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Grievance Cases

General Information and Pre-hearing Procedures

General Information

- Grievance cases are governed by Senate Bylaw (SBL) 335 and Divisional Bylaw (DBL) 141.
- Grievance cases are initiated by Senate members [SBL 335(A)(1)]

Definitions

Grievance: A complaint that a Senate member's rights or privileges have been violated.

Prima Facie Case: a prima facie case shall be deemed established if the P&T Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member’s rights and privileges. [SBL 335(B)(2)]

Personnel Issues

Note: In cases of personnel review involving tenure, promotion or reappointment, a grievance can only be based on allegations that:
(a) the procedures were not in consonance with the applicable rules and requirements of the University of any of its Divisions; or
(b) the challenged decision was reached on the basis of impermissible criteria, including, but not limited to, race, sex or political conviction. [SBL 335(A)(2)]

Preliminary Procedures

- Exhaustion of Administrative Remedies. Before considering the grievance, the P&T Committee can, at its discretion, require the grievant to exhaust all appropriate administrative avenues of redress, including, but not limited to, presenting the grievance along with a request for an administrative remedy to the department chair, dean or other appropriate academic administrator who has authority to investigate and offer a remedy. [SBL 335(A)(1)]

Early Resolution Efforts

- Informal Negotiations. Any party may attempt to resolve the grievance informally through negotiations. These negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of the grievance procedures. If a negotiated resolution is reached after a written grievance is filed, the P&T Committee should be given notice that the matter has been resolved. [SBL 335(C)(1)]

- Mediation. The grievance may also be resolved through mediation in cases where mediation is acceptable to the administration and the grievant. With the consent of the administration and the grievant, the P&T Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation. [SBL 335(C)(2)]

Time Limitation

Privilege and Tenure Grievance Guidelines
No grievance may be considered by the P&T Committee if more than three years have passed between the time the grievant knew or should have known about the violation of his/her rights and privileges and the resulting injury there from, and the filing of a grievance with the Committee. [SBL 335(B)(6)]

**Pre-Hearing Procedures**

1. P&T receives the written grievance.

2. P&T reviews the grievance to see if more than 3 years has passed between the time the grievant knew or should have known about the violation of his/her rights and privileges and the resulting injury and the filing of the grievance. Note: If more than 3 years has passed, P&T cannot consider the grievance. (SBL 335.B.6)

3. If the grievance was filed within the 3-year period, and either the grievant has already exhausted all available administrative remedies, or P&T does not deem this to be necessary, then P&T reviews the written grievance only and determines whether the grievant has made out a prima facie case. (SBL 335.B.2)
   a) If the grievant has not made out a prima facie case, P&T writes the grievant a letter stating the reasons for this conclusion. (SBL 335.B.4)

4. If the grievant has made out a prima facie case, P&T may conduct a preliminary review of the evidence to determine if there is sufficient reason to believe that a right or privilege of the grievant may have been violated.
   a) During the preliminary review, P&T must give the grievant an opportunity to discuss his/her allegations with the Committee, either orally or in writing.
   b) If either party appropriately shows a need, or on its own initiative, P&T can request files and documents from the administration.
   c) At the preliminary review stage, P&T may give notice of the grievance to the administrator with authority to offer a remedy, and offer the administrator an opportunity to respond.
   d) During the preliminary review stage, P&T may also ask other persons involved in the events giving rise to the grievance to appear before P&T or to provide P&T with information. (SBL 335.B.3)

5. If P&T determines that after the preliminary review, there is not sufficient reason to believe that the grievant’s rights and privileges may have been violated, P&T writes the grievant a letter, stating the reasons for this conclusion. (SBL 335.B.4)

6. If P&T determines that the grievant has made out a prima facie case of a violation of a right or privilege and that there is sufficient reason to believe that the grievant’s rights and privileges may have been violated:
   a) P&T must advise the Chancellor’s designee of the grievance and the prima facie determination
   b) P&T must also make an attempt to promote a resolution of the dispute. (SBL 335.B.5)

7. If no resolution can be reached, P&T must conduct a formal hearing. (SBL 335.B.5)
Flowchart: Pre-Hearing, Hearing, and Post-Hearing Procedures in Grievance Cases

INFORMAL RESOLUTION IS ENCOURAGED AT ANY STAGE
Any party may try to resolve the grievance informally through negotiations. Negotiations may proceed with the help of impartial third parties, including one or more Committee members. A negotiated resolution is permissible and appropriate at any stage of the grievance proceedings. If a negotiated resolution is reached after a written grievance is filed, the P&T Committee should be given notice that the matter has been resolved. (SBL 335.C.1)

The grievance may be resolved through mediation when mediation is acceptable to the grievant and the administration. When all parties consent, the P&T Committee may help in selecting an appropriate mediator. Other relevant parties, including Committee members, may participate in the mediation. (SBL 335.C.2)
PRELIMINARY REVIEW OF THE EVIDENCE IN GRIEVANCE CASES

If, after finding a prima facie case was made, P&T decides to conduct a preliminary review of the evidence:

- During the preliminary review, P&T must give grievant the opportunity to discuss his/her allegations with the Committee, either orally or in writing.

