



UCLA ACADEMIC SENATE MANUAL

Appendix of the Division

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APPENDIX XII

CAMPUS PROCEDURES FOR IMPLEMENTATION OF UNIVERSITY POLICY ON FACULTY CONDUCT AND THE ADMINISTRATION OF DISCIPLINE [Am 23 May 89, 8 June 99, 4 Jun 02, 6 June 2013]

Section 1. Applicability and Summary of Steps and Procedures

- A. At UCLA the following serves to implement University policy on faculty conduct and the administration of discipline and applies to all members of the Academic Senate and academic staff whose instructional duties are not subject to direct supervision. These persons are called "faculty member" in these procedures.
- B. Disciplinary sanctions within the terms of the University Policy on Faculty Conduct and the Administration of Discipline adopted by the Regents on June 14, 1974, shall not be imposed except by following the procedures set forth below.
- C. The following procedures relating to the administration of discipline apply only in those instances in which an individual is charged with improper faculty conduct and have no bearing upon a faculty member's rights in cases not involving discipline. Also see SBL 335.E regarding the relationship between a disciplinary charge and a grievance arising out of the same matter. [Am 4 Jun 02]
- D. At UCLA, allegations of violations of the Faculty Code of Conduct (i.e. charges) are to be treated, as far as possible, in a two-tiered process-first, an investigatory stage initiated by the filing of a complaint; and second, where the charge is not resolved prior thereto, in a formal hearing stage. In the first stage, the Charges Committee has the responsibility to determine whether probable cause of a violation exists. If the Charges Committee finds probable cause, the second stage is initiated and the matter is forwarded to the Committee on Privilege and Tenure to convene a formal hearing to determine if the Faculty Code of Conduct was violated as charged.
- E. The purpose of the investigatory stage is to sift the allegations to ensure that any matter sent forward to the Privilege and Tenure Committee for formal hearing is based on a legally sufficient charge as to which there is sufficient factual evidence to support the holding of that hearing. In disciplinary matters which under University policy are initiated by an administrative investigation and factfinding of the matter-namely, a complaint of sexual harassment or scientific misconduct-the matter shall be dealt with by the Charges Committee

and the Administration as described *infra* in sections (g) and (h), and to the extent possible the matter shall be concluded in a two-stage process as described therein.

- F. In cases other than those involving sexual harassment or scientific misconduct, the Charges Committee shall conduct an inquiry as specified in section 5 (a) in order to determine whether there is probable cause of a violation of the Faculty Code of Conduct.
- G. When a sexual harassment complaint is filed against a faculty member in accordance with UCLA Standard Procedures No. 630, 11/1/94, Sexual Harassment Complaint Resolution Procedures (hereinafter, University Sexual Harassment Policies), or when a complaint of discrimination under the Faculty Code of Conduct, APM-015 Part II, Sections A 2 & 3, C 5 & 6, & D 2 & 3¹, is made, both the Chair of the Charges Committee and the Vice Chancellor, Academic Personnel (hereinafter, the Vice Chancellor), shall be promptly notified. The selection of a factfinder shall be made jointly by the Vice Chancellor and the Chair of the Charges Committee. The factual inquiry shall be conducted by the factfinder in accordance with the University Sexual Harassment Policies for a complaint of sexual harassment. In the inquiry, the factfinder shall function as an arm of the Charges Committee as well as the Administration. See section 5 (b) below. [Am 06 Jun 06; Am 06 Jun 13]
- H. If the matter involves an allegation of scientific misconduct against a faculty member and an Advisory Committee is to be appointed in compliance with the UCLA Standard Procedure, Integrity in Research: Responding to Allegations of Misconduct in Science (No. 1150, 7/1/97) (hereinafter, University Scientific Misconduct Policies), the Dean shall appoint the Advisory Committee in consultation with the Chair of the Charges Committee. The Advisory Committee shall be composed of faculty knowledgeable about the area of scientific research and normally also include faculty who are familiar with Senate disciplinary processes (including one or more members of the Charges Committee). The Advisory Committee shall function as an arm of the Charges Committee as well as the Dean, as described in section 5 (c) below. The factfinding shall be conducted by the Advisory Committee in accordance with the University Scientific Misconduct Policies.
- I. Opportunities to resolve the disciplinary matter through mediation or negotiation in cases where such mediation is acceptable to the administration and the accused, shall be made available whenever appropriate at any stage of

