

Office of the President

TO MEMBERS OF THE ACADEMIC AND STUDENT AFFAIRS COMMITTEE:

DISCUSSION ITEM

For Meeting of May 14, 2025

UPDATE ON FACULTY DISCIPLINE AND DISMISSAL POLICIES AND PROCEDURES: JOINT SENATE-ADMINISTRATION WORKGROUP RECOMMENDATIONS

EXECUTIVE SUMMARY

The UC Board of Regents have requested an update on item A5, *Faculty Discipline and Dismissal Policies and Process*, from the January meeting and the recommendations of the Joint Senate-Administration workgroup related to faculty discipline policies and procedures. The January discussion item provided an overview of the relevant policies, procedures, and bylaws related to faculty discipline and dismissal, as well as a summary of the way in which policies on Sexual Violence and Sexual Harassment, Anti-Discrimination (A-D), and Abusive Conduct interplay with the process timelines of a misconduct charge.

BACKGROUND

Following the January 2025 Regents' meeting, The Regents sent both President Michael V. Drake and Academic Council Chair Steven W. Cheung a letter requesting that the administration and the Academic Senate undertake a comprehensive review of the policies and procedures governing the faculty disciplinary process, including Part III of the Faculty Code of Conduct, found in Academic Personnel Manual - 015 (APM - 015)' APM - 016 – University Policy on Academic Conduct and the Administration of Discipline; the Bylaws 195 and 334 to 337 of the Academic Senate, relating to faculty disciplinary cases; and campus policies and procedures that govern the administration of discipline. In addition, at the January meeting, UC System Provost and Executive Vice President Katherine Newman made commitments to the Regents as to additional items to review that may facilitate timely completion of faculty discipline cases and consider case-flow monitoring tools that may be used for data-driven process improvements in the future.

Since the January meeting, at the direction of President Drake and Provost Newman, co-chairs Academic Council Chair Steven Cheung and Interim Vice Provost Douglas Haynes convened a joint Senate-administration workgroup, consisting of ten faculty and ten administrators from the ten campuses and a representative from UC Legal. The Senate-Administration workgroup participants and the groups consulted together represent considerable expertise in, and years of experience with, research, policy, procedure, and practice related to employee discipline policies

and procedures. The workgroup completed its work within the prescribed timetable. All parts of the workgroup's charge were considered, reviewed, and responded to. The workgroup met six times, worked collaboratively between meetings, reviewed and analyzed a great many existing and newly prepared documents and surveys, consulted with the University Committee on Privilege and Tenure (UCPT), Systemwide Office of Civil Rights, and Ethic, Compliance, and Audit Services, campus Academic Personnel offices and campus experts, and sent the draft recommendations to the UCPT Chair and the University Committee on Faculty Welfare (UCFW) Chair for review.

The combined set of deliverables and the workgroup recommendations are summarized below:

1) Develop systemwide guidance on calibrating disciplinary sanctions related to APM - 016 misconduct cases.

The workgroup developed systemwide calibration guidance that provides for greater consistency in the administration of discipline across the system for misconduct in the realm of expressive activities. The guidelines provide advisory committees and decision makers with benchmarks for recommending and approving disciplinary sanctions based on the severity of the misconduct, its impact on the University community, and mitigating and aggravating circumstances. A systemwide calibration of disciplinary sanctions guidance currently exists for the Sexual Violence and Sexual Harassment (SVSH) Policy. The workgroup modified the SVSH systemwide guidance to reflect cases of alleged misconduct involving expressive activities.

If a formal investigation of allegations of faculty misconduct results in the assessment that a policy violation has occurred, guidance for discipline is found in Attachments A and B. Attachment A, Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity, is intended to support systemwide calibration of disciplinary responses under APM - 016. Attachment B is the companion document that provides a resource to reviewers regarding the UC policies that could be implicated in allegations of faculty misconduct in the realm of expressive activities.

If the Regents accept the draft systemwide calibration guidelines and companion document (Attachments A and B) at the May Regents meeting, the draft systemwide guidelines will undergo a 30-day systemwide review in order to finalize the systemwide calibration guidelines by the July Regents meeting. The approved systemwide calibration guidelines would be implemented by fall 2025.

2) Evaluate options and develop recommendations for handling situations in which a P&T hearing panel cannot be convened, particularly when faculty members are unable or unwilling to serve.