- If either party shows an appropriate need, or on its own initiative, P&T Committee may ask for files and documents from the administration, including the grievant’s personnel files and confidential documents therein. Confidential documents shall remain confidential within the Committee unless disclosure is required by law.

- P&T may give notice of the grievance to the administrator with authority to offer a remedy, and offer the administrator an opportunity to respond.

- P&T may ask other persons involved in the events giving rise to the grievance, including the department chair, to appear before P&T or to provide P&T with information. (SBL 335.B.3)

If P&T determines that after the preliminary review, there is not sufficient reason to believe that the grievant’s rights and privileges may have been violated, P&T writes grievant, stating reasons for this conclusion. (SBL 335.B.4)

If P&T determines that the grievant has made out a prima facie case of a violation of a right or privilege and that there is sufficient reason to believe the grievant’s rights/privileges may have been violated:

- P&T must advise the Chancellor’s designee of the grievance and the prima facie determination
- P&T must also attempt to promote a resolution of the controversy.

If resolution efforts fail, P&T must conduct a formal hearing. (SBL 335.B.5)
FORMAL HEARING PROCEDURES IN GRIEVANCE CASES

The Hearing Committee
The P&T Committee shall appoint a Hearing Committee for each grievance case that is not resolved through a negotiation or mediation.

- The Hearing Committee should consist of at least 3 Division members, at least 2 of whom must be P&T Committee members.
- One of the P&T Committee members on the Hearing Committee shall chair the Hearing Committee.
- No member of the department or equivalent administrative unit of any of the parties may be appointed to the Hearing Committee.
- Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case, and must recuse themselves as appropriate.
- A quorum for the conduct of the hearing shall be at least half but not less than 3 members of the hearing Committee, including at least 1 member of the P&T Committee. (SBL 335.D.1)

Pre-Hearing Conference
Before the hearing, the Hearing Committee chair shall schedule a conference with the parties and/or their representatives to:

- Determine facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
- Define the issues to be decided by the Hearing Committee.
- Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party before the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
- Specify whether pre-hearing and post-hearing briefs will be submitted by the parties, and the deadlines for those briefs.
- Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the grievant, and their representatives may be present during all or any part of the hearing. To preserve confidentiality, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing. (SBL 335.D.2.a-e)
RULES RELATING TO FORMAL HEARINGS IN GRIEVANCE CASES

1. The Chancellor’s designee, the grievant and/or their representatives are entitled to be present at all sessions of the Hearing Committee when evidence is being received.

2. Each party has the right to be represented by counsel.

3. Each party has the right to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for full and true disclosure of the facts.

4. The hearing does not have to be conducted according to the technical legal rules relating to evidence and witnesses.

5. The Hearing Committee may, upon an appropriate showing of need by any party, or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee.

6. The Hearing Committee may call witnesses or make evidentiary requests on its own volition.

7. The Hearing Committee has the discretion to require that all witnesses affirm the veracity of their testimony.

8. No evidence other than that presented at the hearing shall be considered by the Hearing committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters.

9. The P&T Committee may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege & Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

10. At the hearing the grievant bears the burden of proving the validity of the grievance by a preponderance of the evidence.

11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The requesting party bears the cost of the copy.

POST-HEARING PROCEDURES IN GRIEVANCE CASES

- At the conclusion of the hearing, the Hearing Committee shall promptly make its finding of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure.

- The findings, conclusions, recommendation, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, and with the consent of the grievant, authorize release of the findings, conclusions, and recommendations to other individuals and entities, to the extent allowed by law.

- The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing. (SBL 335.D)
Disciplinary Cases

General Information and Pre-Hearing Procedures

General Information

• Disciplinary cases are governed by Senate By-Law (SBL) 336 and Divisional By-Law (DBL) 141.

• Disciplinary cases are initiated by the appropriate Chancellor or Chancellor's designee against a Senate member or other faculty members who have a right to a hearing before a Senate committee under Standing Order of the Regents (SOR) 103.9 or 103.10, once probable cause has been established. Procedures regarding the establishment of probable cause are determined by Academic Personnel Manual (APM) 015 and 016 and Divisional policies. [SBL 336(B)(1)]

• Charges shall be in writing. Charges shall contain notice of proposed disciplinary action and a full statement of the facts underlying the charges. [SBL 336(B)(1)]

Extensions of Time

Generally, extensions of the deadlines for various procedures may be granted, within the discretion of the Chair of the P&T Committee. Some procedures have specific requirements in order for extensions to be granted, such as an extension for the member to submit his/her answer to the charges, which requires a written application. [See, e.g., SBL 336(B)(2); 336(B)(3)]

Early Resolution Efforts

• Informal Negotiations. The Chancellor or Chancellor’s designee and the accused faculty member may attempt to resolve the disciplinary charges informally through negotiations. Any party may attempt to resolve the grievance informally through negotiations. If desired, these negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. If a negotiated resolution is reached after written charges are filed, the P&T Committee should be given notice that the matter has been resolved. [SBL 336(C)(1)]

