

UC Davis Academic Personnel Manual

General University Policy Regarding Academic Appointees Section UCD-016, Procedures for Faculty Discipline

Date: 8/3/04

Supersedes: New

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, Academic Personnel Manual Section 016, the Chancellor has established these procedures for the formal administration of faculty discipline at the Davis campus. No disciplinary sanction for professional misconduct of a member of the Davis Division of the Academic Senate shall be imposed except pursuant to the procedures specified herein, in related Davis Division Bylaw 87.E, and consistent with Academic Senate Bylaw 336. The Chancellor will not appoint any current member of the Committee on Privilege and Tenure or any member of the accused's department or equivalent administrative unit as an investigator.

B. Scope

1. The formal preliminary investigation and disciplinary hearing procedures set forth in III, below, apply only to proceedings against members of the Academic Senate.
2. UCD-015, I.B.1, provides procedural guidance regarding formal discipline, hearings, and appeals for non-Senate academic appointees (APM-140, UCD-140, APM-150, UCD-150, and/or applicable collective bargaining agreement or memorandum of understanding).
3. UCD-015, III, provides procedural guidance regarding "informal disposition" options and procedures applicable to all academic appointees, unless otherwise precluded by contract or policy.
4. As provided in UCD-015, I.B.2, allegations of faculty misconduct in research shall be addressed first under UCD Policy & Procedure Manual Section 240-01, Integrity in Research. If disciplinary proceedings are warranted subsequent to a finding of research misconduct, such proceedings shall begin within 14 days after the Chancellor or Deciding Official (as defined in PPM 240-01) notifies the accused faculty member of the findings of the investigation.

C. Definitions

1. **Disciplinary Sanctions.** Discipline is defined to include 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 demotion and a suspension.
2. **Due Process.** University procedures afford safeguards against arbitrary or unjust disciplinary actions, including provision for hearings and appeal. Senate faculty members may accept the disciplinary sanctions as proposed by the Chancellor, or they may request a hearing before the Committee on Privilege and Tenure of the Davis Division of the

Academic Senate. Non-Senate faculty discipline and due process rights are outlined in APM-150 and UCD-150.

3. Faculty Conduct Standards. These UCD procedures are to be used in relation to proposed disciplinary sanctions that arise due to a violation of the University Faculty Code of Conduct in accordance with APM-015, APM-016, and Academic Senate Bylaw 336.

D. Time Limits

Any faculty disciplinary action must begin within 3 years after the Chancellor knew or should have known about the alleged violation of the Faculty Code.

II. Initiating the Discipline Process

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

1. When faculty misconduct allegations result in a finding of probable cause, as outlined in UCD-015, III.E.b, the Chancellor may issue a written notice of proposed disciplinary action containing sanction(s) as described in APM-016, II. This notice will include the faculty member's right to request a hearing with the Committee on Privilege and Tenure.
2. Within 15 calendar days after receipt of written notification from the Chancellor of the proposed sanctions, the faculty member will notify the Chancellor whether he or she accepts those findings and sanctions. If the faculty member accepts the proposed sanctions, the Chancellor will report the findings and the accepted sanctions to the Committee on Privilege and Tenure for information.
3. If the faculty member does not accept the proposed sanctions, he or she may request that the Committee on Privilege and Tenure conduct a formal hearing in accordance with the procedures described in III below, or may reach prior settlement with the Chancellor or waive the right to a hearing.
4. If the faculty member does not respond within 15 calendar days, the Chancellor will report the proposed sanctions to the Committee on Privilege and Tenure.
 - a. Consistent with the prehearing procedures for disciplinary actions as described in Bylaw 336, the charges shall be in writing and shall contain notice of proposed disciplinary action and a full statement of the facts underlying the charges. Upon receipt of the charges, the Chair of the Divisional Privilege and Tenure Committee shall promptly deliver a copy to the accused faculty member or send it by registered mail to the accused's last known place of residence.
 - b. The accused shall have 21 calendar days from the date of the receipt in which to file an answer in writing with the Committee. The Committee shall provide a copy of the answer to the Chancellor. Upon receipt of a written application, the Chair of the Committee may grant a reasonable extension of time for filing of an answer.
 - c. The Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. The Committee shall evaluate the case and establish time frames for all subsequent procedures. With the consent of both the accused and the administration, the Committee may refer the case for mediation

(Bylaw 336.C). If either the accused or the administration objects to mediation, the Committee shall appoint a hearing committee (Bylaw 336.D). As a general guide, a prehearing conference (Bylaw 336.D.2) shall be scheduled within 30 calendar days and a hearing (Bylaw 336.D) shall be scheduled within 90 calendar days of the appointment of a hearing committee. The accused shall be given, either personally or by registered mail, at least 10 calendar days' notice of the time and place of the hearing. The Chancellor or Chair of the Committee on Privilege and Tenure may for good reason grant an extension of any of these time limits.

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. If a negotiated resolution is reached after formal disciplinary charges have been filed with the Committee on Privilege and Tenure, the Chancellor will consult with the Chair of the Committee before finalizing the settlement.
6. Where a settlement resolving disciplinary charges is entered into after a matter has been referred to the Committee on Privilege and Tenure, the Chancellor will 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, Davis Division Bylaw 87.E, UCD-015, and UCD-016.
- B. Interim Suspension. While charges are pending against a faculty member, the Chancellor may impose interim suspension with pay, including suspension from teaching duties, when there is a high probability that the faculty member's continued assignment to his or her duties would cause immediate and serious harm to the University community, or would impede the investigation into wrongdoing, or when the conduct represents a serious crime or felony that is the subject of investigation by law enforcement.
- 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.B.3, the Committee on Privilege and Tenure shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. Consistent with APM-015, III.B.7, 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.
- D. Confidentiality. All investigations and hearings will be treated as confidential and open only to those persons directly concerned. 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.D.3, the Chancellor, the accused, and/or their representatives shall be entitled to be present at all sessions of the hearing panel 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 has the burden of proving the allegations by clear and convincing 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 shall be recorded by video or audio tape-recorder or other suitable electronic means. The hearing panel may, at its discretion, use a certified court reporter (cost paid by the administration).
- I. Findings of Fact, Conclusions, and Recommendations for Action. As provided by Bylaw 336, the hearing panel shall promptly make written findings of fact and conclusions, supported by a statement of reasons based on the evidence, as well as any recommendations for action. 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).
- J. Notice of Findings and Recommendations. Copies of the findings, conclusions, and recommendations of the Committee on Privilege and Tenure hearing panel will be transmitted to the accused faculty member, to the Chancellor, to the Chair of the Davis Division Committee on Privilege and Tenure, and to the Chair of the University Committee on Privilege and Tenure.
- K. 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.
- L. 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 or demotion where final authority rests with the President or The Regents (see APM-016, II).
- B. The Chancellor will inform the accused faculty member in writing of his/her final decision. The Chancellor will in no case propose sanctions more severe than those proposed in II.A.1 above.