

Faculty Respondent Disciplinary Sanction Guidelines After a Formal Investigation of Allegations of Faculty Misconduct Related to Expressive Activities and a Finding that a Policy Violation Has Occurred; the Following Guidelines Assist in Calibrating the Disciplinary Sanction(s) Recommended and/or Imposed

Types of Faculty Disciplinary Sanctions under APM - 016

Letter of
Censure

Reduction
in Salary

Demotion

Suspension

Curtailment or Denial
of Emeritus Status

Dismissal

Less Severe Sanction

More Severe

Factors to Consider in Recommending/Imposing Disciplinary Sanctions for Faculty Respondents Following a Finding of a Policy Violation(s)

If There is a Finding of a Violation of a Policy Related to Expressive Activities, the Policy Violation(s) Should Be Evaluated Under the Following Tiers (see attached Companion document for the list of policies)

Mitigating vs. Aggravating Factors

Tier 1

- Failing to comply with valid instructions of a UC or public official upon initial instruction
- Disturbing the peace
- Camping or unauthorized lodging on UC property
- Climbing or rappelling activities on UC-managed property
- Using amplified sound without a permit

Tier 2

- Failing to comply with repeated valid instructions of a UC or public official
- Escalating misconduct activity contrary to de-escalating instructions of a UC or public official
- Engaging in disorderly conduct as defined by Time, Place, and Manner (TPM) policy
- Blocking entrances or interfering with the normal free flow of traffic on campus and the immediate environs
- Obstructing or disrupting teaching or other UC operations
- Threatening others with forcible detention or harm

Tier 3

- Inciting others to engage in misconduct
- Intimidating or coercing others to engage in misconduct
- Detaining unwilling parties by any means
- Possessing or using a firearm, explosive, or any device that can cause mass casualties

Mitigating Factors

- No prior history of counseling or remedial intervention
- Engaging in activity pursuant to a good faith misinterpretation of academic freedom
- Activity does not discriminate on UC policy-protected grounds
- One or rare occurrence(s)
- Accepting responsibility for misconduct without recurrent offense

Aggravating Factors

- Escalating misconduct in view of recent counseling or remedial intervention
- Discriminating on UC policy-protected grounds
- Violating policy in a repeated fashion
- Not accepting responsibility for misconduct
- Major damage to UC property
- Major impact on UC community members and their families
- Major harm to others by physical or other means

Less severe sanctions are typically recommended for cases where the findings of a policy violation(s) are relatively few and mostly in lower tiers

More severe sanctions are typically recommended when there is a finding of multiple policy violations in higher tiers

Mitigating and aggravating factors should also be considered in the final sanction recommendation and/or determination

**COMPANION DOCUMENT to Faculty Respondent Disciplinary Sanction Guidelines After a
Formal Investigation of Allegations of Faculty Misconduct Related to Expressive Activities and
a Finding that a Policy Violation Has Occurred**

Preamble – General Principles

APM - 010 provides in relevant part, “The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University’s fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public.”

“Academic freedom requires that teaching and scholarship be assessed by reference to the professional standards that sustain the University’s pursuit and achievement of knowledge. The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body. The competence of the faculty to apply these standards of assessment is recognized in the Standing Orders of The Regents, which establish a system of shared governance between the Administration and the Academic Senate. Academic freedom requires that the Academic Senate be given primary responsibility for applying academic standards, subject to appropriate review by the Administration, and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care.” “The exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty.”

Faculty members are entitled to the academic freedom protections described in APM - 010 as well as the constitutional right to free expression, which all University employees enjoy. Both APM - 010 and the U.S. and California constitutions provide protections for extramural speech - that is, speech that occurs beyond the scope of a faculty member’s employment.

However, this does not mean that extramural expression by faculty may never be subject to discipline. Constitutional protections for speech by government employees extend only to speech on matters of public concern, as long as its value is not outweighed by the disruption it causes to the University’s ability to carry out its mission, which itself should be understood to incorporate a commitment to academic freedom and shared governance. The protections of APM - 010 and APM - 015 are more concretely articulated. Under those policies, extramural speech by faculty is not subject to discipline unless it falls within one of the prohibited categories identified in APM - 015 (see below) or otherwise can be shown both to be inconsistent with the ethical values described in APM - 015 (drawn from the American Association of University Professors’ Statement on Professional Ethics) and to “significantly impair the University’s central functions,” namely, “to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and further the search for wisdom.”

APM - 015 protects the rights of faculty both to enjoy “constitutionally protected freedom of expression” and “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.”

