

# UC Davis Academic Personnel Manual

## General University Policy Regarding Academic Appointees Section UCD-140, Non-Senate Academic Appointees/Grievances

Date: 11/25/03, rev. 11/7/07

Supersedes: 4/14/94

Responsible Department: Academic Personnel

Source Document: UC APM-140

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*Exhibit A, Academic Personnel Grievance: Request for Formal Review*

*Exhibit B, Academic Personnel Grievance: Request for Extension of the 30-Day Time Limit for Filing a Step II Grievance*

*Exhibit C, Academic Personnel Grievance: Request for Appeal of Formal Review Decision*

### 140-2 Purpose and Scope

This section outlines the procedures for members of the non-Senate academic community to file a grievance as defined in APM-140-4, and defines the methodology for resolving such grievances.

- a. Grievances about title or salary matters are not covered by these procedures unless there are also allegations of discrimination. When a grievance raises allegations of discrimination, harassment, or retaliation in violation of APM-035, these procedures will apply in accordance with APM-035.
- b. Only those members of the non-Senate academic community that qualify under the guidelines of APM-140-14 are eligible to use this policy. For non-Senate academic appointees covered by a Memorandum of Understanding (MOU), this policy applies only to the extent provided for in the MOU.
- c. When a non-Senate faculty\* receives notice of termination before the expiration of his or her appointment, he or she may select as a grievance mechanism either APM-140, as described in this policy, or Standing Orders of The Regents 103.9 (S.O. 103.9), the procedure for which is described in Academic Senate Bylaw 337. In selecting either APM-140 or S.O. 103.9, the non-Senate faculty member waives the right to invoke the other mechanism to review the same grievance.

\*Note: APM-110-4(14) provides a definition of faculty and a listing of titles, both Senate and non-Senate, that are considered faculty. The following non-Senate faculty titles are eligible to use the procedures described in APM-140-14-e:

- Acting titles in the Professor series
- Visiting titles in the Professor series
- Adjunct Professor series
- Clinical Professor series
- Supervisor of Physical Education series

### 140-4 Definition

For purposes of this policy, a department is a teaching, research, administrative, or other organizational unit.

### 140-6 Grievance Liaison

The Vice Provost--Academic Personnel shall serve as the grievance liaison to coordinate informal and formal attempts to resolve the issue. During informal review, the Vice Provost--Academic Personnel, or an appropriate designee, may participate in the discussions and assist in the attempts to reach a resolution. During the formal review, the Vice Provost--Academic Personnel, or an appropriate designee, shall provide policy information, ensure that approved procedures are followed, and provide technical information at hearings.

### **140-31 Step I. Informal Grievance Resolution**

- a. In order to achieve a voluntary resolution of differences, a grievance should first be dealt with at the lowest possible administrative level. Every effort should be made to resolve the problem on an informal basis through discussion between the appointee and the immediate supervisor or the administrator responsible for the action being grieved. The supervisor or administrator is encouraged to consider involving campus Mediation Services in an attempt to resolve the issue if the grievant is willing to participate in mediation.
- b. A grievant may ask the Vice Provost--Academic Personnel to assist in resolving the grievance if informal resolution with the immediate supervisor or responsible administrator has been unsuccessful.
- c. When a grievance alleges sexual harassment, the grievant may elect to substitute the campus sexual harassment complaint resolution process for Step I, as described in UCD Policy and Procedure Manual Section 380-12. If a grievant elects to use the campus sexual harassment complaint resolution process and the complaint is not resolved to the grievant's satisfaction, s/he may file a Step II formal grievance under APM-140-31-c.

### **140-32 Step II. Formal Grievance Review**

- a. If the grievance is not satisfactorily resolved through informal discussion at any of the Step I options, the grievant shall have the right to file for a formal grievance with the Vice Provost--Academic Personnel within the 30-day time limit specified in APM-140-23-a. The 30-day time limit for filing a Step II grievance begins on the date when the appointee knew, or could reasonably be expected to know, of the event or act that gave rise to the grievance. Attempts at informal resolution do not extend the time limits unless a written extension has been granted by the grievance liaison. If the grievant has used the sexual harassment complaint process as a method of informal resolution under Step I, the Step II grievance must be filed in writing with the grievance liaison within 15 calendar days from the date the grievant is notified of the result of the sexual harassment complaint or within 45 calendar days from the date the grievant filed the sexual harassment complaint, whichever is earlier. All other requests for extension to the 30-day time limit for filing a Step II grievance must be submitted on the Request for Extension form (Exhibit B).
- b. As the grievance liaison, the Vice Provost--Academic Personnel shall determine whether the grievance is complete, timely, within the jurisdiction of APM-140, and alleges specific facts supporting the allegation. If the grievance meets these conditions, the Vice Provost--Academic Personnel shall notify the grievant of the next steps within 10 calendar days, as per APM-140-32. If the grievance is not accepted, the Vice Provost--Academic Personnel shall notify the grievant of this decision.
- c. If the grievance is accepted, the Vice Provost--Academic Personnel forwards it to the appropriate department chair or comparable authority for review and written decision under the provisions of APM-140-32, specifying a due date for the response. If this individual is unable to render a fair and objective decision in the informal review, the Vice Provost--Academic Personnel shall appoint another administrator as the Step II reviewer.
  - 1) The reviewer shall meet with the parties and, if appropriate, explore options to resolve the grievance, including use of campus Mediation Services.
  - 2) If informal resolution is not appropriate, or if the parties do not agree to informal resolution, the reviewer will complete a full assessment of the allegations.
  - 3) Within 30 calendar days of the receipt of the grievance, the reviewer shall reply in writing to the grievant and to the Vice Provost--Academic Personnel, describing the reviewer's decision to deny or uphold the grievance and describing the grievant's right to appeal that decision to Step III.

