a degree.

C. **The University**

Ethical Principles. “As a member of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of the work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Intentional disruption of functions or activities sponsored or authorized by the University.
2. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that violence or abuse against persons or property will occur or that the University’s central functions will be significantly impaired.
3. Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.
4. Forcible detention, threats of physical harm to, or harassment of another member of the University community, that interferes with that person’s performance of University activities.
5. Discrimination, including harassment, against University employees or individuals 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 on political grounds, or for reasons of race, color, religion, sex, sexual orientation, gender, gender expression, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as state military and naval service, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.

6. Sexual violence and sexual harassment, as defined by University policy, of another member of the University community.
7. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against employees on the basis of disability.
8. Serious violation of University policies governing the professional conduct of faculty, including but not limited to policies applying to research, outside professional activities, conflicts of commitment, clinical practices, violence in the workplace, and whistleblower protections.

D. **Colleagues**

Ethical Principles. “As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debts and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance.
2. Discrimination, including harassment, against faculty on political grounds, or for reasons of race, color, religion, sex, sexual orientation, gender, gender expression, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as state military and naval service, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.
3. Sexual violence and sexual harassment, as defined by University policy, of another member of the University community.
4. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against faculty on the basis of disability.
5. Breach of established rules governing confidentiality in personnel procedures.

E. The Community

Ethical Principles. “Faculty members have the same rights and obligations as all citizens. They are as free as other citizens to express their views and to participate in the political processes of the community. When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University.” (U.C. Academic Council Statement, 1971)

Types of unacceptable conduct:

1. Intentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member’s name in a public statement or appearance is permissible, if used solely for purposes of identification.)
2. Commission of a criminal act which has led to conviction in a court of law and which clearly demonstrates unfitness to continue as a member of the faculty.

Part III – Enforcement and Sanctions

The Assembly of the Academic Senate recommends that each Division, in cooperation with the campus administration, develop and periodically re-examine procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings.

Procedures shall be consistent with the Bylaws of the Academic Senate. Each Division should duly notify the University Committee on Rules and Jurisdiction and the University Committee on Privilege and Tenure of the procedures it has adopted and any subsequent changes therein. These Committees in turn are directed to report periodically to the Assembly of the Academic Senate on procedures adopted by the Divisions and to recommend to the Assembly such action as they deem appropriate for assuring compliance with the Bylaws of the Academic Senate or the promotion of uniformity among Divisions to the extent to which it appears necessary and desirable.

- A. In the development of disciplinary procedures, each Division must adhere to the following principles:
1. No disciplinary sanction for professional misconduct shall be imposed by the administration except in accordance with specified campus procedures adopted after appropriate consultation with agencies of the Academic Senate, as prescribed in the introduction to this part of the Code. Systemwide procedures for the conduct of disciplinary hearings are set forth in Academic Senate Bylaw 336.

GENERAL UNIVERSITY POLICY
REGARDING ACADEMIC APPOINTEES
The Faculty Code of Conduct

APM - 015

2. No disciplinary sanction shall be imposed until after the faculty member has had an opportunity for a hearing before the Divisional Committee on Privilege and Tenure, subsequent to a filing of a charge by the appropriate administrative officer, as described in Academic Senate Bylaw 336.
 3. The Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when it is reported to any academic administrator at the level of department chair or above. Additionally, for an allegation of sexual violence or sexual harassment, 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 the campus Title IX Officer. 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. There is no limit on the time within which a complainant may report an alleged violation.
 4. The Chancellor may not initiate notice of proposed disciplinary action unless there has been a finding of *probable cause*. The *probable cause* standard means that the facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct and that the Chancellor is satisfied that the University can produce credible evidence to support the claim. In cases where the Chancellor wants a disciplinary action to proceed, the Divisional hearing committee must hold a hearing and make findings on the evidence presented unless the accused faculty member settles the matter with the Chancellor prior to the hearing or explicitly waives his or her right to a hearing.
 5. The procedures adopted shall include designation of the following disciplinary sanctions authorized in the University Policy on Faculty Conduct and the Administration of Discipline, of which this Faculty Code of Conduct is an integral part: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. 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. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g. a letter of censure and a suspension.
- B. In the development of disciplinary procedures, it is recommended that each Division adhere to the following principles:
1. In order to facilitate the efficient and timely handling of disciplinary matters, it is recommended that procedures be developed that allow each Divisional Committee on Privilege and Tenure to sit in hearing panels smaller than the full committee.

