

Office of the President

TO MEMBERS OF THE ACADEMIC AND STUDENT AFFAIRS COMMITTEE:

DISCUSSION ITEM

For Meeting of January 22, 2025

FACULTY DISCIPLINE AND DISMISSAL POLICIES AND PROCESS

EXECUTIVE SUMMARY

The Regents have requested a discussion item on Senate faculty discipline and dismissal policies and process, as well as the Faculty Code of Conduct. Accordingly, this item provides an overview of the relevant policies, procedures, and bylaws related to faculty discipline and dismissal, including Academic Personnel Manual (APM) - 015, APM - 016, APM - 150, Regents Bylaws, and Academic Senate Bylaws, as well as a summary of the way in which policies on Sexual Violence and Sexual Harassment (SVSH), Anti-Discrimination (A-D), and Abusive Conduct interplay with the process timelines of a misconduct charge. This item also includes an overview of the discipline and dismissal policies and process for non-Senate academic appointees (including non-Senate faculty), policy-covered staff employees, and represented employees.

In October 2024, UC Provost and Executive Vice President Katherine Newman charged a Joint Senate-Administration Workgroup led by Academic Council Chair Steven Cheung and Interim Vice Provost Douglas Haynes to review APM - 015 and APM - 016 related to expressive activities. The workgroup found that existing policies are sufficient to provide for, and cover conduct related to, free speech, campus safety, and access to educational facilities and opportunities, and that APM - 016 is robust in its allowance of disciplinary consequences for policy violations. However, the workgroup identified some potential improvements in implementation of the policies in order to provide greater consistency throughout the system with respect to disciplinary sanctions. They recommended that a joint Senate-Administration workgroup propose systemwide disciplinary sanction guidelines, similar to the systemwide SVSH Faculty Respondent Disciplinary Sanction Guidelines. They also noted that these guidelines should be modified to reflect protections for freedom of expression, academic freedom, community safety, and access to educational opportunities, and in compliance with the California Penal Code.

The workgroup also recommended that a case-tracking system be developed and implemented at each location for Faculty Code of Conduct cases, with the objective of gaining greater consistency if the data shows otherwise when discipline is imposed in cases with similarly situated facts. In addition, it would provide data on what type of discipline is being imposed for what types of conduct, how long cases are taking, and where bottlenecks to timely case resolution may lie. This reform would parallel the case-tracking systems developed by Title IX /civil rights offices for cases under the SVSH and A-D policies, as well as by Academic

Personnel/Human Resources for abusive conduct cases. Work has begun to implement these recommendations.

In the presentation at the January Regents meeting, several additional reforms – designed to increase accountability and efficiency – will be presented for possible consideration by a successor task force.

BACKGROUND

Due Process Requirements for all Employees: Notice and Opportunity to Respond Before Discipline is Imposed

When facing dismissal for cause, public sector employees in California who have a property interest in their employment have due process rights, including the right to pre-deprivation notice and an opportunity to respond before disciplinary action is taken, as well as to a post-deprivation full evidentiary hearing.

Skelly Hearing

According to the California Supreme Court decision in *Skelly v. State Personnel Board*, permanent public employees are entitled to certain procedural safeguards before any serious discipline may be imposed.¹ Employers are required to provide the employee with: (1) notice of the proposed disciplinary action; (2) the reasons for the proposed disciplinary action; (3) a copy of the charges and material upon which the proposed disciplinary action is based; and (4) the right for the employee to respond, either verbally or in writing, to the employer issuing the discipline.

Skelly reviewers, assigned by a location to each case, must be reasonably impartial, not involved in the disciplinary action proposed, and generally be an individual at the University who has the experience and authority to evaluate the appropriateness of the proposed disciplinary action. After reviewing any response, the Skelly reviewer then makes a recommendation about upholding, reducing, or revoking the proposed discipline. The reviewer does not have the authority to increase the disciplinary action to a higher sanction.

The Skelly Hearing requirement is met through different policies and procedures depending on the University employee group, including via the Academic Senate Privilege and Tenure (P&T) hearing process for Senate faculty and the Notice of Intent/Notice of Action process outlined for all other employees.