The workgroup reviewed multiple different models of a systemwide P&T committee. After considering all models, the recommendation is to create a standing, Systemwide Network P&T Committee comprised of members from the campus P&T committees that would serve

as a “jury pool” that is available to hear cases if a campus P&T hearing panel is unable to be appointed within 14 days of the administration filing disciplinary charges. The Systemwide Network P&T Committee hearing panel may invite faculty from the faculty respondent’s campus to consult and provide expertise on the campus procedures, norms, atmosphere, and culture, as well as on the conduct in question in that particular case. Fourteen days was selected as the trigger for invoking the Systemwide Network P&T Committee because Senate Bylaw 336 requires that hearings start within 60 days after charges are filed unless there is a good cause extension. If campuses cannot appoint their local P&T hearing panel within 14 days, the Systemwide Network P&T Committee hearing panel will still have time to be appointed and review all the necessary materials within the 60-day timeframe to hold the hearing. In order to facilitate timely appointment of a campus P&T hearing panel, when the administration files disciplinary charges, the notice should include the dates the administration is available for hearing. Attachment C, P&T Flowchart, is an illustration of some of the different models that were considered by the workgroup as it formulated its recommendation.

The workgroup considered the following models:

- Model A-1: This is the current structure where campus P&T committees hear all their own campus cases
- Model A-2: This is the current structure where campus P&T committees hear all of their own campus cases; however, one or two faculty members from other campus P&T committee(s) would also be included as part of the hearing committee (e.g., UCI P&T committee is scheduled to hold a hearing and would seek a participant from UCB P&T and perhaps another campus)
- Model B: Systemwide Network P&T hears cases when a campus is unable to appoint a campus P&T hearing committee within 14 days of charges being filed. The faculty respondent’s home campus will identify faculty consultants to provide advice and expertise to the Systemwide Network P&T hearing committee, as needed.
- Model C: Systemwide Network P&T hears all cases (e.g., There is a faculty discipline case at UCB that is scheduled for hearing with P&T and the issue is alleged research misconduct. UCB will then select from the Systemwide Network P&T to form the hearing committee. The outcome could be a hearing panel consisting of a faculty member from UCD, UCR, and UCSC P&T who are in the same discipline as the UCB faculty member to hear the UCB research misconduct case.)

The workgroup noted that all UC campuses must adhere to Senate Bylaw 336, which requires disciplinary hearings to begin within 60 calendar days of filing disciplinary charges, with extensions for good cause. Much of the 60-day period is dedicated to logistical preparations, including coordinating schedules for P&T members and the involved parties; appointing hearing committee members; drafting pre-hearing letters; and booking transcriptionists and preparing evidence. When charges are filed in the spring, hearings generally are scheduled during the summer to comply with the timeline, though not in all cases. Across UC’s 10 divisions, hearings average 3.15 days, ranging from one to five days.

Only three campuses reported hearings lasting five days. The length of the hearing is dependent on the complexity of the case or the amount of testimony on both sides.

Each campus has its own P&T Committee, which often consists of about eight to nine faculty members. A Hearing Committee is typically three to four faculty members, usually drawn from those on the divisional P&T Committee. The Chair of the P&T Committee 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. When a particular campus has many P&T hearings in a year, or faces other scheduling challenges, the campus may need to go outside the Committee for at least some of the members. The P&T Committee receives training and guidance from a UC Legal representative on how to conduct hearings.

In making its recommendation to adopt Model B, the workgroup concluded that normally the process by which campus P&T Committees hear cases has generally been timely and rigorous in their review of discipline cases. The workgroup noted the current campus-based P&T model provides faculty members with the benefit of knowing that they are being heard by their own campus peers who understand the campus culture, organization, and structures. Workgroup members agreed that detailed knowledge of a campus is more likely to allow for committee members to have deep understanding of what is happening in the particular case. The workgroup also noted that most delays occur during initial fact-finding and the ensuing investigation phase, if an investigation is warranted, and not during the P&T process. Accordingly, the workgroup concluded that most cases should remain with campus P&T Committees. However, if a campus is unable to appoint a P&T panel to hear a particular case within 14 days of charges being filed, the workgroup recommends that a Systemwide Network P&T hearing panel be appointed to hear those cases.