If There Has Been a Finding of a Violation of One or More of the Below Policies Related to Expressive Activities, the Accompanying Calibration Guidelines (Attachment A) Should be Consulted in Making the Recommendation, or the Decision On, the Appropriate Disciplinary Sanctions:

If a formal investigation of allegations of faculty misconduct related to expressive activities results in a finding that a policy violation has occurred, the preceding **Faculty Respondent Disciplinary Sanction Guidelines After a Formal Investigation of Allegations of Faculty Misconduct Related to Expressive Activities and a Finding that a Policy Violation Has Occurred** (hereafter, “Guidelines”) is intended to support the Privilege and Tenure Committee or Special Committee (hereafter, “Hearing Committee”) and the Chancellor/Chancellor’s designee in the calibration of the recommendation or imposition of disciplinary sanctions under APM - 016 **after there has been a finding of a policy violation**. The Guidelines and this Companion document are intended to comply with statutory requirements established by California’s Budget Act of 2024 (SB 108) regarding promoting consistency in responses to policy violations across the system.

The following UC policies could be implicated in allegations of faculty misconduct in the realm of expressive activity. As systemwide calibration guidance already exists for the Sexual Violence and Sexual Harassment (SVSH) Policy, SVSH provisions from the Faculty Code of Conduct will not be addressed in this document. While the calibration guidance for the SVSH Policy informed the accompanying disciplinary sanction guidelines, the two guidance documents differ insofar as the accompanying disciplinary sanction guidelines distinguish between findings of misconduct based on tiers and the mitigating and aggravating factors to consider.

The Guidelines do not quantify the extent of damage to UC property, but reviewers may wish to do so in their assessments. As an example, in California, property damage of less than \$400 constitutes a misdemeanor, whereas damage in the amount of \$400 or more represents a felony. Assessing minor versus major severity of impact on or harm to UC community members and their families is far less easily tangibly quantifiable, as, in addition to interfering with University operations or access to educational opportunities, the impact or harm may be physical and/or by “other means,” such as psychological. Quantification alone may be insufficient in reviewers’ assessment, as a single incident that results in physical or psychological harm to one individual may be so egregious as to constitute major impact or harm. As in cases of SVSH policy violations, reviewers will need to assess the frequency, nature, and severity of the APM - 015 violation(s), including whether the misconduct resulted in economic damage, or was threatening, impactful, and/or harmful in a physical or psychological manner.

If there is a finding of a violation of the below policies related to expressive activities, the Hearing Committee and Chancellor/Chancellor’s designee should use the Guidelines to calibrate the discipline that is recommended, or imposed, in order to promote consistency in disciplinary responses.

APM - 015, The Faculty Code of Conduct

Part II, Paragraph A, covers specific situations that provide for protecting safety and protecting access to educational opportunities. Part II, Paragraph A contains the following provisions surrounding failure to meet the responsibilities of instruction:

A.1.a, regarding arbitrary denial of access to instruction;

A.1.b, regarding significant intrusion of material unrelated to the course;

A.1.c, regarding 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;

A.2, regarding discrimination, including harassment, against a student on political grounds or for protected categories;

A.5, regarding the 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; and

A.6, regarding participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

Part II, Paragraph C, 1 identifies the following types of unacceptable conduct, engagement in which would constitute a violation of the Faculty Code of 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. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against employees on the basis of disability.

¹ Paragraph 6 regarding prohibition of sexual violence and sexual harassment is not listed above because a separate systemwide calibration guidance already exists for the Sexual Violence and Sexual Harassment (SVSH) Policy. If there is a finding of a SVSH policy violation and paragraph 6 of the Faculty Code of Conduct, UCPT and the Chancellor/Chancellor's designee should refer to the systemwide calibration guidance on SVSH and not Attachment A.

7. 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.

Part II, Paragraph E, item 2 covers situations involving the “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.”

[Anti-Discrimination Policy](#) and the [Abusive Conduct in the Workplace Policy](#)

The Anti-Discrimination Policy and the Abusive Conduct in the Workplace Policy affirm the University’s commitment to maintaining a working and learning environment and the institution’s intolerance of behavior that is discriminatory or that disrupts the functioning of the University community and interferes with individuals’ ability to learn, teach, work, and conduct research.

[Campus Time, Place, and Manner Policies](#) (TPM)

Links to local TPM policies are included here:

UC Berkeley: [Berkeley Campus Regulations Implementing University Policies](#) and [Summary of Rules Regarding Expressive Activity](#)

UC Davis: [Freedom of Expression \(PPM 400-01\)](#)

UC Irvine: [Time, Place, and Manner Policy](#)

UCLA: [Time, Place, and Manner \(TPM\) Policies](#)

UC Merced: [Expressive Activities and Assembly: Protests, Demonstrations, Non-University Speakers and Signage on Campus and in University Facilities](#)

UC Riverside: [Policy 700-70, Time Place Manner Regulations](#)

UC San Diego: [Expressive Activity Time, Place, and Manner Policy](#)

UCSF: 600-27: [Expressive Activities Held on UCSF Property](#)

UC Santa Barbara: [Speech and Advocacy -- Policies on Time, Place, and Manner, UC Santa Barbara Campus Regulations](#) and [UC Santa Barbara Campus Guidance](#)

UC Santa Cruz: [Conduct Regulations \(Time, Place, and Manner\)](#)