Post-Deprivation Hearing

The “Post-Deprivation Hearing” provides that public employees are entitled to a full evidentiary hearing after the discipline has been imposed where the employer must prove its case. This standard is separate and distinct from the Skelly process.

¹ At-will, probationary, and temporary employees, including Senior Management Group (“SMG”), Manager and Senior Professional (“MSP”) are not entitled to a Skelly process or hearing.

Historical Background on Faculty Discipline and Dismissal Policies

For tenured faculty, there are more pre-deprivation processes because faculty tenure is foundational to the University of California's mission to foster independent inquiry, advance knowledge, and serve the public good. The privilege and protections of tenure ensure that faculty can pursue research, teaching, and service without fear of political, ideological, or administrative interference. Tenure safeguards academic freedom by protecting faculty from dismissal based on controversial ideas, unpopular research, or criticism of institutional policies. Tenure also strengthens the faculty's role in shared governance by empowering them to participate in decision-making processes and institutional oversight without fear of reprisal.

Regental, Presidential, and Academic Senate policies govern matters of faculty misconduct in the spirit of shared governance.² It is the responsibility of the Chancellors to “oversee all faculty personnel” at their respective campuses and to be “responsible for... discipline.” (Regents Bylaw 31.) Members of the Senate are entitled to due process protections that are fundamental to the tenets of academic freedom.³

Regents Policy 7401, The Faculty Code of Conduct and the University Policy on Faculty Conduct and the Administration of Discipline, draws on Academic Personnel Manual (APM) Section 015 and 016 to center the crucial responsibilities of all faculty:

The Faculty Code of Conduct (1) sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty’s pursuit of the University’s central functions, (2) defines normative conditions for faculty conduct and sets forth types of unacceptable faculty conduct subject to University discipline, and (3) makes recommendations and proposes principles and guidelines to ensure the development of fair procedures for enforcing the Code.

University Policy on Faculty Conduct and the Administration of Discipline defines the conditions under which specific types of disciplinary sanctions may be imposed and the procedures for imposition of disciplinary sanctions.

APM - 015 and APM - 016 define ethical standards and professional responsibilities for UC faculty, define both acceptable behavior and misconduct to guide faculty conduct in teaching, research, and service, and provide the procedural framework for implementing disciplinary measures, detailing how disciplinary actions are initiated, reviewed, and resolved.

Since its issuance in 1974, Part I of the Faculty Code of Conduct has incorporated the element of peer review and faculty participation in faculty discipline:

² Regents Bylaw 40.1 states, “The Regents recognize that faculty participation in the shared governance of the University of California through agency of the Academic Senate ensures the quality of instruction, research and public service at the University and protects academic freedom.” Regents Bylaw 30 states that the President of the University “is expected to consult with the Academic Senate, consistent with the principles of shared governance, on issues of significance to the general welfare and conduct of the faculty.”

³ “[A]ny member of the Academic Senate shall have the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare” (Regents Bylaw 40.3(b)), which matters include whether to discipline a faculty member (APM - 015, III.A.2).

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...[including] 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.

Both APM - 015 (Faculty Code of Conduct) and Senate Bylaw 336 also provide that a hearing committee cannot recommend a disciplinary sanction more severe than that proposed by the Chancellor. The provision in APM - 015, APM - 016, and Senate Bylaw 336, which prohibits a Chancellor from imposing a penalty more severe than what is articulated in the notice of intent, was grounded in principles of due process and on the principle that the same individual cannot serve as both investigating officer and judge in the same case. This is also similar to processes for other UC employees, where notice is given of proposed discipline before it is imposed, and the discipline is not increased after the notice is given.

Overview of Privilege and Tenure Committees and Their Scope

The University Committee on Privilege and Tenure (UCPT) is a systemwide Academic Senate committee that advises the President, the Academic Senate and its divisions, and divisional P&T committees on policies related to academic privileges, tenure, and faculty disciplinary processes across the UC system.⁴ Each divisional P&T⁵ manages individual cases on their campus, which fall into three primary categories: (1) Grievance cases brought by faculty members who claim injury through the violation of their rights and privileges; (2) Cases of faculty misconduct under APM - 015 and ensure procedural compliance with APM - 016; and (3) Proposed dismissal of both Senate and non-Senate faculty members before the expiration of the faculty member's appointment.

