

## CAMPUS PROCEDURES FOR ENFORCEMENT OF THE FACULTY CODE OF CONDUCT

(Revised May 6, 2014)

### *Introduction*

The following implements the Campus Procedures for Enforcement of the Faculty Code of Conduct (APM-015), University Policy on Faculty Conduct and the Administration of Discipline (APM-016) and UC Academic Senate Bylaw 336, and applies to all members of the Academic Senate. These procedures adhere to the five principles for Enforcement and Sanctions (Part III, Section A) articulated in the Faculty Code of Conduct.

No disciplinary sanctions for professional misconduct shall be imposed by the administration except in accordance with the procedures set forth below. In circumstances where these procedures are silent, the policies and procedures contained in APM-015, APM-016, and UC Academic Senate Bylaw 336 shall govern.

- THE FACULTY CODE OF CONDUCT ([UC POLICY APM-015](#)) [AM 7/19/2013]
- UNIVERSITY POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE ([UC POLICY APM-016](#)) [AM 1/1/2002]
- UC ACADEMIC [SENATE BYLAW 336](#) PRIVILEGE AND TENURE: DIVISIONAL COMMITTEES—DISCIPLINARY CASES [EN 23 MAY 2001]
- [COMPLAINT FORM](#)

### *Overview*

Allegations made against a faculty member for a violation of the Faculty Code of Conduct may originate from faculty, staff, students, and the administration of the University of California. Complaints alleging a violation of the Faculty Code of Conduct may be addressed in several ways:

- Informal resolution via a campus administrative or academic official (for example, department chair, unit head, dean) including the Academic Senate Charges Officer (hereinafter known as campus official) <sup>1</sup>
- Formal resolution via the Academic Senate Charges Officer<sup>2</sup>

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<sup>1</sup> See Appendix A for a complete list of campus officials

<sup>2</sup> Complaints submitted by the Chancellor or Chancellor's designee shall go directly to the Charges Officer for formal resolution.

### **Sexual Harassment**

If the matter involves an alleged violation of the University of California Policy on Sexual Harassment, the allegation must be filed with the UCSB Office of Equal Opportunity and Sexual Harassment/Title Compliance. <https://eodp.ucsb.edu>, <https://titleix.ucsb.edu>.

### **Research Misconduct**

If the matter involves an alleged violation of the University of California Policy on Integrity in Research, the allegation must be filed according to the UCSB Research Misconduct Policy and Procedures. <http://www.research.ucsb.edu/research-misconduct>.

### **Timeline**

This document indicates the target timelines for separate steps of the process. It is important that such matters proceed expeditiously; however, these timelines may not always be adequate. Where individuals or committees require additional time to complete their work, all participants in the process shall be informed and provided with a revised timeline by the Charges Officer. The work of the individual or committee will be completed as promptly as possible.

### **Confidentiality**

All proceedings herein are to be treated as **confidential**. No participant shall disclose the identity of the complainant, the accused faculty member or witnesses, the nature of the allegation, the evidence, or the deliberations of any decision-maker, other than to individuals who have a legitimate need for such information in order to conduct the proceeding or as may be required by law.

### **Protection from Retaliation**

The University of California prohibits retaliation against any member of the University community who, in good faith, reports an alleged violation of the Faculty Code of Conduct or who participates in a resolution, inquiry, or disciplinary hearing.

### **Role of the Complainant**

Complainants have a legitimate interest in being kept informed as the process proceeds and, within appropriate parameters, should be able to participate in various stages of the informal or formal complaint process. In the inquiry stage by the ad hoc Charges Committee (see Ad Hoc Charges Committee Process, page 5), the complainant must be willing to meet with the ad hoc Charges Committee should the committee consider such an appearance necessary. The complainant does not have a right to receive written statements submitted by the accused faculty member or any other evidence uncovered in the course of the inquiry by the ad hoc Charges Committee, nor does the complainant have a right to be present during any interview that may occur as part of the inquiry.

