

Office of the President  
November 7, 2001

**TO MEMBERS OF THE COMMITTEE ON EDUCATIONAL POLICY:**

**ITEM FOR ACTION**

**For Meeting of November 14, 2001**

**PROPOSED REVISIONS TO ACADEMIC PERSONNEL MANUAL 015 AND  
ESTABLISHMENT OF ACADEMIC PERSONNEL MANUAL 016: FACULTY CODE  
OF CONDUCT AND PROCEDURES FOR FACULTY DISCIPLINE**

The President recommends that the Committee on Educational Policy recommend that The Regents adopt the revisions to Academic Personnel Manual 015 and the establishment of Academic Personnel Manual 016, contained in the **Attachment** (additions underlined, deletions noted by strikeouts).

**BACKGROUND**

At the October 31, 2001 meeting, the Assembly of the Senate approved revisions to the Academic Personnel Manual's Section 015, and a new, related APM Section 016. The Academic Personnel Manual is an administrative document, and changes in the APM normally are approved by the President of the University, with the Senate playing a consultative role in the revision process. By tradition, however, sections of the APM dealing with faculty discipline have been submitted to the Academic Assembly for approval. Because authority for discipline derives ultimately from The Regents, revisions to APM-015 (and now 016) also are submitted to The Regents for approval. The President has approved these provisions, and with Regental approval, will issue APM-016 and the revised APM-015 as University policy.

The process of reforming the University of California procedures and policies regarding the discipline of faculty began several years ago with the recommendations of the joint senate-administrative Task Force on Disciplinary Procedures chaired by Professor and former Academic Council Chair Daniel Simmons. With the work of the Simmons panel in hand, both the Senate and the administration agreed on the need to revise UC's disciplinary procedures and policies for faculty. The Universitywide Committee on Privilege and Tenure (UCP&T) has worked intensively over the past two years to draft new rules for adoption. These rules are set forth in two separate bodies of regulations, which are complementary to one another. One set is the APM, whose proposed revisions are now before The Regents. A second is the set of Senate Bylaws governing the operation of Privilege and Tenure Committees. Last May, the Assembly approved revisions to Senate Bylaws 195 and 334-337, which specify the duties of the systemwide and campus Privilege & Tenure Committees and govern the procedures involved with faculty discipline, grievance, and early termination cases.

The Academic Personnel Policies 015 and 016 presented here as an attachment reflect the other major body of regulations dealing with faculty discipline. These APM revisions are set forth in two separate APM sections: APM-015, the Faculty Code of Conduct, and APM-016 the

University Policy on Faculty Conduct and the Administration of Discipline. In the current APM, both of these overarching bodies of regulations are included within APM-015.

The Faculty Code of Conduct essentially does three things: It sets forth the professional rights of faculty (to freedom of expression, freedom of inquiry and so forth); it sets forth both general ethical principles for faculty and examples of unacceptable faculty conduct; and it sets forth rules and recommendations for the enforcement of the Faculty Code. The University Policy on Faculty Conduct and the Administration of Discipline includes general policy regarding faculty discipline: it elaborates on the various penalties that may be imposed for violations of the Faculty Code of Conduct; it specifies what types of faculty behaviors are covered under the Faculty Code, as opposed to other University regulations (such as those dealing with incompetent performance); and it specifies which academic personnel are governed by the Faculty Code. The revised APM-015 and new 016 have been re-ordered so that disciplinary principles will come before disciplinary procedures in the policy.

Review of the APM revisions prior to approval by the Assembly and presentation for approval to The Regents has proceeded as follows: An earlier version of these revisions was brought before the Assembly at its February 2001 meeting for discussion and to inform the Assembly of UCP&T's ongoing efforts. Revised versions of APM-015 and 016 were subsequently sent to the campuses and to systemwide Senate committees in April 2001 for formal review. UCP&T has received considerable feedback from systemwide Senate committees and from several Divisions of the Senate regarding these proposed revisions. As a result, the committee made a number of additional revisions and modifications that responded to identified concerns and clarified certain language.

The following paragraphs summarize the proposed revisions, starting with those in the Faculty Code of Conduct, which is divided into Parts I, II, and III. Relatively few revisions are proposed for changes in the Code's Part I (faculty rights) and Part II (ethical principles and unacceptable conduct). The intent in these revisions is to strengthen the principle that faculty may be disciplined for conduct not enumerated in the Code, if that conduct meets the standard set forth in the Code for unacceptable faculty conduct: *conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions*. In Part III of the Faculty Code, the recommended guidelines for the campuses are replaced with a set of mandatory guidelines and a second set of recommendations, intended to make campus procedures consistent with the Senate bylaws and to make them more efficient and fair.

The most important change in the proposed APM-016 is the inclusion of two new possible sanctions for faculty. One is the denial or curtailment of emeritus status. Currently, no sanction applies to emeriti. While it is desirable that emeriti remain an integral part of the University community, it is also important that there be a mechanism in place to guarantee and enforce appropriate behavior for emeriti. The other is a reduction in pay (without demotion) for some specified period of time. This allows for a sanction of reduction in pay with or without a sanction of demotion, to allow disciplinary policies to conform to the existing merit system of faculty promotion. The new APM-016 also clarifies existing policy that faculty members are subject to the general rules of the University, and that in rare and egregious cases a Chancellor may be authorized by special action of The Regents to suspend the pay of a faculty member on involuntary leave pending a disciplinary action.