Allegations of Misconduct

Prior to the initiation of discipline, misconduct must be first identified and assessed to determine which category of policy or concern it falls under.⁶ Misconduct may include violations of the SVSH, Anti-Discrimination, Abusive Conduct policies, other University policies, or of other provisions of the Faculty Code of Conduct itself.

⁴ The Senate Bylaws establish a framework for addressing faculty grievances, disciplinary actions, and dismissal cases across all UC campuses: Bylaw 195 defines the membership and duties of UCPT. Bylaw 334 outlines the jurisdiction and guiding principles for divisional P&T committees, including their roles in handling grievances, disciplinary actions, and early dismissal disputes. Bylaw 335 governs faculty grievances, ensuring they are evaluated impartially through peer review or early resolution. Faculty have the right to present evidence and receive a formal decision. Bylaw 335 includes provisions that allow P&T to work with administrators on early resolution of grievance cases. Bylaw 336 provides a uniform framework for handling disciplinary hearings for alleged violations of the Faculty Code of Conduct (APM - 015), including timelines and evidentiary standards.

⁵ Each campus has their own P&T, which often consists of approximately 8-9 faculty members. A Hearing Committee is typically 3-4 faculty members, usually from those on P&T. The Chair of P&T is responsible for appointing the Hearing Committee. Senate Bylaw requires that the Chair of the Hearing Committee be a current member of P&T, and that the majority of the Hearing Committee be current or former members of P&T. The P&T receives training and guidance from a UC Legal representative in conducting the hearing.

⁶ A University member with concern about potential faculty misconduct may raise the concern to the faculty member's department, the Academic Personnel office, or other designated office.

Review and Investigation of Misconduct Allegations

Depending on the alleged policy violation at issue, there are distinct procedures and timelines for determining whether the behavior rose to the standard of prohibited conduct under policy. The table below provides an overview of minimum timeframes provided for in policy, from the initial assessment to written notice of intent to discipline or charges filed for the following policies:

	SVSH (DOE & Non-DOE)	Anti-Discrimination	Abusive Conduct
Initial Assessment	60–90 business days*	As soon as practicable	Within 30 days
Formal Investigation		60–90 business days*	120 business days*
Response to Report (Non-DOE)	5 business days	N/A	N/A
Charges Decision/Submission	40 business days*	Defers to other policies	Defers to other policies

**May be extended for good cause.*

Sexual Violence and Sexual Harassment Policy and Anti-Discrimination Policy

The University has two systemwide anti-discrimination policies, which apply to all University employees, students, and third parties: the Sexual Violence and Sexual Harassment Policy (SVSH Policy) and the Anti-Discrimination Policy (A-D Policy). While there are some variations in complaint resolution process steps for these policies, the key stages are similar, as follows: 1) Initial Assessment; 2) Formal Investigation or U.S. Department of Education (DOE) Grievance Process; and 3) Discipline/Corrective Action, as applicable. The SVSH Policy also provides for appeals in certain circumstances. Pursuant to the A-D Policy, any member of the University community who is found to have engaged in Prohibited Conduct may be subject to corrective/disciplinary action, up to and including termination/dismissal, pursuant to the applicable University disciplinary procedure or other policy that applies to that employee.

Initial Assessment: Calculating an average length of time for this stage is difficult. Complainants are given information about their resolution options and support resources, and the Title IX Officer or Local Implementation Officer makes an immediate assessment of the health and safety of the Complainant and the campus community. This officer seeks to honor the preferences of the Complainant whenever possible, including with respect to timing as the traumatic nature of SVSH takes a toll on its victims that can require time before a formal complaint process is emotionally feasible. Some Complainants wait weeks or even months between their initial contact with a campus civil rights office and their subsequent contacts and communications as to their preferred course of action, whether reporting a concern or filing an official complaint. In any case, the initial assessment stage typically takes 30 business days, but it can be elongated if the response from the Complainant takes time and/or other measures (coordination with law enforcement) is needed.