• Mediation. The disciplinary charges may be resolved through mediation in cases where mediation is acceptable to the administration and the accused member. With the consent of the administration and the accused, the P&T Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation. [SBL 336(C)(2)]

• Consultation. Once charges have been filed with the P&T Committee, the Committee Chair should request that the Chancellor or Chancellor's designee consult with the Committee or its chair before the completion of any early resolution. [SBL 336(C)(3)]

Time Limitation

No disciplinary action may commence if more than 3 years have passed between the time when the Chancellor or Chancellor’s designee knew or should have known about all the alleged violation of the Code of Conduct, and the delivery of the notice of proposed disciplinary action. [SBL 336(B)(4)]

Pre-Hearing Procedures

1. P&T receives the written charges from the administration. Note: If more than 3 years has passed between the time the Chancellor or Chancellor’s designee knew or should have known about the alleged violation of the Code of Conduct, and the delivery of the notice of the proposed disciplinary action, no disciplinary action may commence. [SBL 336(B)(4)]

2. Upon receiving the charges, the P&T Chair must promptly deliver a copy of the charges to the accused faculty member or send it by registered mail to the accused's last known place of residence. [SBL 336(B)(1)]
3. The accused member has 21 calendar days after receipt of the charges to file a written answer with P&T. P&T shall provide a copy of the answer to the Chancellor or Chancellor's designee. If the accused submits a written request for an extension of time, the P&T Chair may grant a reasonable extension of time for filing an answer. [SBL 336(B)(2)]

4. P&T shall consider the matter within 21 days after receipt of an answer (or, if no answer is received, after the deadline for receipt of an answer). P&T shall evaluate the case and establish time frames for all subsequent procedures.
   • P&T may refer the case to mediation [SBL 336(C)] or appoint a Hearing Committee [SBL 336(D)(2)]
   • Generally, a pre-hearing conference shall be scheduled within 30 calendar days of appointing the Hearing Committee.
   • Generally, the hearing shall be scheduled within 90 calendar days of appointing the Hearing Committee.
   • The accused shall be given, either personally or by registered mail, at least 10 calendar days’ notice of the time and place of the hearing.
   • The Chancellor, Chancellor’s designee, or P&T Chair may for good reason grant an extension of any of these time limits. [SBL 336(B)(3)]

5. The Chancellor or Chancellor’s designee and the accused may attempt to resolve the disciplinary charges informally through negotiations. These negotiations may proceed with the assistance of impartial third parties, including one or more P&T members. A negotiated resolution is permissible and appropriate at any stage of these proceedings. Note: If a negotiated resolution is reached after written charges are filed, P&T should be given notice that the matter has been resolved. [SBL 336(C)(1)]

6. The disciplinary charges may also be resolved through mediation in cases where such mediation is acceptable to the administration and the accused. With the consent of the administration and the accused, P&T may assist in selecting an appropriate mediator. Other relevant parties, including P&T members, may participate in the mediation. [SBL 336(C)(2)]

7. Once charges have been filed with P&T, the P&T Chair should request that the Chancellor or Chancellor’s designee consult with P&T or its Chair before completion of any early resolution. [SBL 336(C)(3)]
### Timeline

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<td>Promptly after P&amp;T receives charges</td>
<td>P&amp;T Committee Chair promptly delivers a copy of the charges to the accused faculty member.</td>
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| 21 calendar days after accused’s receipt of charges (or later if extension is granted) | Accused member has 21 calendar days after receipt of the charges to provide a written answer to P&T Committee. The Committee must provide a copy of the answer to the Chancellor or Chancellor’s designee.  
  - Upon receipt of a written application, the P&T Committee Chair may grant a reasonable extension of time for the member to file an answer to the charges. |
| Within 21 calendar days after receipt of an answer (or after the due date if no answer received) | P&T Committee shall consider the matter within 21 calendar days after receipt of an answer, or if no written answer is received, after the deadline for receipt of an answer.  
  - The Committee shall evaluate the case and establish time frames for all subsequent procedures.  
  - The Committee may refer the case to mediation [SBL 336(C)], or it may appoint a Hearing Committee [SBL 336(D)].  
  - The Chancellor, Chancellor’s designee or P&T Committee Chair may for good reason grant an extension of this time limit. |
| Generally, within 30 calendar days after the appointment of a Hearing Committee (or later, if extension is granted) | Generally, a pre-hearing conference shall be scheduled within 30 calendar days of the appointment of a Hearing Committee [SBL 336(D)(2)].  
  - The Chancellor, Chancellor’s designee or P&T Committee Chair may for good reason grant an extension of this time limit. |
| Generally, within 90 calendar days after the appointment of a Hearing Committee (or later, if extension is granted) | Generally, the hearing shall be scheduled within 90 calendar days of the appointment of a Hearing Committee [SBL 336(D)].  
  - The Chancellor, Chancellor’s designee or P&T Committee Chair may for good reason grant an extension of this time limit. |
| At least 10 calendar days before the hearing | The accused member shall be given, either personally or by registered mail, at least 10 calendar days’ notice of the time and place of the hearing. |
| Prior to the hearing | Prior to the formal hearing, the Chair of the Hearing Committee shall schedule a conference with the accused, the Chancellor or Chancellor’s designee, and/or their representatives to narrow the issues and set a schedule for exchanging witness lists, copies of exhibits, any pre- or post-hearing briefing, and attain agreements about who may be present at the hearing. |
| Promptly after the conclusion of the hearing | At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case. |
Flowchart: Pre-Hearing, Formal Hearing, and Post-Hearing Procedures in Disciplinary Cases