- d. If a Step II grievance raises allegations of discrimination, harassment, or retaliation in violation of APM 035, the grievance liaison shall assign the matter to an investigator for review.
  - 1) The investigator will consult with the relevant campus compliance offices (e.g., Title IX, Title VII, ADA, Affirmative Action) as needed.
  - 2) The results of any related grievances or investigations shall be provided to the grievance liaison.
  - 3) At the discretion of the grievance liaison, information regarding related grievances or investigations may be forwarded to the Step II reviewer for consideration in making a Step II decision.

### **140-33 Step III. Appeal of the Formal Review Decision**

If the grievance is not resolved through the Step II formal review, the grievant may appeal, in writing, either for administrative consideration (Step III-A, below) or for hearing consideration (Step III-B, below). The appeal must be submitted to the Vice Provost--Academic Personnel on the form provided as Exhibit C and must include a statement as to why the grievant is appealing the Step II response. The appeal must be submitted within 15 calendar days from the date the Step II response was issued. All appeals are subject to administrative consideration (APM-140-33-b(1)) unless the issues are subject to a Step III hearing (APM 140-33-b(2)), the written appeal specifically requests a hearing, and the Vice Provost--Academic Personnel has determined that the grievance raises issues that are eligible for a hearing.

- a. Step III-A. Administrative Consideration

Except when otherwise eligible for consideration for hearing as described in APM-140-33-b(2)(a), the Vice Provost--Academic Personnel will forward the Step III grievance appeal to the Chancellor for a final decision. Within 30 calendar days of the receipt of the formal grievance, the Chancellor shall provide the grievant with a written decision including reasons why the Step II decision is approved, rejected, or modified and a statement that the decision is final.

- b. Step III-B. Hearing Consideration

Upon written request, an unresolved grievance may be appealed for hearing consideration when the complaint involves allegations specified in APM-140-33-b(2)(a). Within 15 days calendar days from the date the Step II response was issued, the grievant will submit to the Vice Provost--Academic Personnel a request for hearing consideration (Exhibit C). The Vice Provost--Academic Personnel shall select a University or non-University hearing officer as set forth in UCD-140-80 below, and shall schedule the hearing, which shall be conducted according to APM-140-80.

Within 30 calendar days of receipt of findings and recommendations of the hearing officer, the Chancellor shall notify the grievant in writing of his/her decision, including the reasons why the grievance is supported or rejected in whole or part, and will also provide a copy of the findings and recommendations of the hearing officer. The decision of the Chancellor shall be final and binding.

### **140-80 Selection of a Hearing Officer**

In accordance with UCD-140-33-b, above, the appointee may choose to be heard before a University hearing officer or a non-University hearing officer.

- a. If the appointee elects a hearing before a University hearing officer, the hearing officer shall be chosen in the following manner. By July 1 of each year, the Academic Freedom, Rights, and Privileges Committee of the Academic Federation and the Committee on Committees of the Academic Senate shall each assemble a list of names of responsible persons from the UCD faculty and non-student academic appointees who have agreed to serve as University hearing

officers. The Vice Provost--Academic Personnel will choose from this list the hearing officer who is able to conduct the hearing in an objective manner.

- b. If the appointee elects a hearing before a non-University hearing officer, the Vice Provost--Academic Personnel shall request from the American Arbitration Association or State Mediation and Conciliation Service a list of five names. Upon receipt, the parties shall arrange alternately to strike names, and the person whose name remains shall become the non-University hearing officer.

#### **140-85 General Provisions**

- a. The total time period from the initial grievance filing date to the date of the final decision by the appropriate administrative officer generally shall not exceed 90 calendar days unless a hearing is requested. The Vice Provost--Academic Personnel may grant reasonable requests for extensions of time. Such requests must be submitted to the Vice Provost--Academic Personnel in writing.
- b. Decisions on grievances shall be in accordance with University policies, regulations, and procedures that were in effect at the time that the grieved action occurred.
- c. The Vice Provost--Academic Personnel shall be the custodian of any tapes, stenographic, or other recordings upon receipt of the report and recommendations from the hearing officer. Such recordings shall be retained for 3 years.