2. There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, staff, students, the administration, and other members of the University community. Procedures should be developed which encourage a single formal investigation of the allegations leading to the proposed disciplinary action.
3. Because it is desirable that the faculty meaningfully participate in its own self-discipline, and in order to provide the administration with faculty advice in the beginning stages of what may become formal disciplinary proceedings, appropriate procedures should be developed to involve the faculty in participating in the investigation of allegations of misconduct and/or in making recommendations to appropriate administrative officers whether a disciplinary charge should be filed. Divisions are encouraged to develop procedures to provide faculty investigators with training, consultation, or legal counsel to assist with the investigation of faculty disciplinary cases.
4. There should be provision for early resolution of allegations of faculty misconduct before formal disciplinary proceedings are instituted. Procedures should be developed for mediation of cases where mediation is viewed as acceptable by the Chancellor and the faculty member accused of misconduct. Mediators should be trained in mediation, be regarded as neutral third parties and have experience in the University environment. In cases where a settlement resolving disciplinary charges is entered into after a matter has been referred to an Academic Senate committee, the Chancellor is encouraged to consult with the Chair of the Divisional Committee on Privilege and Tenure prior to finalizing the settlement.
5. Appropriate precautions should be taken to safeguard the confidentiality of investigative and disciplinary proceedings. Procedures should be developed that allow information about an ongoing disciplinary proceeding, including information about the outcome, to be shared with complainant(s), to the extent allowable by State law and University policy.
6. There should be provision, to the maximum feasible extent, for separating investigative and judicial functions. A faculty member who has participated in investigating an allegation of misconduct or in recommending that a charge should be filed should thereafter not participate, as a member of the Committee on Privilege and Tenure, in the hearing of that charge.
7. In the implementation of all procedures, specific provisions should be made for the time span within which certain actions may or must be taken. Every effort should be made to conform to reasonable, specified time frames. Ideally, 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.

8. There should be consideration of provision for the availability of removal or termination of a sanction, either automatically or by administrative discretion, in individual cases. The nature and circumstances of the offense should determine the severity and type of discipline.
9. Procedures should be developed for keeping records of disciplinary matters in a confidential manner and sharing such records with Senate and administrative officers with a need to know in accordance with State law and University policy.

University Policy on Faculty Conduct and The Administration of Discipline

The University policy on faculty conduct and the administration of discipline is set forth in its entirety in this policy and in the Faculty Code of Conduct.

Section I -- Introduction and General Policy

This policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, November 15, 2001, and March 15, 2017, supersedes the President's interim statement on the same subject, issued on January 15, 1971. The present policy is to be read in conjunction with the Faculty Code of Conduct.

The Faculty Code of Conduct is set forth in APM - 015. Part I of the Faculty Code of Conduct notes the responsibility of the administration to preserve conditions that protect and encourage the faculty in its central pursuits. Part II defines normative conditions for faculty conduct and sets forth types of unacceptable faculty conduct subject to University discipline. Part III makes recommendations and proposes guidelines to assure the development of fair procedures for enforcing the Code.

Nothing in the Faculty Code of Conduct, or in this policy, is intended to change the various authorities and responsibilities of the Academic Senate, the administration, and The Regents as currently set forth in the Standing Orders of The Regents, the policies and regulations of the University, and the Bylaws and Regulations of the Academic Senate.

The Faculty Code of Conduct explicitly does not deal with policies, procedures, or possible sanctions pertaining to strikes by members of the faculty. These are covered by Regental and administrative policies external to the Code.

Except for the matter of strikes, and with recognition that Part III of the Faculty Code of Conduct consists of mandatory principles and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code of Conduct, as set forth in APM - 015, is the official basis for imposing discipline on members of the faculty for professional misconduct.

With respect to the imposition of disciplinary sanctions, the Faculty Code of Conduct deals only with the professional responsibilities, ethical principles, and standards of conduct that pertain to the professional obligations of faculty members. No disciplinary sanctions

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described in this policy may be imposed on faculty members other than through the procedures pursuant to this policy and the Faculty Code of Conduct. In addition, faculty members may be subject to certain administrative actions which are outside the scope of faculty discipline. For example, like all other members of the University community, faculty members are subject to the general rules and regulations of the University such as those pertaining to parking, library privileges, health and safety, and use of University facilities. Faculty are subject to appropriate administrative actions for failure to comply with such rules and regulations. Another example applies to faculty members serving in administrative appointments who are subject to administrative actions for misconduct in their role as administrators. Faculty members serving in administrative roles may be subject to disciplinary sanctions under this policy in addition to administrative actions, if the faculty member's misconduct in the role of an administrator also violates the ethical and professional standards for faculty set forth in the Faculty Code of Conduct.