¹ The Faculty Code of Conduct prohibits discrimination against students, employees and faculty involving the following categories: "Discrimination, including harassment...on political grounds, or for reasons of race, color, religion, sex, sexual orientation, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons." and "Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination ...on the basis of disability."

the process before the formal hearing stage. The Committee may assist in the selection of an appropriate mediator. Efforts to resolve the matter may involve consultation with the chair of the relevant department(s) or the relevant Dean(s) and the assistance of the Ombudsperson or a member of the Grievance Advisory Committee before submission of the matter to the Charges Committee or may involve actions taken to mediate the matter by the Vice Chancellor and the Charges Committee or the Committee on Privilege and Tenure during the stages in which they are involved in the process. Informal resolution of the matter may result in withdrawal of the complaint by the complainant prior to the matter reaching the Charges Committee or may result in a formal settlement, including conditions and or the acceptance of disciplinary sanction(s) by the faculty member charged. See also SBL 336.C. [Am 4 Jun 02]

The following sections (numbered 2 to 13) describe the steps in the process and the role of each agency and participant in the process.

Section 2. Resolution Channels and Steps for Filing

- A. Allegations against a faculty member originating from any source (student, staff, faculty, administrator, or individual outside the University community) shall normally be addressed to the Chair of that faculty member's department or the relevant Dean. In the case of an allegation of sexual harassment, the procedures for initiating a complaint described in the University Sexual Harassment Policies should be followed. In the case of an allegation of scientific misconduct, the procedures described in the University Scientific Misconduct Policies should be followed.
- B. If the matter is not resolved as a result of the initial contact with the Chair or Dean or in course of following the procedures of the University Sexual Harassment or Scientific Misconduct Policies, the Chair or Dean or a complainant party may file a formal complaint with the Charges Committee. Before the complainant files a formal complaint, he or she shall meet with a member of the Grievance Advisory Committee (GAC), who will counsel him or her, discuss functions of the Charges Committee and the Committee on Privilege and Tenure, and make available appropriate University documents, including the Formal Complaint Form, the University Policy on Faculty Conduct and Administration of Discipline, and this Appendix. If requested, the GAC representative shall assist the complainant party in completing the Formal Complaint Form.

Section 3. The Formal Complaint

The formal complaint shall be in writing and shall identify the relevant section(s) of the University Policy on Faculty Conduct and the Administration of Discipline (and, if it involves sexual harassment, the relevant provisions of the University Sexual Harassment Policies) and a full statement of the facts that allegedly constitute a violation of University Policy. Materials elaborating the evidence may be appended to the Form. When a formal complaint is filed with the Charges Committee, the

Committee shall promptly transmit a copy of the complaint along with any appended materials to the faculty member complained against, together with appropriate University documents listed in Section 2 (b). The letter transmitting the complaint shall also inform the faculty member complained against of her/his rights to receive information about the pending procedures from a GAC representative, if so desired.
[Am 4 Jun 02]

Section 4. Interim Suspension

If in the judgment of the Vice Chancellor, Academic Personnel there is a high probability that the continued assignment of a faculty member to regular duties will be immediately and seriously harmful to the University community, the Vice Chancellor may place the faculty member on full or partial interim suspension with full pay. Before imposing such an interim suspension the Vice Chancellor shall, to the extent feasible under the circumstances in the individual case, consult with the Charges Committee or such members of the Committee who are available. The Vice Chancellor shall promptly provide the faculty member with a written statement of the reason for such suspension, and shall promptly refer the matter to the Committee on Privilege and Tenure. The Committee on Privilege and Tenure shall promptly provide an opportunity for a hearing to the faculty member, and report its findings and recommendations with respect to the propriety of the suspension to the Vice Chancellor.

Such a suspension is a precautionary action and not a form of discipline.