### **Involuntary Leave**

The Chancellor<sup>3</sup> has the authority to put the accused faculty member on leave according to [APM-016.II.6](#).

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<sup>3</sup> For the purposes of this document, the Chancellor shall be taken to mean the Chancellor or Chancellor's designee (e.g., Executive Vice Chancellor). This shall apply in all cases with the exception of imposing discipline, which shall not be delegated by the Chancellor.

## **I. The Complaint Procedure**

### **A. Informal Complaint**

The goal of informal resolution is to resolve the concern as soon as possible and without the need for formal procedures. A member of the University community may choose to file an informal complaint, either orally or in writing, against a faculty member for alleged violation of the Faculty Code of Conduct. The campus official who receives the informal complaint shall assess the seriousness of the complaint and exercise good judgment in achieving a resolution to the complaint. The campus official who receives the complaint shall notify the faculty member, who is the subject of the complaint that a complaint has been lodged, and either attempt to resolve the matter informally within a reasonable period (generally not to exceed 90 calendar days) or refer it to another appropriate official or office. If the matter warrants documentation, the informal resolution will be in writing and signed by the campus official and the faculty member who is the subject of the complaint. Any written record will be maintained by the campus official who resolves the complaint. The campus official may consult legal counsel.

If the matter cannot be informally resolved within a reasonable period, the complainant may proceed to the formal complaint process. Please note that the complainant is not required to make a complaint informally: he or she may choose to proceed immediately to the formal complaint process.<sup>4</sup>

### **B. Formal Complaint and Resolution Process**

Formal complaints of alleged violations of the Faculty Code of Conduct by a faculty member shall be accepted for inquiry by the Charges Officer.

1. To initiate a formal complaint, the complainant must complete, sign, and submit the Academic [Complaint Form](#):
  - a. Include a full statement of the facts that allegedly constitute a violation of the University Faculty Code of Conduct
  - b. Identify the relevant section(s) of the Faculty Code of Conduct (APM-015)
  - c. Submit the form to the Charges Officer via the Academic Senate Analyst for Faculty Matters
2. The Charges Officer shall provide the complainant the following in person or via his or her UC email address or home department address:
  - a. Campus Procedures for the Enforcement of the Faculty Code of Conduct
  - b. The Faculty Code of Conduct (APM-015)

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<sup>4</sup> Allegations of sexual harassment, allegations related to the Violence Against Women Act 2013, or allegations of research misconduct shall be referred to the appropriate office for investigation.

- c. University Policy on Faculty Conduct and the Administration of Discipline (APM-016)
  - d. UC Academic Senate Bylaw 336 Privilege and Tenure — Disciplinary Cases
3. The Charges Officer shall notify the accused faculty member that a complaint has been filed and ask the faculty member if the complaint should be sent via email or via certified mail. If the accused faculty member is on leave or does not acknowledge receipt of email, the documents will be delivered by US Postal Service via certified mail to the address on file with the University. The Charges Officer shall send the following documents to the accused faculty member:
- a. Written notice and copy of the complaint
  - b. Campus Procedures for the Enforcement of the Faculty Code of Conduct
  - c. The Faculty Code of Conduct (APM-015)
  - d. University Policy On Faculty Conduct And The Administration of Discipline (APM-016)
  - e. UC Academic Senate Bylaw 336 Privilege and Tenure — Disciplinary Cases
  - f. Academic Senate contact for assistance and information
4. The Charges Officer shall ask the Charges Advisory Committee to evaluate the complaint and determine whether it meets the **prima facie** standard for consideration of imposing discipline: whether the facts alleged in the complaint, if true, justify the imposition of discipline according to the Faculty Code of Conduct (APM-015). If all parties involved in the complaint agree to participate, informal resolution may be explored and is encouraged, at any time during the formal complaint process. An informal resolution must be documented in writing if it originated as a formal complaint.
- a. If the Charges Advisory Committee determines by a simple majority that the **allegations meet the prima facie standard**, the matter will be referred to an *ad hoc* Charges Committee for a full inquiry.
  - b. If the Charges Advisory Committee determines by a simple majority that the **allegations do not meet the prima facie standard**, the matter is closed; the complainant and accused faculty member shall be notified by the Charges Officer in writing within fourteen (14) calendar days of the committee's determination.
5. The Committee on Committees, in consultation with the Charges Officer and the Charges Advisory Committee, shall develop and approve a slate of nominees as potential members of the *ad hoc* Charges Committee.
- a. The Charges Officer and the Charges Advisory Committee shall work together to determine the membership of the *ad hoc* Charges Committee from the slate approved by Committee on Committees.
  - b. The Charges Officer and the Charges Advisory Committee will ensure that the *ad hoc* Charges Committee does not knowingly include any faculty members who may have a real or perceived conflict of interest. A real or perceived conflict of interest is understood

