

Office of the President

TO MEMBERS OF THE COMMITTEE ON EDUCATIONAL POLICY:

ACTION ITEM

For Meeting of July 18, 2013

AMENDMENT OF REGENTS POLICY 7401: THE FACULTY CODE OF CONDUCT AND THE POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE

EXECUTIVE SUMMARY

This item proposes amending Regents Policy 7401, to (1) incorporate revisions to Academic Personnel Manual (APM) Section 015, The Faculty Code of Conduct that were approved by the Assembly of the Academic Senate on June 12, 2013, and (2) affirm that the Regents have adopted and approved the provisions in APM - 015 and APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline. The proposed amendments to APM - 015 would include within the protections of academic freedom the freedom to freely express opinions regarding institutional matters, thus assuring faculty rights to actively participate in shared governance of the University. Additionally, revisions are proposed to conform with California state law clarifying that discrimination on the basis of “gender” and “gender expression” is among the types of discrimination that are prohibited and to insure that the definition of “service in the uniformed services” is consistent with both the federal Uniformed Services Employment and Reemployment Act of 1994 and California’s Military and Veterans Code Section 394.

RECOMMENDATION

The President recommends that the Committee on Educational Policy recommend to the Regents that Regents Policy 7401: The Faculty Code of Conduct and the Policy on Faculty Conduct and the Administration of Discipline be amended as shown in Attachments 1 and 2.

BACKGROUND

At its meeting on January 26, 2011, the Academic Council adopted a resolution proposed by the Committee on Academic Freedom to recommend revising the language of Section 015 of the APM to include within the protections of academic freedom the freedom to speak on matters of institutional policy. Since that time, Academic Personnel has been in consultation with the President, the Academic Senate, the Office of General Counsel, and campus administration. The revisions to APM - 015 included herein were approved by the Assembly of the Academic Senate on June 12, 2013.

The revisions proposed and approved by the Assembly are believed to be required to assure faculty rights to actively participate in the shared governance of the University by incorporating within academic freedom the right to freely express opinions regarding institutional matters. Consistent with the policy on academic freedom, APM - 010, “the exercise of all aspects of academic freedom...” will continue to entail “...correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty. These duties are set forth in the Faculty Code of Conduct (APM - 015).”

Additional language is adopted in APM - 015 to conform with California State law. Specifically, revisions reflect a change in California’s Fair Employment and Housing Act (FEHA), California Government Code Section 12900 et seq., which prohibits discrimination in employment. The California Legislature amended FEHA to clarify that discrimination on the basis of “gender” and “gender expression” is among the prohibited types of discrimination. Revisions were also made to insure that the definition of “service in the uniformed services” is consistent with both the federal Uniformed Services Employment and Reemployment Act of 1994 (USEERA) and California’s Military and Veterans Code Section 394.

Currently the language of Regents Policy 7401 does not expressly refer to APM - 015. Rather, it says “This policy is the Faculty Code of Conduct” and includes a hyperlink to APM - 015. Policy 7401 says that additional policies on faculty conduct and discipline are found at APM - 016, but it does not expressly state that APM - 016 is Regental policy. To remove these ambiguities, Policy 7401 would be amended to expressly refer to APM - 015 and APM - 016, and clarify that the Regents have adopted as Regental policy APM - 015 as approved by the Assembly of the Academic Senate on June 12, 2013 and APM-016 as approved by the Regents on November 15, 2001. Subsequent changes to APM - 015 and APM - 016 must be approved by the Regents.

Additions shown by underscoring; deletions shown by strikethrough

Regents Policy 7401: THE FACULTY CODE OF CONDUCT AND THE POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE

This policy is the Faculty Code of Conduct, as approved by the Assembly of the Academic Senate on June 15, 1971, and amended by the Assembly on May 30, 1974, and with amendments approved by the Assembly on March 9, 1983, May 6, 1986, May 7, 1992, October 31, 2001, ~~and~~ May 28, 2003, and June 12, 2013, and by The Regents on July 18, 1986, May 15, 1987, June 19, 1992, November 15, 2001, ~~and~~ July 17, 2003, and July 18, 2013. In addition, technical changes were made September 1, 1988.

Additional policies regarding the scope and application of the Faculty Code of Conduct and the University's policies on faculty conduct and the administration of discipline are set forth in APM - 015, the Faculty Code of Conduct, and APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline.

Deletions shown by strikeouts, additions by underscore.

The Faculty Code of Conduct – APM – 015

Part I – Professional Rights of Faculty

In support of the University's central functions as an institution of higher learning, a major responsibility of the administration is to protect and encourage the faculty in its teaching, learning, research, and public service. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to the faculty, include, for example:

1. free inquiry, and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. freedom to address any matter of institutional policy or action when acting as a member of the faculty whether or not as a member of an agency of institutional governance.
- 4.5. participation in the governance of the University, as provided in the Bylaws and Standing Orders of The Regents and the regulations of the University, including
 - (a) approval of course content and manner of instruction,
 - (b) establishment of requirements for matriculation and for degrees,
 - (c) appointment and promotion of faculty,
 - (d) selection of chairs of departments and certain academic administrators,
 - (e) discipline of members of the faculty, and the formulation of rules and procedures for discipline of students,
 - (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
 - (g) determination of the forms of departmental governance;

5.6. the right 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.

Part II. – Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct

A. Teaching and Students

Types of unacceptable conduct:

2. Discrimination, including harassment, against a student 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.