Formal Investigation or DOE Grievance Process (includes Evidence Gathering, Evidence Review, Investigation Report, and Notice of Outcome): The policies estimate that the investigation will be completed within 60 to 90 business days. The Title IX Officer and/or Local

Implementation Officer may extend the timeframe past 90 business days for sufficient basis or good cause (*i.e.*, material or unforeseen circumstances that are directly related to the complaint and impede completion within the projected timeframes).⁷ Extensions that exceed 150 business days must be approved by the Systemwide Title IX Director. Completing the investigation and issuing a report is also variable in the length of time it takes to complete, depending on the number and availability of parties and witnesses, the volume of evidence, the number of potential policy violations, the length of the report, existence of cross-complaints, review and response periods, and the complexity of the matter.

DOE Grievance Process – SVSH Policy (includes Title IX Hearing): Once the formal investigation is complete and a preliminary determination is issued, the Title IX Officer informs the parties of their right to contest or accept the investigator’s preliminary determination and have a Title IX hearing to determine whether the SVSH Policy was violated. This timeframe can be affected by whether the parties accept the preliminary findings, the willingness and availability of parties and witnesses to participate, the need to secure external hearing officer, the scope of the hearing, academic calendar, etc.

UC DOE Grievance Process Policy Deadlines	
Notice of Findings	15 business days from conclusion of investigation
Response to Report + Notice of Hearing	20 business days
DOE Hearing: Pre-Hearing Notice	10 business days
DOE Hearing	<i>No timeframe</i>
DOE Determination	Within 15 business days of conclusion of hearing
DOE Appeal Request	20 business days
DOE Appeal Decision	10 business days

Discipline/Corrective Action - The report is transmitted to the appropriate authority (e.g., for faculty, the Chancellor or Chancellor’s designee) for discipline and/or corrective action, in consultation with the Title IX Officer or Local Implementation Officer. Under the SVSH Policy, the notice of intent to discipline is to be issued within 40 business days of receipt of the outcome from the Title IX Office, which may be extended for good cause.

Abusive Conduct

For all employees, faculty and staff, allegations of abusive conduct are referred to a designated local campus office (e.g., Academic Personnel Office, Human Resources, professionalism committees, etc.). The facilitating manager or University office initiates the early resolution process promptly, typically within 60 to 75 business days after the initial assessment of a report, a period that can lengthen if there is good cause. Should a formal investigation be needed, the designated office has within 120 business days to complete the investigation. This too can be

⁷ Good cause material examples include the number, complexity, and severity of allegations; the number of parties or witnesses; considerations of the health or emotional well-being of the parties; and the need to provide language assistance to a party or key witness. Good cause unforeseen examples include serious illness of a party or witness; discovery of new evidence late in the process; a party’s approved request for additional time to review the evidence packet; and a party’s approved request for additional investigation after review of the evidence.

extended past 120 business days by the designated office for good cause. Should the Chancellor or their designee choose to proceed with disciplinary charges, the procedures under the relevant policies (e.g., APM - 015/016, APM - 150) apply.

Faculty Code of Conduct

APM - 015 dictates that the Chancellor (or their designee) must initiate disciplinary charges stemming from the Faculty Code of Conduct no later than three years after the Chancellor is deemed to have known about the alleged violation. The systemwide policy recommends that local guidelines determine further specific timeframes. Ideally, a hearing will commence within 90 days of the date of any notice of intent to discipline. In April 2019, the Academic Senate approved amendments to Senate Bylaw 336, which required that 1) hearings on alleged violations of the Faculty Code of Conduct, irrespective of their nature, be scheduled before the P&T within 60 days of the Chancellor filing charges, unless an extension is granted for good cause; and that 2) P&T issue its recommendation to the Chancellor no more than 30 days after a hearing concludes.

Process Step	Timeframe
P&T Hearing Scheduled to Begin (including completion of all prehearing procedures)	60 calendar days from charges filed*
P&T Hearing	1-2 Weeks**
P&T Report Due	30 calendar days after hearing concludes
Chancellor's Recommendation	Typically within 30 days after P&T Report

*May be extended for good cause.

**Across UC's 10 divisions, hearings average 3.15 days, ranging from 1 to 5 days. The length of the hearing is dependent on the complexity of the case or the amount of testimony on both sides. Generally, a hearing is conducted over 2-3 days.

APM - 016: University Policy on Faculty Conduct and the Administration of Discipline

In order of increasing severity, the types of discipline that may be imposed on a member of the faculty include: (1) Written Censure; (2) Reduction in Salary (without reduction in rank or step); (3) Demotion (reduction in rank or step); (4) Suspension (without pay); (5) Denial or Curtailment of Emeritus Status; and (6) Dismissal.