- to mean that serving on an ad hoc Charges Committee would be incompatible or perceived to be incompatible with professional responsibilities and/or personal interests.
- c. The ad hoc Charges Committee shall be formed expeditiously consisting of at least three (3) members. The Charges Officer shall not be a member of the ad hoc Charges Committee.
  - d. After consultation with the Charges Advisory Committee, the Charges Officer designates the Chair of the ad Hoc Charges Committee.
6. Once the *ad hoc* Charges Committee has been formed, the Charges Officer shall give the committee a copy of the complaint. The Charges Officer shall also send the Chancellor (or Chancellor's designee) a copy of the complaint and notification that an *ad hoc* Charges Committee has been formed
  7. The accused faculty member shall have the right to file a written response to the complaint with the *ad hoc* Charges Committee before the committee meets, provided that the response is filed within twenty-one (21) calendar days of the receipt of the complaint by the faculty member; the Charges Officer may allow more time for a full response to be made to the complaint.

## ***II. Ad hoc Charges Committee Process***

The *ad hoc* Charges Committee shall consult with the Charges Officer at its first meeting, and subsequently at the committee's discretion.

The *ad hoc* Charges Committee shall conduct an inquiry to determine whether there is probable cause: a reasonable basis for believing that the allegations are true ***for undertaking disciplinary action***. If all parties agree to participate, informal resolution may be explored and is encouraged, at any time during the formal complaint process. An informal resolution must be documented in writing if it originated as a formal complaint.

The *ad hoc* Charges Committee shall treat all steps in its inquiry as confidential, except as may be required by law. In conducting its inquiry, the *ad hoc* Charges Committee may at its discretion conduct interviews in private with the complainant and other individuals relevant to the case. Legal counsel may be consulted by the ad hoc Charges Committee at any time during the process. Participants may choose to consult a legal adviser.

The *ad hoc* Charges Committee shall make every effort to complete its inquiry, make a determination of probable cause, and report its findings to the Chancellor (or Chancellor's designee) within ninety (90) calendar days after receiving the formal complaint. This period of inquiry may be extended and all parties to the complaint will be promptly notified.

If the *ad hoc* Charges Committee finds **no probable cause** to warrant possible disciplinary action, the committee shall transmit its recommendation, in writing, to the Chancellor (or Chancellor's

designee), within fourteen (14) calendar days of reaching their recommendation. The committee's recommendation will include the substantiating basis for a no probable cause finding and the evidence supporting this recommendation.

If the *ad hoc* Charges Committee finds **probable cause** to warrant possible disciplinary action, the committee shall promptly transmit its recommendation, in writing, to the Chancellor (or Chancellor's designee), along with a report of the inquiry substantiating a probable cause finding and the complete file assembled by the *ad hoc* Charges Committee during its inquiry. The complainant and/or the accused faculty member may request, in writing, a redacted copy of the *ad hoc* Charges Committee's findings and recommendation.