To maintain consistency in the future between the Faculty Code of Conduct, if it should be further amended by the Academic Senate, and any new or changed Regental or administrative policies relating to faculty conduct that might be adopted, the President will consult with appropriate agencies of the Academic Senate, and will undertake to facilitate any needed joint action by the Senate and The Regents or the administration.

Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).

This policy regarding faculty discipline requires a spirit of active cooperation between the administration, as embodied by the Chancellor, and the Academic Senate. In case of disagreement between the administration and the faculty over the interpretation or application of the Faculty Code of Conduct, conflicts will be resolved on a case-by-case basis, with the fullest consideration given to peer judgments achieved through procedures for discipline. In cases where a Chancellor's tentative decision regarding the imposition of discipline on a faculty member disagrees with the recommendation of the Divisional Committee on Privilege and Tenure, the Chancellor shall inform the Chair of the Committee on Privilege and Tenure in writing that he or she may disagree and ask if the Chair would like the Chancellor to meet with the Chair or with the whole committee prior to making a final decision or recommendation.

Disciplinary action is to be distinguished from certain other administrative actions taken as the result, not of willful misconduct but rather, for example, of disability or incompetence. The administration naturally bears the responsibility of assuring that the University's resources are used productively and appropriately. In meeting this responsibility, administrators must occasionally take actions which resemble certain disciplinary sanctions

but which are actually of an entirely different character. These actions are subject to separate procedures with due process guarantees and should not be confused with disciplinary action with its implications of culpability and sanction. APM - 075 on Termination for Incompetent Performance articulates the conditions under which faculty members with tenure or security of employment may be terminated for incompetent performance.

Section II -- Types of Disciplinary Sanctions

The types of discipline that may be imposed on a member of the faculty are as follows, 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. In any disciplinary proceeding, the Chancellor may not impose a type of discipline more severe than that which was set forth in a written notice of proposed disciplinary action to the faculty member. The Chancellor may impose additional appropriate remedial or corrective sanctions not set forth in this Code only with the consent of the accused faculty member. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g. a letter of censure and a suspension. The Chancellor may remove or terminate a sanction, either automatically or by administrative discretion, in individual cases. The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case.

1. Written Censure

A formal written expression of institutional rebuke that contains a brief description of the censured conduct, conveyed by the Chancellor. Written censure is to be distinguished from an informal written or spoken warning, and 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 writing. Informal written or spoken warning is not an official disciplinary action.

2. Reduction in Salary

Reduction to lower salary without change in rank or step. The authority to reduce the salary of any faculty member rests with the Chancellor. This authority may not be redelegated. The amount and duration of the reduced salary shall be specified.

3. Demotion

Reduction to lower rank or step with corresponding reduction in salary. Demotion as a disciplinary action should be imposed in a manner consistent with the merit based

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system for advancement. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member. The authority to reduce the rank of a faculty member who does not have tenure or security of employment rests with the Chancellor. The authority to reduce, within rank, the step of any faculty member to a lower step rests with the Chancellor. This authority may not be redelegated.

Authority for demoting a faculty member with tenure or with security of employment to a lower rank, also with tenure or with security of employment, rests with the President, on recommendation of the Chancellor. Demotion of a faculty member with tenure or with security of employment to a lower rank without tenure or security of employment is not an option.

4. Suspension

Suspension of a faculty member without pay for some stated period of time from the continuance of the appointment on its normal terms. Unless otherwise noted, the terms of a suspension will include loss of normal faculty privileges such as access to University property, participation in departmental governance, voting rights, administration of grants, supervision of graduate students, and use of University administrative staff, and may include loss of other campus privileges such as parking and library privileges. The degree and duration of the suspension shall be specified. Authority for the suspension of a faculty member rests with the Chancellor and may not be redelegated. Suspension as a disciplinary action is to be distinguished from involuntary leave, which is a precautionary action.

5. Denial or Curtailment of Emeritus Status

Denial or curtailment of current or future emeritus status of a faculty member, including the privileges associated with the emeritus status. The denial or curtailment of emeritus status does not affect the faculty member's entitlement to earned retirement benefits. Authority for the denial or curtailment of emeritus status of a faculty member rests with the President, on recommendation of the Chancellor.

6. Dismissal from the Employ of the University

The Chancellor has authority to dismiss a faculty member who does not have tenure or security of employment. This authority may not be redelegated. Authority for dismissal of a faculty member who has tenure or security of employment rests with The Regents, on recommendation of the President, following consultation with the Chancellor.

