

**INTERIM PROCEDURE FOR INVESTIGATION OF
FACULTY MISCONDUCT
AND THE ADMINISTRATION OF DISCIPLINE**
University of California, San Francisco (Revised November 9, 2009)

I. Principles

The Assembly of the Academic Senate has recommended that each campus develop procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings. It is also the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus in consultation with the Academic Senate. Subject to any formal labor contract agreements to the contrary, the following procedures shall be used to implement Academic Personnel Manual (APM) Section 015 and Section 016 and to investigate allegations of professional misconduct¹ by a member of the faculty. These procedures apply to all faculty members, Senate and non-Senate, unless superseded by a memorandum of understanding or collective bargaining agreement. Any perceived conflict between the provisions of APM 015 and APM 016 and these procedures is unintended and the provisions of APM 015 and APM 016 are controlling.

The Chancellor may not initiate a notice of proposed disciplinary action unless there has been an investigation with a finding of probable cause. The probable cause standard means that the facts as alleged in the complaint, if true, justify the imposition of discipline for a violation of the Faculty Code of Conduct and that the Chancellor is satisfied that the University can produce credible evidence to support the claim. Except as

¹ This *Procedure* does not apply in cases where the professional misconduct in question falls within the definition of Research Misconduct. Research Misconduct is defined as “fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.” See UCSF Campus Administrative Policy (CAP) 100-29. This is the definition adopted by the U.S. Public Health Service. In cases involving allegations of Research Misconduct, the appropriate procedure is the *Integrity of Research Procedures* (<http://academicaffairs.ucsf.edu/policies.php>). Behavior constituting Research Misconduct can result in violations of both CAP 100-29 and other policies, including the Faculty Code of Conduct. To the extent that this Procedure conflicts with the Integrity of Research Procedure, any such conflict is unintended, and the Integrity of Research Procedure is controlling in cases involving allegations of Research Misconduct.

noted in Footnote 1, no disciplinary sanction shall be imposed by the Chancellor except in accordance with this Procedure.²

No disciplinary sanction shall be imposed on a member of the Academic Senate until the faculty member has had an opportunity for a hearing before the UCSF Committee on Privilege and Tenure as set forth in Senate Bylaw 336. If disciplinary action is to proceed, the UCSF Committee on Privilege and Tenure must hold a hearing and make findings on the evidence presented unless the accused faculty member settles the matter with the Chancellor prior to the hearing or explicitly waives his or her right to a hearing.

A non-Senate faculty member is entitled to all the privileges and protections specified in Academic Personnel Manual Section 150, Non-Senate Academic Appointees Corrective Action and Dismissal and Section 140, Non-Senate Academic Appointees/Grievances.

II. Grounds for Disciplinary Action

A faculty member may face disciplinary sanctions only for conduct which is inconsistent with the ethical principles of the Faculty Code of Conduct and which significantly impairs the University's central functions. Misconduct leading to disciplinary actions includes, but is not limited to, failure to meet the responsibilities of instruction, unauthorized use of University resources or facilities, discrimination, harassment, neglect of duty, research or other scientific misconduct, and serious violations of University policies governing the professional conduct of faculty. These violations include, but are not limited to, policies applying to research, outside professional activities, conflicts of commitment, clinical practices, violence in the workplace, and whistleblower protections. Further examples of the types of unacceptable faculty conduct that could be grounds for disciplinary action can be found in the Academic Personnel Manual (APM) Section 015, The Faculty Code of Conduct.

III. Permissible Disciplinary Sanctions

The following disciplinary sanctions are authorized in the Academic Personnel Manual (APM) Section 016, The University Policy on Faculty Conduct and the Administration of Discipline:

² If Research Misconduct by a UCSF faculty member is found to have occurred after an investigation under the *Integrity of Research Procedures*, the UCSF Research Integrity Officer will refer the question of discipline to the same committee that investigated the matter, convened as a faculty misconduct committee, for a recommendation regarding discipline, after which, the appropriate University official will make a recommendation on discipline under this *Interim Procedure* to the Chancellor.

- A Written censure
- B. Reduction in Salary
- C. Demotion
- D. Suspension
- E. Denial or curtailment of Emeritus status
- F. Dismissal from the employ of the University

More than one disciplinary sanction may be imposed for a single act of misconduct, e.g., a letter of censure and a suspension. Provisions for removal or termination of sanctions may be made in individual cases, depending upon the severity and type of discipline. The UCSF Committee on Privilege and Tenure shall not recommend the imposition of a sanction more severe than that in the notice of proposed disciplinary action.