Pre-Hearing Procedures

P&T Committee receives written charges against a Senate member or other faculty member for whom a hearing before P&T Committee is authorized. (SBL 336.A; 336.B.1)

Chair of P&T Committee promptly delivers a copy of the charges to the accused faculty member or sends a copy by registered mail to the faculty member’s last known residence address. (SBL 336.B.1)

Accused member submits written answer to the charges to P&T Committee within 21 calendar days from the member’s receipt of the charges. P&T Committee must give a copy of the answer to the Chancellor or Chancellor’s designee. (SBL 336.B.2) P&T Chair may give an extension of time to answer the charges if a written application is received. (SBL 336.B.2)

P&T Committee considers the matter within 21 calendar days after receiving the answer from the accused member, or, if no answer is received, after the deadline for receipt of the answer.

- P&T Committee shall evaluate the case and establish time frames for all subsequent procedures.
- P&T Committee may refer the case to mediation, or may appoint a Hearing Committee.
- Generally, a pre-hearing conference shall be scheduled within 30 calendar days after appointment of a Hearing Committee.
- Generally, the hearing shall be scheduled within 90 calendar days after appointment of a Hearing Committee.
- The accused member is entitled to receive at least 10 days’ notice of the time and place of the hearing.
- The above deadlines can be extended by the Chancellor, Chancellor’s designee or P&T Committee Chair for good reason. (SBL 336.B.3)

Informal Resolution is Encouraged at Any Time

The Chancellor or Chancellor’s designee and the accused may try to resolve the disciplinary charges informally through negotiations. Negotiations may proceed with the help of impartial third parties, including one or more Committee members. A negotiated resolution is permissible and appropriate at any stage of the disciplinary procedures. If a negotiated resolution is reached after written charges are filed, P&T Committee should be given notice that the matter has been resolved. (SBL 336.C.1)

The disciplinary charges may also be resolved through mediation when mediation is acceptable to the accused member and the administration. When all parties consent, P&T Committee may help in selecting an appropriate mediator. Other relevant parties, including Committee members, may participate in the mediation. Once charges have been filed with P&T Committee, the Committee chair should ask that the Chancellor or Chancellor’s designee consult with the Committee or its chair before the completion of any early resolution. (SBL 336.C.2; 336.C.3)
Formal Hearing Procedure in Disciplinary Cases

**The Hearing Committee**

The P&T Committee shall appoint a Hearing Committee for each disciplinary case that is not resolved through a negotiated resolution or mediation.

- The Hearing committee should consist of at least 3 Division members, at least 2 of whom must be P&T Committee members.
- One of the P&T Committee members on the Hearing Committee shall chair the Hearing Committee.
- The Committee may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee.
- Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and must recuse themselves as appropriate.
- A quorum for the conduct of the hearing shall be at least half but not less than 3 members of the Hearing Committee, including at least 1 member of the P&T Committee. (SBL 336.D.1)

**Pre-Hearing Conference**

Before the hearing, the Hearing Committee chair shall schedule a conference with all parties and/or their representatives to:

- Determine facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
- Define the issues to be decided by the Hearing Committee.
- Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party before the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
- Specify whether pre-hearing and post-hearing briefs will be submitted by the parties, as well as the deadlines for those briefs.
- Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the accused, and their representatives may be present during all of part of the hearing. To preserve confidentiality, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing. (SBL 336.D.2a-e)
## Rules Relating to the Formal Hearings in Disciplinary Cases

1. The Chancellor’s designee, the accused and/or their representatives are entitled to be present at all sessions of the Hearing Committee when evidence is being received.  [SBL 336(D)(3)]

2. Each party has the right to be represented by counsel.  [SBL 336(D)(3)]

3. Each party has the right to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for full and true disclosure of the facts.  [SBL 336(D)(3)]

4. The hearing does not have to be conducted according to the technical legal rules relating to evidence and witnesses.  [SBL 336(D)(4)]

5. The Hearing Committee may, upon an appropriate showing of need by any party, or on its own initiative, request files and documents under the control of the administration.  All confidential information introduced into evidence shall remain so within the Hearing Committee.  [SBL 336(D)(4)]

6. The Hearing Committee may call witnesses or make evidentiary requests on its own volition.  [SBL 336(D)(4)]

7. The Hearing Committee has the discretion to require that all witnesses affirm the veracity of their testimony.  [SBL 336(D)(4)]

8. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter.  Under these conditions, prior hearing reports are always admissible.  [SBL 336(D)(5)]

9. No evidence other than that presented at the hearing shall be considered by the Hearing committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known.  Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters.  [SBL 336(D)(6)]