Below is a more detailed listing of all the proposed changes to the original APM-015 policy:

**Revised APM-015 Preamble**

\* Language was added to clarify that the Faculty Code of Conduct is not limited to the types of unacceptable conduct enumerated in the Code, and that other types of conduct may be the basis for disciplinary action if the conduct meets the standard set forth in the Code for unacceptable faculty conduct: conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions.

**Revised APM-015 Part II**

\* Language was added to make clear that a faculty member may face disciplinary sanctions only for conduct which meets the standard set forth in the Code for unacceptable faculty conduct: conduct which is inconsistent with the ethical principles and which significantly impairs the University's central functions.

\* Language was added to clarify that sanctions may be imposed for violations of University policies only to the extent that such violations meet the standard set forth in the Code for unacceptable faculty conduct.

\* Language was added to clarify that the section on students applies to all individuals under the academic supervision of a faculty member (such as postdocs, teaching assistants, and other employees).

\* The language referring to discrimination was updated to conform to changes in law and University policy (in particular, new laws regarding veterans, protected medical conditions, and harassment).

\* The word "knowing" was deleted from the existing provisions regarding violation of University policy applying to non-discrimination on the basis of disability.

\* The phrase "research misconduct" was added to the existing provision for types of unacceptable conduct relating to violations of canons of intellectual honesty.

\* Language was added to make discrimination, including harassment, against University employees a type of unacceptable conduct.

\* Language was added to make serious violation of University policies governing the professional conduct of faculty a type of unacceptable conduct (this includes several new policies such as whistleblower protection and conflict of commitment, but again, only to the extent that such misconduct meets the standard set forth in the Code for unacceptable faculty conduct).

Revised APM-015 Part III

\* The existing principles recommended as guidelines in developing divisional disciplinary procedures were divided into two sections, one with mandatory principles and one with recommended principles.

\* Language was added requiring that no disciplinary action may proceed if more than three years have passed between the time the Chancellor (or the Chancellor's designee) knew or should have known of the alleged violation and the delivery of the notice of proposed disciplinary action (consistent with the new Senate bylaws).

\* Language was added requiring that the Chancellor (or the Chancellor's designee) may not initiate notice of proposed disciplinary action unless there has been a finding of probable cause.

\* Language was modified to reflect that divisional procedures must include designation of the following disciplinary sanctions authorized in the University Policy on Faculty Conduct and the Administration of Discipline: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University.

\* Language was added to clarify that staff, in addition to students, faculty, the administration and other members of the University community, may bring forward allegations of misconduct.

\* Language was added to encourage Divisions to provide faculty investigators with training, consultation or legal counsel to assist with the investigation of faculty disciplinary cases.

\* Language was added to encourage Divisions to develop procedures for mediation of disciplinary cases.

\* Language was added to encourage Divisions to develop procedures to be shared with the complainant(s) to the extent allowable by State law and University policy.

\* Language was added to encourage Divisions to develop reasonable time frames for the conduct of disciplinary procedures.

\* Language was added to encourage Divisions to develop procedures for keeping records of disciplinary matters in a confidential manner and sharing such records with Senate and administrative officers with a need to know in accordance with State law and University policy.

New APM-016 Section I - Introduction

\* Language was added to clarify that the Faculty Code of Conduct applies to the professional responsibilities of faculty but that faculty members, like all other members of the University community are subject to general rules and regulations and may be subject to appropriate administrative actions for failure to comply with such regulations.

\* Language was added to address cases where the Chancellor's tentative decision regarding discipline of a faculty member disagrees with the recommendation of the Divisional Privilege and Tenure Committee.

#### **New APM-016 Section II - Types of Disciplinary Sanctions**

\* A new disciplinary sanction of denial or curtailment of emeritus status was added and the current disciplinary sanction of demotion was divided into two separate sanctions: demotion and reduction in pay (without demotion).

\* Language was added to clarify that written censures should be maintained in a designated personnel file or files for a period of time specified in writing.

\* Language was added to clarify that demotion as a sanction should be imposed in a manner consistent with the merit based system of advancement and is appropriate only when the misconduct is relevant to the academic advancement of the faculty member.

\* Language was added to clarify that suspension as a sanction is without pay and may include the loss of normal faculty privileges such as access to University property, participation in departmental governance and other campus privileges.

\* Language was added to permit a Chancellor to waive or limit the imposition of a disciplinary sanction on the condition that the accused faculty member perform some specified actions designed to address the harm caused by the misconduct.

\* Language was added to clarify the difference between suspension as a sanction and involuntary leave (with pay) which may be imposed prior to the initiation of disciplinary action if it is found that there is a strong risk that the accused faculty member's continued presence on campus will cause immediate or serious harm to the University community.

\* Language was added to clarify existing policy that in rare and egregious cases a Chancellor may be authorized by special action of The Regents to suspend the pay of a faculty member on involuntary leave pending a disciplinary action, and to clarify grievance rights and procedures (including prompt written notice) for faculty members subject to such actions.

#### **New APM-016 Section III - Procedures**

\* Language was added to clarify the difference between disciplinary actions and grievance actions as reflected in the newly enacted Bylaws of the Academic Senate 334-337, in that a disciplinary action generally is commenced by the administration against a faculty member based on charges that have been investigated and found to have probable cause, while a grievance action is initiated by a faculty member who believes that he or she has suffered injury as the result of a violation of the faculty member's rights and privileges.

\* Language was added to clarify that the Faculty Code of Conduct also applies to faculty members holding administrative appointments and that such faculty members may be subject to disciplinary action under the Code for professional misconduct in the their administrative appointments in addition to administrative actions involving the removal of their administrative title.

(Attachment)