The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case. More than one disciplinary sanction may be imposed for a single act of misconduct (e.g., a letter of censure and a suspension).⁸ The Chancellor may also impose additional appropriate remedial or corrective sanctions not set forth in the policy, but only with the consent of the accused faculty member.

The authority for each discipline type is as follows:

⁸ On June 28, 2024, at the request of The Regents, UC System Provost and Executive Vice President Katherine S. Newman issued systemwide guidelines, requesting that when Chancellors recommend dismissal of a faculty member who has tenure or security of employment under APM - 016 to the President, that they also impose the disciplinary sanction of suspension without pay.

Type of Disciplinary Action	Final Authority
Written Censure	Chancellor or Designee
Reduction in Salary	Chancellor
Demotion	Chancellor (<i>for demotions of step</i>) President (<i>for demotions of rank</i>)
Suspension (without pay)	Chancellor
Denial or Curtailment of Emeritus Status	President
Dismissal	Chancellor (<i>without tenure or security of employment</i>) Regents (<i>tenured or security of employment</i>)

Procedures for Imposition of Disciplinary Action (APM - 016, Senate Bylaw 336)

When an alleged violation of the Faculty Code of Conduct (APM - 015) is identified, the Chancellor or Chancellor’s designee (“administration”) can file disciplinary charges within three years of being deemed to know about the misconduct.

Senate Hearing Process

As noted earlier, faculty have the right to request a hearing with the Academic Senate before discipline is imposed by the administration.⁹ The P&T committee receives the charges once probable cause is established, in accordance with local implementation procedures. The accused faculty member receives a copy of the disciplinary charges, as well as written notice of the deadline for submitting a response to the disciplinary charges and the deadline for commencing the hearing and has 14 calendar days to provide an answer in writing to the P&T committee, who provides it to the administration. The accused faculty member can at this point in the process decide to accept the discipline proposed and forego the hearing altogether.

Within five days from the filing of disciplinary charges with the P&T committee, it must coordinate with all parties to schedule the hearing that must take place within 60 calendar days from the filing. Senate Bylaws require that all parties must give priority to the scheduling of a hearing and cooperate in good faith during the scheduling process. It further dictates that a hearing shall not be postponed because the accused faculty member is on leave or fails to appear.¹⁰

At the hearing, each party has the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross examination for a full and true disclosure of the facts. The administration has the burden of proving the allegations by clear and convincing evidence, except for allegations of a violation of the University’s policy

⁹ Regent’s Bylaw 40.3(c) Tenure: “All appointments to the positions of Professor and Associate Professor and to positions of equivalent rank are continuous in tenure until terminated by retirement, demotion, or dismissal. The termination of a continuous tenure appointment or the termination of the appointment of any other member of the faculty before the expiration of the appointee’s contract shall be only for good cause, after the opportunity for a hearing before the properly constituted advisory committee of the Academic Senate, except as otherwise provided in a Memorandum of Understanding for faculty who are not members of the Academic Senate.”

¹⁰ Extensions are permissible for good cause and must be approved by the chair of the P&T committee or assigned hearing committee chair.

on SVSH, where the administration has the burden of proving the allegations by a preponderance of the evidence.

The hearing committee makes its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, which is then forwarded to the parties in the case, not more than 30 calendar days after the conclusion of the hearing. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The hearing committee may, however, 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.

Chancellor's Decision or Recommendation

Upon receipt of the P&T hearing committee's report, Chancellors determine whether the Faculty Code of Conduct was violated, and if so, decide upon the appropriate sanction (which cannot be more severe than that proposed by the initial charges). In cases where a Chancellor's decision varies from the recommendation of the P&T, the Chancellor must inform the chair of the committee in writing and ask if they would like a meeting prior to making a final decision or recommendation.

If the determination is to demote rank, deny/curtail emeritus status, or dismiss a faculty member with tenure or security of employment, the Chancellor forwards their recommendation to the Office of the President. For determinations of written censure, reduction in salary, demotion of step, suspension without pay, or dismissal of a faculty without tenure or security of employment (e.g., Assistant Professors), the authority to impose discipline remains with the Chancellor.