In those cases where a campus P&T Committee hearing panel cannot be appointed within 14 days of disciplinary charges being filed, the Systemwide Network P&T would provide an alternative venue for timely processing of cases, and may, in some circumstances, be the more desirable venue in matters where campus P&T members may not feel safe to serve. The Systemwide Network P&T Committee hearing panel may invite faculty from the faculty respondent's campus to consult and provide expertise on the campus procedures, norms, atmosphere, and culture, as well as on the conduct in question in that particular case. In order for a campus P&T panel to be appointed within 14 days, the administration should provide dates of availability for a hearing at the time it files disciplinary charges.

The workgroup lacked support for Model A-2 and Model C because both are likely to lengthen the time to completion of cases because of the administrative efforts and steps that would have to be added to the process. While Model C has some potential to facilitate data aggregation and to increase consistency in outcomes, some workgroup members noted that consistency may not be appropriate for cases that depend on knowledge of location practices and norms. In addition, the development of the systemwide guidance on calibrating disciplinary sanctions related to expressive activities and adoption of a case monitoring

system will help to facilitate greater consistency. Model C also risks loss of knowledge of the local context, which could result in other problems.

The workgroup considered the administrative burden associated with each model. An argument in support of the current model (A-1) is that it is easier to organize and schedule hearings, and it may prove more cost efficient. The P&T analyst has established connections with members of the hearing committee, facilitating a more efficient and seamless outreach process for scheduling. Model A-2 adds administrative complexity due to the need to coordinate between campuses. Workgroup members expressed concern that Models A-2 and C risk slowing the disciplinary process considerably due to the time involved in selecting hearing-panel members, making it nearly impossible to meet timeframes established in Senate Bylaws. There would also be a significant up-front administrative effort required to build an administrative structure and processes to support Models A-2 and C.

In recommending Model B, the workgroup concluded that having a Systemwide Network P&T could provide a reasonable back-up option in the event that local P&T committees cannot be appointed in a timely manner. Some participants shared instances in which P&T members' concern about safety and/or retaliation resulted in a delay in convening a hearing panel. It is these kinds of cases that would be escalated to the Systemwide Network P&T for hearing.

3) Assess current campus policies and procedures and review for elimination of processes and procedures that have developed over time but are not required in policies.

The workgroup does not recommend that each campus be required to have all the same procedures, as each campus is different in its structure and it is not clear how the variation arose or whether one system is superior to the other, particularly with respect to moving cases forward in a timely fashion. Unless a problem is identified from having different procedures, requiring consistent procedures systemwide would be a costly endeavor without much impact. However, if the goal is to identify differences in processes and procedures that add to the timeframe for completion of discipline cases, the workgroup identified one significant step that is different between campuses, is not required by systemwide policies, and may or may not add to the time for completion. Five campuses (UCSB, UCR, UCLA, UCB, UCSC) have a separate Academic Senate Charges Committee that makes a probable cause assessment. The Charges Committee has been codified in local procedures or Senate Division regulations at those five campuses. Five campuses (UCD, UCI, UCM, UCSD, UCSF) do not have a separate Charges Committee and faculty investigators are paired with a professional investigator to determine probable cause.

The workgroup discussed the advantages and disadvantages of campus-based Charges Committees, and whether there is any perceived benefit to not having a Charges Committee and pairing a faculty member with an investigator to establish probable cause. There was no consensus from the workgroup as to whether to eliminate the Charges Committee at the five campuses that have that structure in place. The only consensus was that the Charges Committee process may lengthen the timeframe for completion of faculty misconduct cases

but there is no data to support it. Although not required in systemwide policies or Senate Bylaws, the Charges Committee has been codified in local procedures or Senate Division regulations at those five campuses and is consistent with faculty peer review and shared governance.

The workgroup addressed the lack of consensus on this by recommending timeframes for completion of misconduct cases from case intake through the filing of disciplinary charges. To ensure that all campuses, whether they have a Charges Committee or not, adhere to the same timeframes for completion of faculty misconduct cases, the workgroup recommends that the Charges Committee, the faculty investigators, and the administration meet the target time durations in Recommendation #4 below.

4) Review procedural timelines and provide recommendations to ensure a timely process.