10. The P&T Committee may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege & Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.  [SBL 336(D)(7)]

11. At the hearing the Chancellor or Chancellor’s designee bears the burden of proving the allegations by clear and convincing evidence.  [SBL 336(D)(8)] The phrase “clear and convincing evidence” means generally that the Hearing Committee must be persuaded by the evidence that it is highly probable that the allegations are true.  The “clear and convincing evidence” standard is a heavier burden than the “preponderance of the evidence” standard (requiring that it be more likely than not that a claim is true), but less than “beyond a reasonable doubt”.
Post-Hearing Procedures in Disciplinary Cases

- At the conclusion of the hearing, the Hearing Committee shall promptly make its finding of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. [SBL 336(D)(10)]

- The findings, conclusions, recommendation, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, and with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals and entities, to the extent allowed by law. [SBL 336(D)(10)]

- The Hearing Committee shall not have power to recommend the imposition of a sanction more severe than that proposed in the notice of proposed disciplinary action. In determining the appropriate sanction to recommend, the Hearing Committee may choose to consider previous charges against the accused if those charges led to prior sanctions either after a disciplinary hearing or pursuant to a negotiated or mediated resolution. [SBL 336(D)(9)]

- The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing. [SBL 336(D)(11)]
Related Grievance and Disciplinary Cases

General Information and Pre-Hearing Procedures

General Information
Related Grievance and Disciplinary cases are governed by Senate By-Law (SBL) 335 and 336 and Divisional By-Law (DBL) 141.

Rules for Grievance Cases Related to Disciplinary Cases
- There are circumstances in which the same set of facts and allegations lead to both a disciplinary matter and a grievance before P&T. [SBL 335(E)] When a grievance involves the same facts that are the subject of a disciplinary matter, P&T may, at its discretion, hold either matter in abeyance while it proceeds with the other. Alternatively, with the consent of the grievant, the accused in the disciplinary matter, and the Chancellor’s designee, consider both matters within a single hearing. [SBL 335(E)(1)(a)]
- Under these circumstances, when a single hearing is held, the Committee shall make separate reports of findings, conclusions and recommendations for the grievance and the disciplinary matter. [SBL 335(E)(1)]
- When a Senate member facing disciplinary charges files a grievance involving the same set of facts and circumstances as the disciplinary matter, P&T has the discretion to consider both matters within a single hearing. (SBL 335.E.1.b)
- When a Senate member files a grievance which is based on the same facts and incidents involved in a prior disciplinary hearing at which the same Senate members was accused of violating the Code of Conduct, the findings and conclusions of the prior disciplinary hearing shall be conclusive. (SBL 335.E.2)

Rules for Disciplinary Cases Related to Prior Grievance Cases
- A disciplinary Hearing Committee shall not be bound by the recommendation of another hearing body, including the findings of P&T in a grievance case involving the same set of incidents. (SBL 336.E)
- However, the Hearing Committee may accept into evidence the findings of another hearing body or investigative agency. The weight to be accorded evidence of this nature is at the discretion of the Hearing Committee and should take account of the nature of the other forum. (SBL 336.E)
- In any case, the accused faculty member must be given full opportunity to challenge the findings of the other body. (SBL.336.E)
Early Termination Cases

General Information and Pre-Hearing Procedures

General Information
Early termination cases are governed by Senate By-Law (SBL) 337, Divisional By-Law (DBL) 141, and Standing Orders of the Regents (SOR) 103.9 and 103.10. (SBL 337.A)

Early termination cases include the following situations:
- termination is proposed before the expiration of the Senate or non-Senate faculty member’s appointment,
- a tenured faculty member faces termination for incompetent performance, or
- for other faculty members whose right to a hearing before a Senate committee is given under SOR 103.9 or 103.10. (SBL 337.A)
- Early termination cases are initiated by the faculty member’s request for a hearing. (SBL 337.A)
- Upon request, P&T Committee shall conduct a hearing to determine whether, in its judgment, the proposed early termination is:
  - for good cause, and
  - has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. (SBL 337.A)

Early Resolution
Resolution of the dispute, either through negotiation or mediation, is permissible and appropriate at any stage of these proceedings. (SBL 337.A)

Time Limitations
No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before the P&T Committee. If the hearing has not begun by the end of the faculty member’s term of appointment, the faculty member no longer has a right to an early termination hearing pursuant to SBL 337. Instead, the faculty member may seek a grievance hearing by grieving the non-reappointment pursuant to SBL 335 in the case of Senate faculty, or the Academic Personnel Manual in the case of non-Senate faculty. (SBL 337.A)

Pre-Hearing Procedures
1. P&T receives a request for a hearing from a faculty member who claims that:
   - He/she is being terminated before the expiration of his/her appointment (Senate or non-Senate faculty), or
   - He/she is tenured and faces termination for incompetent performance, or
   - He/she is entitled to a hearing pursuant to Standing Orders of the Regents (SOR) 103.9 or 103.10 (SBL 337.A)
   (these situations are referred to as “Early Termination”)

2. P&T must conduct a hearing to determine whether, in its judgment, the proposed early termination is (a) for good cause, and (b) has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. (SBL 337.A)

3. Resolution of the dispute, through negotiation or mediation, is permissible and appropriate at any stage of these proceedings. (SBL 337.A)

4. P&T shall appoint a Hearing Committee consisting of at least 3 Division members.
   - At least 2 Hearing Committee members shall be members of P&T, and one of these shall chair the Hearing Committee.
• P&T may not appoint a member of the department or equivalent administrative unit of the faculty member facing early termination to the Hearing Committee.

• Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate.

• A quorum for the conduct of the hearing shall consist of at least half but not less than 3 members of the Hearing Committee, including at least one member of P&T. (SBL 337.B.1)

5. Before the formal hearing, the Hearing Committee chair must schedule a conference with both the faculty member and the Chancellor's designee and/or other representatives. This conference should attempt to:

• Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.

• Define the issues to be decided by the Hearing Committee.

• Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party before the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.

• Specify whether pre-hearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.

• Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the faculty member, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing. (SBL 337.2.a-e)
Pre-Hearing and Hearing Procedures in Early Termination Cases

Request for Hearing
P&T receives a request for hearing on an early termination case from a faculty member entitled to such a hearing. P&T Committee must conduct a hearing to determine whether, in its judgment, the proposed early termination is (a) for good cause, and (b) has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. Resolution of the dispute, either through negotiation or mediation, is permissible and appropriate at any stage of these proceedings. [SBL 337(A)]

The Hearing Committee
The P&T Committee shall appoint a Hearing Committee.
- The Hearing Committee should consist of at least 3 Division members, at least 2 of whom must be P&T Committee members.
- One of the P&T Committee members on the Hearing Committee shall chair the Hearing Committee.
- No member of the department or equivalent administrative unit of the faculty member facing early termination may be appointed to the Hearing Committee.
- Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case, and must recuse themselves as appropriate.
- A quorum for the conduct of the hearing shall be at least half but not less than 3 members of the hearing Committee, including at least 1 member of the P&T Committee. [SBL 337(B)(1)]

Pre-Hearing Conference
Before the hearing, the Hearing Committee chair shall schedule a conference with the parties and/or their representatives to:
- Determine facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
- Define the issues to be decided by the Hearing Committee.
- Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party before the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
- Specify whether pre-hearing and post-hearing briefs will be submitted by the parties, and the deadlines for those briefs.
- Attain agreement about whether any person other than the Chancellor, the Chancellor's designee, the grievant, and their representatives may be present during all or any part of the hearing. To preserve confidentiality, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing. [SBL 337(B)(2)(a-e)]
Rules Relating to the Formal Hearings in Early Termination Cases

1. The Chancellor’s designee, and the faculty member and/or their representatives are entitled to be present at all sessions of the Hearing Committee when evidence is being received and to select a representative who may act as counsel. (SBL 337.B.3)

2. Each party has the right to be represented by counsel. (SBL 337.B.3)

3. Each party has the right to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for full and true disclosure of the facts. (SBL 337.B.3)

4. The hearing does not have to be conducted according to the technical legal rules relating to evidence and witnesses. (SBL 337.B.4)

5. The Hearing Committee may, upon an appropriate showing of need by any party, or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. (SBL 337.B.4)

6. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. (SBL 337.B.4)

7. The Hearing Committee has the discretion to require that all witnesses affirm the veracity of their testimony. (SBL 337.B.4)

8. No evidence other than that presented at the hearing shall be considered by the Hearing committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters. (SBL 337.B.5)

9. The P&T Committee may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege & Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing. (SBL 337.B.6)

10. At the hearing the Chancellor’s designee bears the burden of proving that there is good cause for early termination by clear and convincing evidence. In assessing the evidence for good cause, the Hearing Committee may consider evidence regarding whether correct procedures were followed in the case. (SBL 337.B.7) The phrase “clear and convincing evidence” means generally that the Hearing Committee must be persuaded by the evidence that it is highly probable that the allegations are true. The “clear and convincing evidence” standard is a heavier burden than the “preponderance of the evidence” standard (requiring that it be more likely than not that a claim is true), but less than “beyond a reasonable doubt”.

11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The requesting party bears the cost of the copy. (SBL 337.B.9)

Post-Hearing Procedures in Early Termination Cases

- At the conclusion of the hearing, the Hearing Committee shall promptly make its finding of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of P&T, and the Chair of the University Committee on Privilege and Tenure. (SBL 337.B.8)

- The findings, conclusions, recommendation, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the faculty member, authorize release of the findings, conclusions, and recommendations to other individuals and entities, to the extent allowed by law. (SBL 337.B.8)

- The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing. (SBL 337.B.10)
Best Practices

P&T Committee Members

1. If contacted directly by a faculty member, you should advise that discussing the matter may create a problem for the member and the P&T Committee later on, if the matter comes to P&T.

2. While it is not expressly prohibited for current P&T Committee members to give advice to a potential grievant, the better course of action is to refer the faculty member to someone on the Ad Hoc Advisory Panel or the Senate Office. It is best to refrain from offering your opinion on the substance of the potential grievance, and to provide only objective information.