Section 5. Role of the Charges Committee

- A. In cases not involving allegations of sexual harassment or scientific misconduct, after the filing of a formal complaint, the Charges Committee shall conduct a factual investigation with respect to the allegations to determine whether there is probable cause to warrant a disciplinary hearing before the Committee on Privilege and Tenure.
- B. In cases involving allegation of sexual harassment, and in cases involving allegations of discrimination in violation of the Faculty Code of Conduct, APM-015 Part II, Sections A 2 & 3, C 5 & 6, & D 2 & 3, the factual investigation to determine probable cause shall be conducted by the factfinder. The investigation shall be overseen by the Vice Chancellor and the Chair of the Charges Committee. The Charges Committee, working through the Chair, may establish investigative guidelines, identify key witnesses, formulate issues that need to be explored, frame questions that it wishes to be asked, and review the report before it is final to determine whether additional matters need to be explored. The factfinder's report is to be submitted to the Charges Committee and to the Vice Chancellor. Following receipt of the report, a formal complaint may be filed by the Dean, Chair, the complainant or other appropriate person. If no formal complaint is filed, the matter is terminated. If a formal complaint is filed, it is expected that, subject to the provisions of Section 6 (b) infra, the Charges Committee would normally use the

factfinder's report as the basis for making its determination regarding probable cause. [Am 06 Jun 13]

- C. In a matter involving allegations of scientific misconduct, in cases where an Advisory Committee is appointed by the Dean, the investigation shall be conducted by the Advisory Committee in accordance with the relevant campus policy. The Advisory Committee's determination shall be forwarded to the Charges Committee by the Dean, and a formal complaint may be filed with the Charges Committee by the Chair, the Dean, the complaining party or other appropriate person. If no formal complaint is filed, the matter is terminated. If a formal complaint is filed, it is expected that, subject to the provisions of Section 6 (b) and absent unusual circumstances, the Charges Committee will treat the determination of the Advisory Committee as its own and not conduct a further factual inquiry in the matter.
- D. Probable cause is shown "if a person of ordinary caution or prudence would be led to believe and conscientiously entertain a strong suspicion of" a violation of the Faculty Code. [Adapted from *Somers v. Superior Court*, 32 Cal. App. 3d 961, 108 Cal. Rptr. 630 (1973).]
- E. Investigation and factfinding in a disciplinary proceeding shall be conducted in accordance with relevant University policies and rules adopted by the Charges Committee. These rules shall provide adequate opportunity to the faculty member complained against and to the complainant to be heard. The complainant must be willing to meet with the investigating body (i.e. factfinder or committee) should that body, in its discretion consider such appearance necessary to determine the truth or substance of the allegations. The investigating body shall treat all steps in its investigation as confidential and shall hear witnesses in private.
- F. If at any time the Charges Committee determines that the allegations in the complaint, if true, would nevertheless not constitute a violation of University policy on faculty conduct, it shall transmit the complaint with that finding to the Vice Chancellor. If the Vice Chancellor agrees with that conclusion, the matter is terminated.
- G. After completion of the investigation, the determination of the Charges Committee as to whether there is probable cause shall be transmitted in writing to the Vice Chancellor. The Committee shall also send the full case file to the Vice Chancellor.
- H. While the matter is within the purview of the Charges Committee, the Chair of the Charges Committee or a member of the Committee designated by the Chair may attempt to bring about an informal disposition of the matter by conferring with the complainant, the faculty member complained against and other interested persons.

Section 6. Role of the Complainant and the Faculty Member Complained Against.

- A. Complainants have a legitimate interest in being kept informed as the process proceeds and, within appropriate parameters, should be able to participate in various stages of the process. However, in the investigatory stage of the process, whether the investigation is conducted by a factfinder, by an Advisory Committee or by the Charges Committee: (1) the complainant does not have a right to receive or comment on written statements submitted by the faculty member complained against or on any other evidence uncovered in the course of the investigation. (2) neither the complainant nor his or her representative has a right to be present when the testimony of witnesses is taken.
- B. In sexual harassment, discrimination, and scientific misconduct cases, when the factfinder or Advisory Committee, respectively, has completed the report, the complainant and the faculty member complained against should be notified in writing of the nature of the recommendation made in the report, whether probable cause has been found or not. After receiving this notification, the complainant and faculty member complained against may each request in writing, with supporting reasons, that he or she be permitted to testify before the Charges Committee. If satisfied that the report does not adequately address issues raised by the request(s), the Committee shall take testimony from the requesting party(ies). [Am 06 Jun 13]
- C. In all disciplinary cases, the complainant and the faculty member complained against should be informed in writing about the nature of the recommendation made by the Charges Committee, whether probable cause has been found or not.
- D. If the Charges Committee makes a finding of no probable cause, the complainant and the faculty member complained against should be informed in writing of the substance of the major factual findings made by the Committee. The entire investigating report may, if the Committee in its discretion chooses, be given to the complainant and the faculty member complained against.