Written censures should be maintained in a designated personnel file or files for a period of time specified in writing. Demotion as a sanction is appropriate only when the misconduct is relevant to the academic advancement of the faculty member. 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.

The Chancellor is authorized to initiate involuntary leave with pay prior to the initiation of a disciplinary action if it is found that 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 his or her wrongdoing, or in situations where the faculty member's conduct represents a serious crime or felony that is the subject of an investigation by a law enforcement agency. When such action is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary action.

In rare and egregious cases, the 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. This is in addition to the Chancellor's power to suspend the pay of a faculty member who is absent without authorization and fails to perform his or her duties for an extended period of time. However, within 10 working days the Chancellor must explain in writing the reasons for the involuntary leave and initiate disciplinary procedures.

IV. Scope

Any faculty member, University administrator, staff, student or other member of the campus community may lodge a complaint with the Chancellor³ charging a faculty member with violation of the Faculty Code of Conduct contained in APM Section 015, or of other University policies. The Faculty Code of Conduct addresses the imposition of disciplinary sanctions and applies to the professional responsibilities of faculty. However, faculty members, like all 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. The Faculty Code of Conduct also applies to faculty members holding administrative appointments as defined in APM 016, the University Policy on Faculty Conduct and the Administration of Discipline

V. Investigation Procedures

A. All those involved in the investigation and disciplinary proceedings shall have the obligation of confidentiality.

B. The Chancellor, Vice Chancellor or designee (herein referred to as Vice Chancellor) shall refer the complaint within 7 calendar days to an appropriate University administrator, such as a Dean or Department Chair, who shall conduct a preliminary inquiry or investigation of the allegations. The conduct of a preliminary investigation may be delegated to one or more faculty members as appropriate. In many cases, the allegations may be brought to the attention of University administrators who should proceed directly to a preliminary investigation. In cases of sexual harassment, the Office of Sexual Harassment Prevention and Resolution may carry out the preliminary investigation. The investigator shall inform the faculty member of the allegations in writing.

The purpose of the preliminary inquiry or investigation is to determine if the charge has sufficient substance to warrant formal investigation. The investigator should, whenever possible and appropriate, seek to informally address the allegations or develop a settlement resolving the differences between parties by informal mediation, except in cases of alleged research misconduct. If a mutually agreeable settlement is reached, it should be recorded in writing, and signed by the charging party, the accused faculty member, and the investigator.

C. All preliminary investigations shall be completed within 30 calendar days, unless an extension is approved by the Vice Chancellor in writing. A report shall be prepared and forwarded to the Vice Chancellor

³ Complaints involving allegations of Research Misconduct must be made to the UCSF Research Integrity Officer (see Integrity of Research Policy at <http://policies.ucsf.edu/>).

who shall provide a copy to the individual against whom the allegation was made. Any rebuttal made by the individual to this report shall be made part of the record.

D. On receipt of the report from the investigator, the Vice Chancellor may decide that:

- 1 No further action is necessary, and so inform the parties involved.
- 2 The complaint has substance and should be investigated further.

The Vice Chancellor shall appoint from a panel of members nominated by the Committee on Committees of the Divisional Academic Senate an Ad Hoc Committee to carry out a probable cause investigation. The Ad Hoc Committee should not have members from the Committee on Privilege and Tenure, and should include representation from the same academic series as the accused faculty member. The committee shall be charged to investigate the complaint, to consider the accused faculty member's response if one is offered, and to make a timely recommendation to the Vice Chancellor whether there is credible evidence to indicate that there has been a violation of the Faculty Code of Conduct or of established University policies. The Vice Chancellor shall have the discretion to augment the Ad Hoc Committee membership, in consultation with the Committee on Committees, to include special fields or professional representation as needed for a competent review.

The following shall occur within the specified time frames unless an extension of the time limit is approved in writing by the Vice Chancellor:

- a. Within 90 days of the initiation of the probable cause investigation, the Ad Hoc Committee shall complete its investigation and submit a formal report to the Vice Chancellor.
- b. The Vice Chancellor shall provide a copy of the report to the accused faculty member for comments.
- c. The accused faculty member shall provide a written response to the allegations within 21 calendar days of the date the ad hoc report is sent to them.
- d. In cases involving findings of scientific misconduct, information will be provided to sponsoring agencies as required.

D. The Vice Chancellor shall inform the Chancellor of the Ad Hoc Committee's findings and the accused faculty member's response, and recommend what, if any, disciplinary sanctions shall be imposed.