Procedural Timelines

The workgroup recommends for Faculty Code of Conduct cases the following target time durations from case intake through the filing of disciplinary charges. The workgroup referred to the deadlines in the Abusive Conduct Policy, the Anti-Discrimination (A-D) Policy, and SVSH Policy, and recommended similar deadlines. Many faculty misconduct cases will involve one of these three policies, which means the cases would have to adhere to the deadlines in those policies and the misconduct under the Code of Conduct could not move forward until completion of the steps under those policies. The completion of an initial assessment should be within 30 business days, the investigation and the investigation report should be concluded within 120 business days, and disciplinary charges should be filed within 40 business days of the conclusion of the investigation conclusion/report. These deadlines may only be extended for good cause. At the request of the workgroup, the Systemwide Office of Civil Rights developed a good cause assessment guidance document to be utilized during each step of this process to determine if a good cause extension is warranted.

The following are the deadlines associated with each step under the Abusive Conduct, A-D, and SVSH Policies:

	SVSH (DOE & Non-DOE)	Anti-Discrimination	Abusive Conduct
Initial Assessment	30 business days*	As soon as practicable	30 business days*
Formal Investigation	60–90 business days*	60–90 business days*	120 business days*
Disciplinary Charges Filed/Notice of Proposed Discipline	40 business days*	Defers to other policies	Defers to other policies

*Unless extended for good cause

The workgroup concluded that normally the investigation is the most time-consuming part of a misconduct case. Misconduct allegations related to cases that fall under APM - 015 only do not currently have a systemwide policy-mandated deadline for investigations to conclude, though some campuses have implemented their own deadlines. The workgroup recommends for Faculty Code of Conduct cases (i.e., APM - 015 cases that do not fall under the Abusive Conduct, A-D, or SVSH policies), that the target time duration for the completion of investigations should be 120 business days, with extensions for good cause only. Currently, SVSH and the A-D policies provide for 60 to 90 business days and the Abusive Conduct policy provides for 120 business days, all with ability to extend for good cause. Attachment D, Good Cause Factors re Extension of Time Guidance, is a tool developed by the Systemwide Office of Civil Rights, at the request of the workgroup, that may be utilized during each step of the process to determine if a good cause extension is warranted.

In consulting sessions with the Civil Rights, Ethics, Compliance, and Audit Services, Title IX, and Equal Opportunity and Diversity offices, it was noted that there are many different reasons as to why investigations and other steps in misconduct cases for all employees (not just faculty) may be extended for good cause. At the initial assessment phase, the designated office, employing trauma-informed best practices, will seek to honor the preferences of the Complainant whenever possible, including with respect to timing. For example, some Complainants may 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. It is also important to note that reporting a concern is not the same as filing a complaint.

Once a Complainant has filed a complaint and/or otherwise provided sufficient information for the designated office to either proceed to formal investigation (or other resolution process, such as informal resolution, alternative resolution, or other inquiry) or dismiss the complaint, the initial assessment stage may be impacted by a variety of factors, including delayed response or non-response from a Complainant, availability of a Complainant for scheduling meetings/intake interview, implementation of safety measures, coordination with law enforcement or other campus investigations, or engaging with multiple Complainants.

At the formal investigation stages, material examples of timeframe extensions for good cause 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. The actual time required to complete the investigation and report, including reaching a determination or preliminary determination as to whether the policy has been violated, can vary based on a variety of factors, such as 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.

Multiple Investigations

The workgroup also reviewed investigatory and disciplinary processes currently in place across the system. While most campuses conduct a single investigation, involving appropriate offices with subject-matter expertise, as appropriate, it came to the workgroup's attention that some campuses have been conducting multi-part investigations. When this occurs, one office has begun the investigation of issues under its purview before handing the investigation off to one or more other offices to investigate the issues under their purview. This has resulted in duplicative interviewing of the same witnesses and has contributed to delays in the overall process.

The workgroup recommends that there should be one investigation to determine whether the Faculty Code of Conduct was violated. At the conclusion of the investigation, disciplinary charges should be filed within 40 business days after receipt of the investigation report.

Summer

The workgroup reviewed whether campus P&T committees meet over the summer months and determined that most P&T misconduct cases do continue over the summer months if there are active misconduct cases that need to be scheduled for hearing. Grievance cases, on the other hand, are generally not heard over the summer months but grievance cases do not impact misconduct cases.

In case there are delays over the summer months in scheduling a discipline hearing, the workgroup recommends that the Systemwide Network P&T Committee be triggered after 14 days of charges being filed, if the campus P&T is unable to be appointed and hear the case over the summer. For members of the Systemwide Network P&T Committee that do hear cases over the summer months, the workgroup recommends that they be provided additional compensation that is uniform across campuses or non-monetary recognition for their service on the Systemwide Network P&T. If additional compensation is provided, the amount should be uniform across campuses and determined by the Chancellors or Chancellors' designees.