Presidential Step

Once the Chancellor forwards their recommendation to the Office of the President, the Systemwide Provost and Executive Vice President for Academic Affairs reviews the case.¹¹ Upon careful and deliberative review of the facts, documentation, and policies, the Provost makes a recommendation to the President on the decision to recommend, demotion of rank, denial/curtailment of emeritus status, or dismissal. The President further reviews the case and either decides to demote or denial/curtail emeritus status action or makes a final recommendation to the Board of Regents for cases of dismissal.

Regental Step

As established within Regents Bylaws and APM - 016, The Regents of the University of California serve as the final decision maker for dismissal of faculty with tenure or security of employment. Once the President makes their final recommendation, the Board of Regents schedules a meeting for a formal vote on a final decision. The faculty member has the right to attend the Regents' session where their case is heard and provide a statement in response ahead of time. Both parties—the administration and the faculty member—present their case and answer

¹¹ The system provost consults with both the Vice Provost for Faculty Affairs and Academic Programs and the Deputy Provost for Systemwide Academic Personnel in this review.

questions. The Regents then vote on a decision to dismiss, and the parties are subsequently informed of the decision.

Procedures for Discipline and Dismissal of Non-Senate Faculty and Other Academic Appointees (APM - 150)

APM - 150, non-Senate academic appointees, including non-Senate faculty, who are not covered under a collective bargaining agreement are subject to the general authority of the Chancellor over implementation of the policy. Should there be a finding of misconduct or performance issue, the corrective actions available under APM - 150 include: (1) Written Warning; (2) Written Censure; (3) Suspension Without Pay; (4) Reduction in Salary; (5) Demotion, or; (6) Dismissal. For all corrective actions above a Written Warning, a Notice of Intent is required to be issued. The respondent then has 14 calendar days to respond either orally or in writing. If the University institutes corrective action or dismissal following the review of any timely response, within 30 calendar days of the date of issuance of the Notice of Intent, the University issues a written Notice of Action and the effective date of the corrective action or dismissal. Such action cannot be more severe than the action proposed in the Notice of Intent.

Before non-Senate faculty can be terminated¹², they must be afforded the opportunity for a hearing before the Academic Senate. They are entitled to select one grievance review mechanism, either APM - 140 (the non-Senate Academic Appointee Grievance Procedure), or an Academic Senate hearing as provided by Regents' Bylaw 40.3(c). Should the non-Senate faculty appointee elect a hearing before the Academic Senate, any Notice of Action is placed in abeyance pending its completion and the issuance of the advisory report by the properly constituted Senate committee.

Grievance and Hearing Rights for Non-Senate Faculty and Other Academic Appointees (APM - 140)

Within 30 days of a corrective action or dismissal action, a non-Senate academic appointee, including non-Senate faculty, may file a grievance under the procedures outlined in APM - 140. There are three steps under these procedures: (1) Informal Resolution; (2) Formal Grievance; and (3) Appeal/Hearing. Informal resolution does not pause the deadline to file a formal Step II grievance within 30 days of separation or issuance of corrective action. The procedures of the hearing are governed by APM - 140 and the hearing officer makes findings of fact based upon the evidence presented at the hearing. The Chancellor must review the hearing officer's findings and recommendations and issue a final written decision within thirty (30) calendar days of receipt of the hearing officer's findings and recommendation(s).

Discipline, Dismissal, and Grievance Rights for Staff and Represented Employees

Similar to both Senate faculty and non-Senate academic appointees, policy-covered staff and represented employees, including represented academic appointees, have due process rights that

¹² Pursuant to Regents Bylaw 40.3(c)

are afforded to them by University policy and collective bargaining agreements, and in accordance with the legal due process standards public employers must meet.

Policy-Covered Staff Employees

Staff employees covered under the University of California Personnel Policies for Staff Members (PPSM) are owed a Notice of Intent prior to most disciplinary and dismissal actions. While there is variance between Professional and Support staff, Management and Senior Professionals, and Senior Management Group, generally, a Professional and Support staff employee facing dismissal has eight calendar days to respond to a Notice of Intent (Skelly process) and once terminated, is afforded grievance rights under PPSM-70 (post-deprivation rights).

