

Interim UCSD Procedures for Academic Senate Faculty Discipline

Responsible Department: Academic Personnel

Source Document: UC APM 016

I. Purpose, Scope, and Definitions

A. Purpose

In accordance with the University Policy on Faculty Conduct and the Administration of Discipline, [APM 016](#), the Chancellor has established these procedures for the formal administration of Academic Senate faculty discipline at the San Diego campus. No disciplinary sanction for misconduct of a member of the San Diego Division of the Academic Senate shall be imposed except pursuant to the procedures specified herein, in related [San Diego Division Bylaw 230](#), and consistent with Academic [Senate Bylaw 336](#).

As used herein, the term "Chancellor" includes anyone designated in writing to act on the Chancellor's behalf with regard to any specific allegations or complaint of faculty misconduct, with the exception of final authority to determine and execute sanctions (Section IV) that cannot be delegated.

B. Scope

1. The disciplinary hearing procedures set forth in III, below, apply only to proceedings against members of the Academic Senate. Disciplinary procedures, including for non-Senate academic appointees are governed by [APM 150](#), [APM 140](#), and/or the applicable collective bargaining agreement or memorandum of understanding.
2. Allegations of research misconduct shall be addressed first under [PPM 100- I&R Policy and Organization](#).

C. Disciplinary Sanctions

1. Types of Sanctions: Disciplinary sanctions are limited to the following actions:
 - written censure;
 - reduction in salary;
 - demotion;
 - suspension;
 - denial or curtailment of emeritus status; and,
 - dismissal from the employ of the University.

([APM 016](#), Section II, Types of Discipline).

More than one disciplinary sanction may be imposed for a single act of misconduct, e.g., a Letter of Censure, a reduction in salary and a suspension. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member.

2. Conditional Waiver of Sanctions: 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 accepts an alternative punishment and/or performs some specified action(s). 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 deemed reasonable by the Chancellor to punish and/or remedy the faculty member's misconduct or to prevent future misconduct. If the imposition of a disciplinary sanction is waived under this provision, the subsequent failure by the faculty member to perform any act or acts required as a condition of the waiver of sanctions or if the faculty member otherwise fails to comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the sanction that was waived without an additional hearing.

3. Letter of Censure: In cases where a disciplinary sanction of Letter of Censure is imposed, the written notice to the faculty member will be in the form of a Letter of Censure, conveyed by the Chancellor. The Letter of Censure shall contain a brief description of the censured conduct and the sanction(s) imposed (if any) in addition to the Letter of Censure. The Letter of Censure must be delivered confidentially to the recipient and maintained in a designated personnel file¹ or files indefinitely or for a lesser period of time specified in the letter. If not specified, the retention period is specified by the UC Records Retention Schedules.
4. Retention of the Letter of Censure: In all cases, a copy of the Letter of Censure will be retained in a separate confidential file in the Office of Academic Personnel. If the censured conduct is relevant to the faculty member's performance in (1) teaching, (2) research and other creative work, (3) professional activity, or (4) University and public service, a copy of the Letter of Censure *may* be placed in the personnel review file in accordance with [APM 160](#), Appendix B and [APM 200-30](#).

II. Initiating the Discipline Process

A. Probable Cause

In response to allegations of faculty misconduct, the Chancellor may request an investigation or inquiry be conducted to determine whether probable cause to believe that the alleged misconduct occurred exists, but a formal investigation is not required. In making a finding of probable cause, the Chancellor may (but is not obligated to) rely on any information regarding the alleged misconduct available to the Chancellor and deemed to be reasonably reliable in the Chancellor's judgment, including but not limited to, investigation reports, reports from academic leaders or university administrators, reports from alleged victims, and reports from people claiming to be eye-witnesses

B. Response of Accused Faculty to Notice of Proposed Disciplinary Action

1. When faculty misconduct allegations result in a finding of probable cause, the Chancellor may issue written charges to the faculty member including notice of proposed sanction(s) as described in [APM 016. II](#), and a full statement of the facts underlying the charges. The written charges will include notice of the faculty member's right to request a hearing with the Committee on Privilege and Tenure.
2. Within 15 calendar days after the date of the written charges from the Chancellor, the

¹ Letters of Censure may be designated for inclusion in the personnel review file if the conduct violation of the [APM 015](#) is relevant to teaching, research and creative work, professional competence and activity, or University and public service. ([APM 200-30](#); [APM 210-1.d.](#))

faculty member will notify the Chancellor in writing whether they accept the proposed disciplinary sanction(s). If the faculty member accepts the proposed sanction(s), the Chancellor will report the findings and the accepted sanction(s) to the Committee on Privilege and Tenure for information.