Section 7. Role of the Vice Chancellor, Academic Personnel

- A. The Vice Chancellor must act within thirty days after receiving the letter determining whether or not there is probable cause from the Charges Committee. If the Vice Chancellor concurs when there has been a determination of no probable cause, the matter is terminated, and the complainant and the faculty member complained against are so notified by the Vice Chancellor. If, however, the Vice Chancellor fails to concur with a no-probable-cause determination, and proposes to find probable cause, before finalizing the decision, the Vice Chancellor will discuss any disagreement with the Charges Committee.
- B. With probable cause, whether determined by the Charges Committee or the Vice Chancellor, the Vice Chancellor shall notify the complainant and the faculty member charged of the intent to file a formal complaint with the

Committee on Privilege and Tenure. The notice of proposed disciplinary action shall set forth the formal charge(s) and in the letter to the faculty member charged, inform him or her of the range of possible sanctions that the Vice Chancellor believes might be imposed as an outcome of the matter if the faculty member charged is found guilty of misconduct. The specification of the range of possible sanctions is intended to make the faculty member charged aware of the relative seriousness of the charge. [Am 4 Jun 02]

- C. If there has been a determination of probable cause, the Vice Chancellor shall file a formal complaint, with relevant supporting materials, and provisions of Statewide Senate Bylaw 335, sections F and G, will go into effect. The Vice Chancellor will arrange for assignment of an attorney to present the case to the Privilege and Tenure Hearing Committee and will consult with the Chair of Privilege and Tenure on the format for presentation of the case.

Section 8. Rules Governing Settlements

Once a formal complaint has been filed, at any stage of the proceedings the Vice Chancellor may enter into a settlement of the disciplinary complaint with the faculty member complained against or charged, provided that the relevant committee agrees to the settlement. If the matter is under investigation by the Charges Committee, that Committee is the relevant committee. If the matter has been forwarded to the Committee on Privilege and Tenure, that Committee is the relevant committee. In addition, before a settlement can be finalized, the following conditions must be fulfilled: (1) The complainant must be given a copy of the proposed settlement and a statement of the major factual findings, if any, found by the relevant committee and be given an opportunity to comment in writing. The relevant committee may, if it chooses, hear the complainant in person regarding the proposed settlement. (2) The decision whether to enter into the settlement should be made in light of the findings, if any, and any other information made available in the course of the disciplinary process as well as the comments, if any, of the complainant. In that connection, the views of the complainant should be given due and appropriate weight by the Vice Chancellor and the relevant committee.

Section 9. Role of the Committee on Privilege and Tenure

- A. After receiving the formal complaint from the Vice Chancellor, the Committee on Privilege and Tenure shall notify the faculty defendant by letter. The faculty defendant shall have 21 calendar days (SBL 336.B.2) upon receipt of the notification letter to file a response with the Committee. Upon receipt of the answer, or failure to receive an answer within the specified time, the Committee shall consider the matter within 21 calendar days, schedule a prehearing conference within 30 calendar days and a hearing within 90 calendar days (SBL 336.B.2 & 3). The faculty defendant shall be given, either personally or by registered mail, at least ten calendar days notice of the time and place of the hearing. [Am 4 Jun 02]
- B. Upon receipt of a formal complaint from the Vice Chancellor, the Committee, upon motion of the faculty defendant, the Vice Chancellor or on its own

motion, may dismiss the charge on the ground it does not allege facts that constitute a violation of the Faculty Code of Conduct.

- C. The formal hearing before a Hearing Committee of the Committee on Privilege and Tenure will proceed according to the prehearing, hearing and posthearing procedures set forth in Statewide Bylaw 336, Section B and D. The Hearing Committee shall permit the complainant to be present at the hearing unless specific and compelling circumstances counsel to the contrary. The complainant, however, is not a party to the proceedings before the Privilege and Tenure Committee Hearing Committee and does not have a right to play an active role in the hearing other than as a witness. Where, however, during the course of the hearing, the complainant claims to have information that would be helpful to the Committee, he or she should be given the opportunity to provide the information in an appropriate manner that does not interfere with the hearing. [Am 4 Jun 02]
- D. In the event that the Privilege and Tenure Committee determines that the faculty member has violated University policy on faculty conduct, it shall recommend to the Chancellor an appropriate sanction, in accordance with the range of possible sanctions specified in the notice of proposed disciplinary action. [Am 4 Jun 02]
- E. After the Committee on Privilege and Tenure completes its report in the matter, it shall provide to the complainant a copy of its major factual findings and the Committee's recommendations regarding the disposition of the matter.