Parallel Law Enforcement Actions and Campus Actions

The workgroup recommends that systemwide guidelines be developed in partnership with the UC Police Departments (UCPD) for the sharing of information in all misconduct cases. Currently, systemwide guidelines, developed in partnership with UCPD, only exist for SVSH cases. In April 2022, systemwide Guidelines on Responsible Employee Reporting and Information Sharing Between UC Police Departments and Title IX Offices were issued to ensure compliance with the SVSH Policy and federal and State law and promote consistent information-sharing expectations and practices. The systemwide guidance addressed information-sharing obligations upon UCPD's receipt of an initial report of possible Prohibited Conduct, and at the Title IX initial assessment and investigation stages. They were developed with careful consideration of input from the campus Title IX Officers, Police Chiefs and Campus Advocacy, Resources, and Education (CARE) Directors, and

mindfulness of the tension that sometimes exists between the privacy and agency of individual complainants/victims on the one hand, and protection of the broader community and compliance on the other.

The SVSH Policy codifies UC's commitment to respond effectively to Prohibited Conduct, and Responsible Employees' obligations to report possible Prohibited Conduct to their Title IX Officer. Responsible Employee reporting helps Title IX Officers meet the University's obligations, and is critical to UC's prevention, detection and response efforts. As Responsible Employees and partners to Title IX, UCPD employees should generally promptly share all relevant information about possible Prohibited Conduct with Title IX. However, other considerations may sometimes limit the type and amount of information shared, as well as the timing.

Limits may exist if there is potential interference with the law enforcement process. Any police report or evidence UCPD provides to Title IX, if there is a Title IX investigation, likely will be shared with the complainant/victim and respondent/suspect as part of the Title IX evidence review required by law and UC policy. This could have implications for any parallel criminal process, particularly if the Title IX process is moving faster. The SVSH Policy provides that when the respondent/suspect's alleged conduct is the subject of both a Title IX and a criminal investigation, the Title IX Officer will coordinate its investigation with the police, and that "the fact-finding portion of a Title IX investigation may be delayed temporarily during the evidence-gathering stage of the criminal investigation."

If Title IX requests a police report or evidence, then UCPD will provide the information unless specific case-based circumstances indicate that disclosure of the information would endanger either (i) a person involved in an investigation, or (ii) the successful completion of the criminal investigation or prosecution. In making this determination, UCPD will seek input from the District Attorney (including periodic updates when a decision about prosecution is pending).

If UCPD does not provide the requested information, it will (i) document the basis for its decision in writing to Title IX, (ii) discuss with Title IX whether alternative information that UCPD can provide exists, and (iii) inform Title IX when the basis for withholding requested information is resolved. In the interim, Title IX may periodically request status updates from UCPD (for example, through the campus Case Management Team).

The systemwide guidelines are also incorporated via frequently asked questions (FAQs) in the SVSH Policy as follows:

FAQ #7: Does the University need to conduct a Title IX investigation if a criminal investigation is taking place?

A criminal investigation is intended to determine whether someone violated criminal law. At the end of the criminal process the person may be imprisoned or subject to criminal penalties. The University has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all community members. Because the

purposes and the standards for criminal and Title IX investigations are different, the termination of a criminal investigation without an arrest or conviction does not affect the University's Title IX obligations. Even if a criminal investigation is ongoing, the University must still conduct its own Title IX investigation. The University should notify Complainants of the right to file a criminal complaint and should not dissuade Complainants from doing so. Title IX does not require the University to report alleged conduct to law enforcement, but the University may have reporting obligations under laws such as the Clery Act and the California Child Abuse and Neglect Reporting Act (CANRA) and may report alleged conduct per memoranda of understandings between the University and the police.

FAQ #8: How should the University proceed when campus or local law enforcement agencies ("police") are conducting a criminal investigation while the University is conducting a parallel Title IX investigation?

If the Respondent's alleged conduct is also the subject of a criminal investigation, the Title IX Officer will coordinate its investigation with the police. The fact-finding portion of University of California Title IX investigation may be delayed temporarily during the evidence-gathering stage of the criminal investigation. During this delay, the University may put Interim Measures in place. The length of time for evidence gathering by criminal investigators will vary depending on the specific circumstances of each case.

5) Create a case-monitoring system to gather data on delays and their sources.