PPSM-70 is structured similarly to APM - 140 for non-Senate academic appointees, and the grievance steps are analogous, including the availability of a full evidentiary hearing post-termination. The grievant has 30 calendar days to file their grievance after receiving a corrective action or dismissal notice. However, unlike APM - 140, the systemwide policy does not prescribe any additional timelines and instead defers to campuses' local procedures. However, given the similar steps, it can be reasonably assumed that the timeframes will generally be on par as grievances for non-Senate academic appointees.

Represented Employees

All represented employees at the University of California are afforded grievance and arbitration rights under their collective bargaining agreement (CBA). When facing dismissal, represented academic appointees typically have 14 or 15 calendar days to respond to a Notice of Intent (Skelly process) and can file a grievance under the terms of their CBA, normally within 30 calendar days of receiving a dismissal notice. Grievance steps vary between CBAs, but there usually is 1-2 grievance steps at the campus level, with generally 30-day deadlines for any University responses at each step. If not resolved at the campus level, the grievance may be appealed to UCOP for a final review, which is another 30 days afforded to the University to respond. Within the timelines established in their CBA, the unions may appeal further to bring the case before binding arbitration, where a fully evidentiary hearing takes place.

Recommendations from the 2024 Joint Senate-Administration Workgroup re APM – 015 and APM - 016

On October 1, 2024, UC Provost and Executive Vice President Katherine Newman charged a Joint Senate-Administration Workgroup led by Academic Council Chair Steven Cheung and Interim Vice Provost Douglas Haynes to review APM - 015 and APM – 016. They were requested to provide recommendations on whether the Faculty Code of Conduct is sufficiently comprehensive to ensure free expression and community safety. Upon careful review of these and other related policies, workgroup participants concluded that existing policies are sufficient to provide for free speech, campus safety, and access to educational facilities and opportunities.

The workgroup also reviewed APM - 016 with consideration of scenarios related to expressive activity. This review yielded a consensus that each case is fact specific and that imposition of stringent rules would undermine the ability of campus leaders to consider contextual factors and conduct multidimensional assessments. The workgroup thus concluded that UC policy is robust in its allowance of disciplinary consequences for policy violations, but identified recommendations for improvements in consistency and tracking that would enable evaluation of timely resolution of cases.

The workgroup recommends that the University issue guidelines that provide calibrated disciplinary responses to policy violations that are similar to the systemwide SVSH Faculty Respondent Disciplinary Sanction Guidelines but are modified to reflect protections for freedom of expression, academic freedom, community safety, and access to educational opportunities, and in compliance with California Penal Code. The weighting of factors in discipline decision-making would be based on the seriousness of the conduct, special circumstances, and the relative status of the Complainant and Respondent. The development of the modified systemwide guidelines should be informed by a joint Senate-Administration workgroup since community safety, access to education, freedom of expression, and academic freedom are all values that are important to uphold and retain and require careful review and analysis. Freedom of speech and academic freedom, however, are not limitless and, for example, do not protect speech or expressive conduct that violates federal or state laws. In addition, when faculty are engaged in teaching, research, scholarship, or the public dissemination of knowledge, as defined in APM - 010, they are entitled to the protections of academic freedom, but they are also obligated by the responsibilities specified in the Faculty Code of Conduct.

The workgroup also recommends that, similar to case-tracking systems developed by Title IX offices/civil rights offices for cases under the SVSH and A-D policies, as well as by Academic Personnel/Human Resources for abusive conduct cases, a case-tracking system be developed and implemented at each location for Faculty Code of Conduct cases. This case-tracking system would provide data to understand what type of discipline is being imposed for what types of conduct, how long cases are taking, and where bottlenecks to timely case resolution may lie. The Office of the President should convene the campuses on a regularly established cadence to review and evaluate the data with the objective to gain better consistency if the data show lack of consistency in imposing discipline in cases with similarly situated facts.

KEY TO ACRONYMS

A-D Policy	Anti-Discrimination Policy
APM	Academic Personnel Manual
DOE	Department of Education
P&T	Privilege & Tenure Committee
PPSM	Personnel Policies for Staff Members
SVSH	Sexual Violence and Sexual Harassment
UCPT	University Committee on Privilege and Tenure