3. However, you may ask for objective information, such as the faculty member’s series and department, and a very brief and generalized description of the problem. The “P&T Inquiry Form” lists appropriate information that may be solicited. It is not necessary to collect this information; if desired you may simply refer the faculty member to the resources listed below without making this inquiry.

4. You can tell the faculty member that there is information available in the by-laws, and at the Academic Senate website, and that the Academic Senate Office can provide more specific information. You should refer the faculty member to Shilpa Patel, the Senate analyst who staffs the P&T Committee, or Heather Alden, the Senate Director, for information. See below for Contact Information.

5. Unless the faculty member asks that you not disclose the contact, you should advise Shilpa Patel or Heather Alden of the contact. They can be reached at:

Shilpa H. Patel, JD
Senior Analyst
(415) 514-2696
shilpa.patel@ucsf.edu

Heather Alden
Executive Director, Academic Senate
(415)476-8827
heather.alden@ucsf.edu

6. If the faculty member contacts you again, you should politely remind them that any further involvement on your part could jeopardize the member if the matter comes before P&T. For example, if the matter came to P&T and a hearing committee was formed, your prior contact with the faculty member would have to be disclosed. If it appeared that you had had too much contact or involvement initially, you might not be able to serve on a Hearing Committee.

7. If you have questions about interpretation of the Bylaws or other related matters, you should contact Shilpa Patel or Heather Alden in the Academic Senate office. They can contact the Office of General Counsel to provide legal advice to the P&T Committee or to a Hearing Committee, if necessary.
UCSF Committee on Privilege & Tenure FAQs

The Committee on Privilege and Tenure is a standing committee of the Academic Senate of University of California San Francisco. This document has been prepared to assist in providing information about the P&T Committee and to perhaps offer insight into the types and levels of assistance available through the Privilege and Tenure Committee. The following answers to frequently asked questions should not be interpreted as anything more than an attempt to provide helpful information to the faculty. In all cases where there is an apparent or actual conflict with University policy, the University of California Academic Personnel Manual, the University of California Academic Senate Bylaws and other relevant University policies shall control. P&T has tried to answer these questions to the best of its ability and in accordance with Senate Bylaws governing P&T proceedings. This document should be used for informational purposes only.

What are the types of matters that P&T handles?
There are three types: (1) Senate faculty grievances; (2) Senate faculty disciplinary cases; and (3) Early termination cases where a Senate or non-Senate faculty member challenges whether there is good cause for his or her early termination. See UC Academic Senate Bylaw 334(A). http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl334

GRIEVANCES

How can a Senate faculty member get advice or information on the available relief in case of a potential grievance?
A Senate faculty member has the following resources available: 1) Review SBL 335 (http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl335), which governs Privilege and Tenure grievance proceedings to learn about the process; 2) Contact the Chair of the UCSF Privilege and Tenure Committee, for referral to a special Ad Hoc Advisory Committee of former P&T members available to advise faculty members on potential grievances; or (3) Contact the Director of the Senate Office at 476-3808 for referral to the Ad Hoc Advisory Committee.

Who is on the Privilege and Tenure Ad Hoc Advisory Committee?
The Ad Hoc Advisory Committee consists of former P&T members and may change from year to year. Any faculty member who needs advice regarding a potential grievance may be referred to a member of this Ad Hoc Committee by the Chair of the P&T Committee, by the Senate Office or by self referral using the contact information available on the Academic Senate website: http://www.ucsf.edu/senate/0-committee/k-pat.html.

How does a faculty member know that confidentiality will be maintained?
Members of the Ad Hoc Advisory Committee shall maintain full confidentiality to the extent allowable by law. Thus, an aggrieved Senate member may consult with Ad Hoc Advisory Committee members with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice of the grievance to the campus or University administration.

Can current P&T members give advice to a faculty member considering filing a grievance?
Although this is not expressly prohibited, the better course of action is for the P&T member to refer the faculty member to someone on the Ad Hoc Advisory Committee.

What are P&T’s responsibilities once a grievance is filed?
P&T’s responsibilities with regard to grievances are set forth in Senate Bylaw 335. In short, P&T, acting as a full committee, must first determine, based only upon the written grievance and no other information, whether the Senate member has made out a prima facie case.

What is a ‘prima facie’ case?
A prima facie case shall be deemed established if the P&T Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member’s rights and privileges.

What happens if P&T concludes that a ‘prima facie’ case has been established?
P&T may then conduct a preliminary review of the evidence to determine whether there is sufficient reason to believe that a right or privilege of the grievant may have been violated.

What can be involved in a preliminary review of the evidence?
P&T provides the grievant with the opportunity to discuss his or her allegations with the Committee, either orally or in writing. P&T may request files and documents under the control of the Administration, including the grievant’s personnel files and confidential documents contained therein. (Note that such confidential documents must remain confidential within the committee unless disclosure is required by law). P&T may also ask other persons involved in the events that gave rise to the grievance, including the department chair, to appear before or provide information to P&T.