Section 10. Role of the Chancellor

The Chancellor shall review the report of the Committee on Privilege and Tenure including, if the Committee has made a finding of misconduct, its recommendation regarding the appropriate sanction and the Chancellor shall make a final decision in the matter. In determining the sanction to be imposed in cases of misconduct, the Chancellor may not impose a type of discipline more severe than that which was set forth in a written notice of proposed disciplinary action to the faculty member (APM 016, Section II). The faculty defendant, the complainant, the dean, and the Department Chair shall be advised in writing of the Chancellor's decision, and, any sanction to be imposed by the Chancellor. When the sanction to be imposed involves dismissal or demotion of a tenured faculty member, Provost, academic Dean, or lecturer with security of employment, the Chancellor's recommendation is subject to approval by the President and The Regents. [Am 4 Jun 02]

Section 11. Confidentiality

All of the proceedings of the Charges Committee, the Privilege and Tenure Committee and any investigating body attached to one of these committees and any reports generated in the course of such proceedings are confidential See Section D, Bylaw 336 which describes who has the authority to waive confidentiality of the matter. The information and material that is provided to the complainant in the course

of the disciplinary process shall be given under an instruction that the information and material is being provided in confidence and is not to be disclosed to anyone.

Section 12. Charges against Administrators and Related Matters

Where a formal complaint has been filed against an administrator who is also a faculty member alleging a violation of the University Policy on Faculty Conduct and the Administration of Discipline, the Charges Committee shall notify the Chancellor's Office. In such a case, within two weeks of receiving such notification, the Chancellor may request that the Charges Committee, in exercise of its discretion, decline to hear the matter, on the ground that the matter is more appropriately handled by the campus administration. Before making its decision on the Chancellor's request, the Charges Committee should give the complainant an opportunity to comment in writing on the request. Even in the absence of a request from the Chancellor, the Charges Committee may decline to hear the matter on the ground that the matter is more appropriately handled by the campus administration. If either the Charges Committee or the faculty member complained against wishes the matter to be heard by the Committee, the matter should be handled in accordance with the normal procedures of the Committee.

Section 13. Materials Filed in the Academic Senate Office

- A. The Charges Committee shall retain a copy of the formal complaint, its determinations, and the determinations of the Vice Chancellor. In addition, the Charges Committee shall retain any additional materials, including an inventory of the contents of the file, as is determined by the Chair of the Charges Committee to be needed to preserve an adequate procedural record of the matter. All of these materials shall be retained in a confidential file of the Charges Committee in the Office of the Academic Senate.
- B. After a hearing has been completed, the Committee on Privilege and Tenure shall retain the complete file of the case, with an inventory of the contents and any additional materials as is determined by the Chair of the Committee on Privilege and Tenure to be needed to preserve an adequate procedural record of the matter.
- C. Material not covered by sections (a) and (b) above shall be returned to the individual who provided it, or be destroyed at the expiration of one year following the termination of the case unless the complainant or faculty defendant notifies the Committee(s) in writing that further proceedings are contemplated which require their retention. Subsequent notices, if any, shall cause these materials to be retained for an additional year following the notice, and the materials shall then be returned or destroyed at the expiration thereof.
- D. The Academic Senate Office shall keep an ongoing summary chart and timetable-chronology on each case in progress. Each case shall be given a number. The identity of the original complainant and faculty defendant shall not be revealed, except by category (e.g., student, staff, faculty, or administrator). The nature of the complaint and the determinations of the Committees and Administration shall be concisely stated, and the date on

which each action, factfinding, hearing or other state of the process was initiated and completed shall be recorded in the timetable-chronology. The summary chart and timetable-chronology shall be available to the Charges Committee and the Committee on Privilege and Tenure, and the Vice Chancellor, [and the campus Sexual Harassment Coordinator] upon written request to the Chair of the Academic Senate and for good cause, the summary of disciplinary cases and timetable-chronology may be reviewed by a member of the Academic Senate in the Academic Senate Office.

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