The workgroup proposes the expansion of a systemwide case-management system that would streamline data collection and reporting and would enhance consistency. The case-management system would allow for tracking of cases from intake through the administration of discipline, if any. The workgroup consulted with the Systemwide Office of Civil Rights on assessing the costs associated with expanding its systemwide case-monitoring system that tracks cases from intake through case resolution. The Systemwide Office of Civil Rights met with Case IQ, the vendor for the current SVSH, Abusive Conduct, and A-D case-monitoring system, to obtain an estimate on the cost of expansion of the system to other areas. The cost estimate for the software platform is estimated at \$375,000 for one-time set-up fees and then an annual systemwide fee of \$600,000. The associated data-management labor is estimated at one new dedicated full-time equivalent per location, with an estimated annual cost of \$200,000 per location for salary and benefits. With learned efficiencies in the years subsequent to initial implementation, it may be possible to lower the labor cost.

In developing the cost estimate, the Systemwide Office of Civil Rights evaluated the following in order to have an expanded Case IQ system for each of UC's campuses, including a dedicated Office of the President (UCOP) instance for systemwide data oversight. UCOP's Case IQ instance would serve as the system of record for reportable policy data, systemwide reporting, and trend analysis using data from all campuses. Policy and reportable data are fed into UCOP's system through application programming interface (API) integrations to form a unified reporting view that supports UCOP's local oversight requirements, as well as Board of Regents, State, and federal reporting obligations. To support process audits, monitoring, or spot checks, and to support UCOP's consultation or

support on cases, UCOP can either have appropriate access to the campus case itself or referred cases can be passed through integrations to UCOP.

Given the current difficult budget projections for the University of California and the hiring freeze that has been implemented, the workgroup recommends that now is not the time to expand the systemwide case-monitoring system. Instead, the workgroup recommends that all campuses agree on a set of common data fields that capture key aspects of each disciplinary case for periodic monitoring. To develop the appropriate common data fields, a systemwide group should consist of representatives from the Academic Senate, Academic Personnel, and the Civil Rights, Anti-Discrimination, Title IX, Research, and Compliance offices. It appears data is idiosyncratically collected in many different offices and reaching an agreement on a systemwide common set of data points that will be collected and provided to the Chancellor/Chancellor's designee on a regular basis for periodic comparative analyses and reporting is recommended.

6) Require each Chancellor to report to The Regents on the disposition of disciplinary cases on their campuses and note any delays that have arisen for good cause.

The workgroup recommends that each Chancellor report to The Regents annually on the disposition of disciplinary cases and delays for good cause.

The workgroup recommends implementation of this requirement while adhering to best practices of data privacy. The adoption of a single case-monitoring system for each campus would facilitate reporting by each Chancellor to The Regents on the disposition of disciplinary cases on their campuses. However, given the significant costs associated with a systemwide case-tracking system, agreed upon shared common data fields across the system should be reported by each campus to The Regents on an annual basis.

7) Consider whether the P&T Committee has the authority to recommend, and the Chancellor has the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor's designee.

The workgroup considered this charge and concluded that the P&T Committee does not have the authority to recommend, and the Chancellor does not have the authority to impose, disciplinary measures that exceed those initially proposed by the Chancellor or Chancellor's designee. The provision in APM - 016, prohibiting a Chancellor from imposing a penalty more severe than that 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.

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. This is also consistent with the Skelly process, which derives its name from the 1975 case *Skelly v. State Personnel Board*, for other UC employees, wherein the proposed discipline cannot be increased during the due process granted under the Skelly

standard. The faculty member is provided notice of the charges against them so they can prepare their defense, if any. A faculty member may take a different approach to their defense if the notice of proposed disciplinary action is suspension without pay, for instance, versus dismissal.

Changing and increasing the proposed sanction after the faculty member has put on their defense is counter to the principles of due process and will substantially increase the likelihood that the University's imposition of discipline will be overturned in any subsequent litigation. Notably, before a P&T hearing has commenced, the administration may issue a new revised notice of proposed discipline that increases or decreases the proposed disciplinary sanction and with enough advance notice that the faculty member can prepare their defense, if any.

The workgroup recommends compliance with current policy provisions. APM - 016 contains a provision specifically prohibiting the Chancellor from imposing a type of discipline more severe than the sanction referenced in a written notice of proposed disciplinary action to a faculty member. A faculty respondent may elect to hire representation based on the anticipated spectrum of sanctions that are proposed. If the respondent opted to forego representation and later learned that a more severe sanction, including dismissal, was a possible outcome, this could leave the University vulnerable to legal action.