3. If the faculty member does not accept the proposed disciplinary sanction(s), they may inform the Chancellor in writing of a request that the Committee on Privilege and Tenure conduct a hearing in accordance with the procedures described below, or may reach prior settlement with the Chancellor or waive the right to a hearing.
4. If the faculty member does not accept the proposed disciplinary sanction(s) or does not respond within 15 calendar days, the Chancellor will send a copy of the charges to the Committee on Privilege and Tenure.
 - a. Consistent with the prehearing procedures for disciplinary actions as described in [Senate Bylaw 336](#), the charges shall be in writing and shall contain notice of proposed disciplinary sanction(s) and a full statement of the facts underlying the charges. The Chancellor or Chancellor's designee shall deliver the disciplinary charges to the Chair of the Committee on Privilege and Tenure, with a copy to the accused faculty member. If practicable, the Chancellor or Chancellor's designee shall deliver the disciplinary charges at an in-person meeting with the Chair of the Committee on Privilege and Tenure and the accused faculty member. If this is not practicable, the Chancellor or Chancellor's designee shall deliver the disciplinary charges to the Chair of the Committee on Privilege and Tenure electronically, with a copy to the accused sent electronically to the accused's official University email account and a courtesy copy by overnight delivery service to the accused's last known place of residence. The accused will be deemed to have received the disciplinary charges when they are sent to the accused's official University email account.
 - b. The accused shall have 14 calendar days from the date of receipt of the disciplinary charges in which to file an answer in writing with the Committee on Privilege and Tenure. The Committee on Privilege and Tenure shall immediately provide a copy of the answer to the Chancellor or Chancellor's designee.
 - c. The Committee shall evaluate the case and establish time frames for all subsequent procedures consistent with [Bylaw 336](#).
5. Once having notified the Committee on Privilege and Tenure, the Chancellor and the accused may still attempt to resolve the disciplinary charges informally through negotiations and reach early resolution. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures.
6. Where a settlement resolving disciplinary charges is entered into after a matter has been referred to the Committee on Privilege and Tenure, the Committee may request that the Chancellor consult with the Chair of the Committee before finalizing the settlement.

III. Procedures for Conducting Faculty Disciplinary Hearing

- A. Procedural Privileges and Protections. In connection with hearings before the Committee on Privilege and Tenure and any hearing panel thereof, an accused faculty member will be entitled to all procedural privileges and protections specified in the Standing Orders of The Regents and in the provisions of the Academic Senate Manual that implement such Orders, including [APM 015](#) and [APM 016](#), as well as privileges and protections set forth in [Bylaw 336](#), and [San Diego Division Bylaw 230](#).
- B. Involuntary Leave: At any time, the Chancellor may initiate an involuntary leave of a faculty member, with or without pay, for the reasons permitted under [APM 016](#). If the Chancellor initiates an involuntary leave, the Chancellor must comply with the procedural requirements stated in [APM 016](#).
- C. Scheduling the Hearing: Every effort shall be made to conform to a reasonable time frame in the implementation of all procedures consistent with [Bylaw 336](#).
 - 1. In general, the hearing shall begin no later than 60 calendar days from the date disciplinary charges are filed with the Committee on Privilege and Tenure.
 - 2. Any deadline may be extended by the Chair of the Committee on Privilege and Tenure or the Chair of the Hearing Committee, but only for good cause shown, requested in writing in advance.
 - 3. Within three business days of receiving an extension request, the Chair of the Committee on Privilege and Tenure or the Chair of the Hearing Committee shall notify the accused, the Chancellor or Chancellor's designee, and/or their representatives in writing of the approval or denial of the request. If the request is approved, the notification shall include the reason for granting it, the length of the extension, and the projected new timeline.
- D. Confidentiality: All investigations and hearings will be treated as confidential. Disclosures of investigations shall be limited to those people reasonably necessary and proper for a full and fair investigation. Disciplinary hearings will be open only to those persons directly concerned and their authorized representatives. Accused faculty members and the administration may consult confidentially with their representatives and with any witnesses reasonably likely to have information relevant to the resolution of the charges. The Chancellor will share with the complainant(s) information about an ongoing disciplinary proceeding, including the outcome, to the extent allowed by State law and University policy.
- E. Representation/Presentation of Evidence: Consistent with [Bylaw 336.F.3](#), the Chancellor or Chancellor's designee, the accused, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts
- F. Burden of Proof: At the hearing, the Chancellor or Chancellor's designee has the burden of proving the allegations by clear and convincing evidence, except that for allegations of a violation of the University's policy on Sexual Violence and Sexual Harassment, the Chancellor or Chancellor's designee has the burden of proving the allegations by a preponderance of the evidence
- G. Evidentiary Rules: The technical legal rules regarding evidence and witnesses shall not apply, including the rule against hearsay.
 - 1. The hearing panel may call witnesses or make evidentiary requests at its discretion and may require that all witnesses affirm the veracity of their testimony.
 - 2. No evidence other than that presented at the hearing shall be considered by the hearing panel or have weight in the proceedings, except that the panel may take notice of any

judicially noticeable facts that are commonly known. The panel shall give notice and a reasonable opportunity for objection before such facts are considered part of the record.

3. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter.
- H. Record of Proceedings: The hearing will be recorded by the Hearing Committee. The Hearing Committee may use any reasonable means to record the hearing. The Hearing Committee has the discretion to use a certified court reporter for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the court reporter as well as other costs associated with the hearing will be borne by the administration.
- I. Notice of Findings and Recommendations: The Hearing Committee shall make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation. 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 ([APM 015, III.A.5](#)). These shall be forwarded to the parties in the case, the Chancellor or Chancellor's designee, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure, not more than 30 calendar days after the conclusion of the hearing. The conclusion of the hearing shall be the date of the Committee's receipt of (a) the written transcript of the hearing; or (b) if post-hearing briefs are permitted, the post-hearing briefs from the parties in the case, whichever is later. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy.
- J. Confidentiality/Release of Findings/Record: The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The hearing panel may, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.
- K. Reconsideration by Hearing Panel: The hearing panel may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances not reasonably discoverable at the time of the hearing that might significantly affect the previous decision.

IV. Authority

- A. The Chancellor has final authority to determine and execute appropriate sanctions, except in those cases of dismissal, demotion, or denial or curtailment of Emeritus status, where final authority rests with the President or The Regents (see [APM 016, II](#)). This authority may not be delegated.
- B. The Chancellor will inform the accused faculty member in writing of their final decision.
- C. If the Chancellor's determination disagrees with the findings or recommendations of the Hearing Panel, the Chancellor shall provide the Chair of the Privilege and Tenure Committee with notice of the intent to disagree prior to the imposition of any sanction.