### ***III. Chancellor Review***

The Chancellor (or Chancellor's designee) shall make a final determination of probable cause within sixty (60) calendar days of receiving the recommendation from the *ad hoc* Charges Committee.

#### **A. Decision by the Chancellor (or Chancellor's designee) Not to Proceed to Disciplinary Action**

If the Chancellor (or Chancellor's designee) determines there is no probable cause for initiating disciplinary action, the decision shall be immediately transmitted, in writing, to the Charges Officer and the Chair of the *ad hoc* Charges Committee. Within fourteen (14) calendar days of reaching this decision, the Chancellor (or Chancellor's designee) shall notify both the complainant and the accused faculty member in writing of the no probable cause finding by the *ad hoc* Charges Committee and the concurrence by the Chancellor (or Chancellor's designee).

#### **B. Decision by the Chancellor (or Chancellor's designee) to Initiate Disciplinary Action**

If the Chancellor (or Chancellor's designee) determines there is probable cause for initiating disciplinary action, he or she shall prepare written charges to be submitted to the Chair of the Committee on Privilege and Tenure with a full statement of the facts underlying the charges and the disciplinary sanction(s) the Chancellor (or Chancellor's designee) proposes. The types of discipline that may be imposed on a member of the faculty include in order of severity as follows: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. The Chair of the Committee on Privilege and Tenure shall initiate disciplinary proceedings according to UC Academic Senate Bylaw 336 Privilege and Tenure — Disciplinary Cases. The Committee shall follow the procedures in Bylaw 336 with regard to an accused faculty member's right to a hearing, prehearing procedures, early resolution, hearing and post-hearing procedures, and relation to prior grievance cases.

**Appendix A**  
**Campus Officials**

Chancellor

Executive Vice-Chancellor

Vice-Chancellor

Associate Vice-Chancellor

Assistant Vice-Chancellor

Assistant Chancellor

Dean

Associate Dean

Senior Associate Dean

Assistant Dean

Department Chair

Program Chair

Center Director

Institute Director

Executive Director-Unit

Director-Unit

## **Appendix B**

### **GENERAL RULES FOR THE AD HOC CHARGES COMMITTEE INQUIRY**

1. The chair of the committee shall advise each participant at the outset that the committee will hold everything s/he may say in strict confidence. All proceedings herein are to be treated as **confidential**. No participant shall disclose the identity of the complainant, the accused faculty member, or witnesses, the nature of the allegation, the evidence, or the deliberations of any decision-maker, other than to individuals who have a legitimate need for such information in order to conduct the proceeding or as may be required by law.
2. Neither the complainant nor accused faculty member may be present during witness testimony before the committee.
3. All witnesses before the committee shall be heard in closed hearings. Both the complainant and the accused faculty member shall have the right to appear as witnesses. Each may be accompanied by a support person and/or attorney.
4. The committee shall have the right to call and question witnesses. At the committee's discretion, the complainant and the accused faculty member may propose names of witnesses to the committee, but it is within the committee's sole discretion whether to interview any such witnesses. Each witness may be asked if he or she can suggest other witnesses who may be of assistance in the inquiry.
5. If the committee is provided with additional information related to the complainant's allegations during the proceedings, the committee may conduct further investigation.
6. If all parties *involved in the case* agree to participate, informal resolution may be explored and is encouraged, at any time during the formal complaint process. An informal resolution must be documented in writing if it originated as a formal complaint. See Section I-B-4.
7. All committee members' materials and notes related to the inquiry shall be destroyed after the committee has reached a recommendation on the case.

Approved by the Faculty Legislature, Santa Barbara Division, January 21, 1988; revised June 26, 1989; ratified by the Faculty Legislature, Santa Barbara Division, October 19, 1989; revised and ratified by the Faculty Legislature, Santa Barbara Division, November 3, 1994; revised and ratified by the Faculty Legislature, Santa Barbara Division, June 1, 2006; **revised and ratified by the Faculty Legislature, Santa Barbara Division, May 6, 2014.**