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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. The authority to determine whether the faculty member has complied with the conditions of the waiver rests with the Chancellor. The Chancellor may designate a fixed time period for compliance with the terms of the waiver, after which the authority to impose discipline will lapse. If a faculty member disputes the Chancellor's determination, the faculty member may grieve under applicable faculty grievance procedures.

A Chancellor is authorized to 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 accused faculty member's continued assignment to regular duties or presence on campus will cause immediate and serious harm to the University community or impede the investigation of his or her wrongdoing, or in situations where the faculty member's conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency. When such action is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary procedures. 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 Chancellor's power to suspend the pay of a faculty member who is absent without authorization and fails to perform his or her duties for an extended period of time, pending the resolution of the faculty member's employment status with the University. Thereafter, the faculty member may grieve the decision to place him or her on involuntary leave pursuant to applicable faculty grievance procedures. The Divisional Committee on Privilege and Tenure shall handle such grievances on an expedited basis if so requested by the faculty member; the Committee may recommend reinstatement of pay and back pay in cases where pay status was suspended. Within 5 (five) working days after the imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave including the allegations being investigated and the anticipated date when charges will be brought, if substantiated.

Every such document must include the following statements: (1) the Chancellor 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

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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.

Section III -- Procedures for Imposition of Disciplinary Sanction

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

The Standing Orders provide that actions of certain types, some of them disciplinary in character, may not be carried out without the opportunity of a prior hearing before, or without advance consultation with, “a properly constituted advisory committee of the Academic Senate” (Standing Orders 100.4(c), 103.9 and 103.10).

The Academic Senate has established Committees on Privilege and Tenure in each of the nine Divisions. The composition and duties of these committees are defined by the Academic Senate. One of the traditional roles of the Divisional Committees on Privilege and Tenure is to conduct hearings on disciplinary charges initiated by the Chancellor under this policy and make findings of fact and recommendations to the Chancellor regarding proposed disciplinary sanctions. The procedures for disciplinary hearings are set forth in Academic Senate Bylaw 336.

Another traditional role, to be distinguished from the conduct of disciplinary hearings, is to consider grievances by members of the Academic Senate regarding their rights and privileges as faculty members. The procedures for considering grievances are set forth in Academic Senate Bylaw 335. A disciplinary action is distinguished from a grievance action in that a disciplinary action generally is commenced by the administration against a faculty member based on charges that the faculty member has violated the Faculty Code of Conduct. A grievance action is initiated by a faculty member who believes that he or she has suffered injury as the result of a violation of the faculty member’s rights or privileges. A grievance action specifically requests the administration to take appropriate action to eliminate or mitigate the faculty member’s injury. A grievance alleging misconduct by another member of the Academic Senate may result in disciplinary proceedings commenced against that faculty member.

The Faculty Code of Conduct applies to all faculty members, Senate and non-Senate. For members of the Academic Senate, the procedures for disciplinary actions are governed by Senate Bylaws and Divisional rules. For academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there are procedures for disciplinary actions separate from that of the Senate’s committees. Those procedures are found in APM - 150 and relevant collective bargaining agreements or Memoranda of Understanding.

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The Faculty Code of Conduct also applies to faculty members holding administrative appointments. Faculty members serving as administrators may be subjected to disciplinary action under this Code for professional misconduct in their administrative role that violates the ethical principles and falls within the types of unacceptable conduct set forth in this Code. A disciplinary action against a faculty member holding an administrative title may proceed in two parts. One part involves the removal of an administrative title or other administrative action under procedures established by The Regents and the administration. Such action need not adhere to the disciplinary procedures set forth in this policy. The other part involves the proposed imposition of any type of disciplinary sanction set forth in this policy, which must proceed in accordance with the procedures for discipline outlined in the Faculty Code of Conduct and the applicable Senate Bylaws and Divisional rules. The removal of the administrative title or other administrative action does not preclude or require the imposition of a disciplinary sanction under this policy. Administrative incompetence does not in itself constitute a violation of the Faculty Code of Conduct.

It is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate. No disciplinary sanction for professional misconduct shall be imposed except in accordance with specified procedures. It is not essential that the procedures be identical on every campus. It is important, however, that the same basic principles and standards prevail throughout the University. Requirements and recommendations for developing campus disciplinary procedures pursuant to this policy are set forth in the Faculty Code of Conduct and the Senate Bylaws. Chancellors are to keep the President informed about campus procedures and to report any significant changes made in such procedures. The President will consult periodically with the Chancellors and the Academic Senate about procedures that are being employed in order to assure equitable standards for discipline throughout the University.