To address the concern raised in the charge, the workgroup recommends that when the administration sends a notice of proposed discipline to a faculty member, that the administration include a range of potential disciplinary sanctions that may be imposed. The range of potential disciplinary sanctions should be proportional to the conduct alleged, the facts of the case, the investigation's findings, and the potential testimony and evidence that is expected to occur at a P&T hearing. The range of proposed disciplinary sanctions would enable the P&T Hearing Committee to recommend the severity of discipline based on the totality of the evidence, including evidence presented at the hearing, and whether the allegations were substantiated by clear and convincing evidence. As an example, the administration, depending on the severity of the alleged conduct, may propose disciplinary sanctions that range from "letter of censure up to and including suspension without pay" or "a suspension without pay up to and including dismissal." By providing a range of proposed disciplinary sanctions that is a proportional range for the alleged conduct, rather than proposing one disciplinary sanction only, it provides both the Academic Senate and the administration with more flexibility to address new evidence that may be introduced at the P&T hearing (e.g., through testimony or additional documents).

In calibrating the range of possible sanctions, Attachment A, Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity; Attachment B, companion document; as well as the existing systemwide guidance on disciplinary sanctions in SVSH cases, should be referred to in setting the minimum and maximum of the discipline sanction range for a particular infraction. In addition, if new evidence is discovered that would warrant an increase to the maximum range of proposed disciplinary sanctions, the administration has an option to restart the process.

8) Clarify administrative policies regarding paid versus unpaid leave during the disciplinary process and consider the circumstances under which paid leave versus unpaid leave should be used during the disciplinary process.

Pursuant to APM - 016, prior to instituting disciplinary charges and while conduct is investigated, the Chancellor may place a faculty member on involuntary leave without pay in rare and egregious cases where there is a strong risk that the accused faculty member's continued assignment to regular duties, or presence on campus will cause immediate and serious harm to the University community or impede the investigation of wrongdoing; or in situations where the faculty member's conduct represents a serious crime or felony that is also the subject of investigation by a law enforcement agency. In order to impose unpaid leave, a Chancellor must receive prior authorization by special action of The Regents. In general, employees (including faculty) are placed on paid investigatory leave because there has not yet been a finding of a policy violation.

On the other hand, suspension without pay is a disciplinary sanction that may be imposed after the investigation has concluded, charges have been brought, and the faculty member is determined to have engaged in misconduct. 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. Under the existing APM - 016 language, more than one disciplinary sanction may be applied. As such, a faculty member facing a dismissal recommendation from the Chancellor may also be sanctioned with a suspension without pay, which remains at the Chancellor's level of authority to issue. The faculty member will then be on suspension without pay at least until the President makes a recommendation to the Board of Regents, and The Regents decide on the dismissal. This suspension is generally up to a full calendar year.

CONCLUSION

The Faculty Code of Conduct (Academic Personnel Manual - 015) provides that "The Assembly of the Academic Senate recommends that each Division, in cooperation with the campus administration, develop and periodically re-examine procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings." Expediency must not compromise accuracy or procedural integrity, though it is incumbent on all of us—Academic Senate, Administration, and Regents—to continue to engage in the regular review of our policies and processes to determine where improvements can be made. In response to The Regents' concern about the length of time that elapses between purported infraction of the Faculty Code of Conduct and case resolution with or without disciplinary action, the joint Senate-Administration workgroup provides the above recommendations to streamline the entire process—from beginning to end—while providing appropriate due process to those who are alleged to have engaged in misconduct

KEY TO ACRONYMS

APM	Academic Personnel Manual
A-D	Anti-Discrimination
P&T	Privilege & Tenure
SVSH	Sexual Violence and Sexual Harassment
UCAP	University Committee on Academic Personnel
UCFW	University Committee on Faculty Welfare
UCPT	University Committee on Privilege and Tenure

ATTACHMENTS

Attachment A: [Faculty Respondent Disciplinary Sanction Guidelines for Misconduct Related to Expressive Activity](#)

Attachment B: [Companion Document - Faculty Disciplinary Sanctions Guidelines for Misconduct Related to Expressive Activity](#)

Attachment C: [P&T Flowchart](#)

Attachment D: [Good Cause Factors re Extensions of Time](#)