E. The Chancellor shall inform the accused faculty member in writing within 30 calendar days of the findings and of the sanctions, if any, to be proposed. If sanctions are to be proposed, the Chancellor shall explain which procedures are available to the accused faculty member: a formal hearing by the Committee on Privilege and Tenure if the accused faculty member is a member of the Academic Senate, or the procedures under Academic Personnel Manual Section 140 if the accused faculty member is not a member of the Academic Senate. No alternate University procedures are available to the accused faculty member.

F. Within 21 calendar days after written notification from the Chancellor of the findings and any proposed sanctions, the accused faculty member shall notify the Chancellor in writing whether or not he/she accepts those findings and sanctions. If the faculty member accepts the findings and sanctions or does not file a response, the Chancellor may proceed with imposing the proposed sanctions. If he/she does not accept them, the Chancellor shall proceed by filing charges against the faculty member. If the accused faculty member is a member of the Academic Senate, the charges will be filed with the Committee on Privilege and Tenure, which shall conduct a hearing in accordance with the procedures set forth in the Academic Senate Bylaw 336. If the faculty member is not a member of the Academic Senate, and does not accept the findings, he/she may file an appeal in accordance with Academic Personnel Manual Section 140.

G. An accused Academic Senate member shall be entitled to all procedural privileges and protections before the Committee on Privilege and Tenure specified in the Standing Orders of the Regents, and in the provisions of the Academic Senate Bylaws that implement such Orders.

An accused non-Senate member shall be entitled to all procedural privileges and protections before a Hearing Officer as specified in the Standing Orders of the Regents, and in Academic Personnel Manual Section 140.

H. All such hearings shall be held as promptly as feasible, and shall be completed within 45 calendar days after receipt of an answer or, if no answer is received, after delivery of the charges. The accused shall be given, either personally or by registered mail, at least 10 calendar days' notice of the time and the place of the hearing. With appropriate cause, the Chancellor or designee may grant a reasonable extension of time. All

investigations and hearings shall be treated as confidential except that the accused faculty member may release without comment a copy of the complaint against him/her. The hearing shall be open only to those persons directly concerned, unless both parties agree on an open hearing.

J. For accused Academic Senate members, as provided in Senate Bylaw 336, copies of the findings, conclusions, and recommendations of the Committee on Privilege and Tenure shall be transmitted to the Chancellor and the accused faculty member. If a hearing is conducted for a non-Senate member, a copy of the report of the hearing and recommended decision shall be transmitted to the Chancellor and the accused faculty member.

In all cases, all findings, conclusions, and recommendations shall be transmitted to the Chancellor within 30 calendar days of the conclusion of such hearings for the Chancellor's review. The Chancellor shall inform the accused faculty member in writing within the next 15 calendar days of the Chancellor's final decision. Reasonable extensions to deadlines may be granted for good cause to all parties upon written request to the Vice Chancellor.

K. The Chancellor is granted authority by The Regents and shall have final authority to determine and execute appropriate sanctions in accord with APM 016, University Policy on Faculty Conduct and the Administration of Discipline. In cases where the Chancellor's decision disagrees with the recommendation of the UCSF Committee on Privilege and Tenure, the Chancellor shall inform the Chair of the committee of the disagreement in writing and ask if the Chair would like the Chancellor to meet with the Chair or the whole committee prior to making his/her final decision. The Chancellor may choose to waive or limit the imposition of a disciplinary sanction on the condition that the accused faculty member performs some specified action designed to address the harm caused by the misconduct.

L. If acceptable to the Chancellor and the accused faculty member, informal mediation may be considered for resolution of some or all of the issues addressed through this procedure. However, mediation of issues does not preclude the imposition of disciplinary sanctions. In cases where a settlement resolving disciplinary charges is entered into after a matter has been referred to an Academic Senate committee, the Chancellor is encouraged to consult with the Chair of the Committee on Privilege and Tenure prior to finalizing the settlement.

M. No disciplinary action may commence if more than three years have passed between the time the Chancellor knew or should have known about the alleged violation and the notice of proposed disciplinary action.

N. If the allegations are not substantiated by the review, formal efforts should be undertaken to restore fully the reputation of the faculty member and others under investigation. In addition, appropriate action should be taken against any parties where involvement in leveling unfounded charges was demonstrated to have been malicious or intentionally dishonest.

O. Records of disciplinary matters will be maintained in a confidential manner and shared with Senate and administrative officers with a need to know in accordance with State law and University policy.