When, if at all, does P&T have to contact the Administration about the grievance?
After P&T has determined that a prima facie case exists, P&T may, during the preliminary review stage, give the administrator with authority to offer a remedy notice of the grievance and an opportunity to respond. P&T must advise the Chancellor’s designee of the grievance if the P&T determines that the grievant has made a prima facie case and that there is sufficient reason to believe that the grievant’s rights and privileges may have been violated.

What does P&T do if it finds either that a ‘prima facie’ case has not been established, or that, after a preliminary review, there is not sufficient reason to believe that the grievant’s rights and privileges may have been violated?
P&T shall advise the grievant to that effect in a written communication stating the reasons for its conclusion.

What happens if P&T does find that there is sufficient reason to believe the grievant’s rights and privileges have been violated?
In addition to advising the Chancellor’s designee, P&T must make an attempt to promote a resolution of the controversy between the grievant and the administrative officer, officer, or other persons concerned. If no resolution can be reached, then P&T shall conduct a hearing in accordance with the procedures set forth in Senate Bylaw 335(D).

What alternatives to a hearing are available?
Any party may attempt to resolve the grievance informally through negotiation at any stage of the proceedings. Such negotiations may have the assistance of impartial third parties, including one or more P&T members. P&T should be advised in writing of any such informal resolution.

In addition, the grievance may be resolved through mediation if that is acceptable to the administration and the grievant. With the consent of both, P&T may assist in the selection of an appropriate mediator.

**DISCIPLINARY ACTIONS**

SBL 336. Privilege and Tenure: Divisional Committees – Disciplinary Actions:

Are there any time limits on initiation of a disciplinary action?
SBL 336(B)(4) states in relevant part that no disciplinary action may commence if more than three years have passed between the time when the Chancellor or the Chancellor's designee knew or should have known about the alleged violation of the Code of Conduct, and the delivery of the notice of proposed disciplinary action.

Can anyone other than Senate faculty members have a P&T hearing in a disciplinary action?
No. In disciplinary proceedings only Senate faculty members are entitled to a hearing before P&T.

At what point in a disciplinary action does P&T become involved?
SBL 336 governs P&T’s involvement in disciplinary actions of Senate faculty members. P&T becomes involved once the Chancellor or Chancellor’s designee has forwarded written disciplinary charges against a Senate faculty member to P&T. The Chancellor or Chancellor’s designee initiates disciplinary proceedings before P&T only after a determination that probable cause has been established. Procedures regarding the establishment of probable cause are governed by APM 015/016 and the UCSF Procedures for the Investigation of Faculty Misconduct and the Administration of Discipline.

What is P&T’s next step after receiving a copy of the written charges from the Chancellor or Chancellor’s designee?
P&T must then promptly deliver a copy of the charges to the accused faculty member or send it by registered mail to the last known place of residence of the accused.
What does P&T do after the accused faculty member has received the charges?
The accused faculty member has 21 calendar days from the date of receipt of the charges to provide an answer to the charges in writing to P&T. P&T must provide a copy of the answer to the Chancellor or Chancellor's designee. P&T shall then consider the matter within 21 calendar days after receipt of the answer, or, if no answer is received, after the deadline for receipt of an answer.

What does it mean for P&T to ‘consider’ the matter?
P&T evaluates the case and establishes a time frame for all subsequent procedures. P&T may decide to refer the case to mediation if mediation is acceptable both to the administration and the accused (SBL 336(C)), or may appoint a hearing committee (SBL 336(D)). P&T must appoint a hearing committee if the matter is not resolved through a negotiated resolution or mediation. (SBL 336(D)(1)). [http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336]

If P&T appoints a hearing committee rather than referring the case to mediation, are there guidelines regarding the time frame for the hearing?
As a general guide, P&T should attempt, where feasible, to schedule a prehearing conference (described in SBL 336(D)(2)) within 30 calendar days and a hearing within 90 calendar days after the appointment of the hearing committee. [http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336]

Are there any other time limits P&T should follow regarding a hearing?
P&T must either deliver to the accused personally or by registered mail notice of the time and place of the hearing at least 10 calendar days in advance of the hearing.

Who is on a Hearing Committee?
The Hearing Committee must consist of at least three Division members. This minimum of three shall include at least two members of the Divisional P&T, one of whom shall chair the Hearing Committee.

What if one of the Hearing Committee members has a potential conflict?
P&T may not appoint anyone to the Hearing Committee who is a member of the department or equivalent administrative unit of any of the parties. In addition, Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate.

What if one of the Hearing Committee members cannot be present for all the proceedings?
The Hearing Committee may conduct business if at least half (but not less than three) of its members are present and one of those present is a P&T member.

Are there procedures that govern a hearing in a disciplinary matter?
Yes. Please see SBL 336(D)(11-12) and (E). [http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336]

What alternatives to a hearing are available?
The Chancellor or Chancellor's designee and the accused may attempt to resolve the disciplinary charges informally through negotiation at any stage of the proceedings. Such negotiations may have the assistance of impartial third parties, including one or more P&T members. P&T should be advised in writing of any such informal resolution.

In addition, the disciplinary charges may be resolved through mediation if that is acceptable to the administration and the accused. With the consent of both, P&T may assist in the selection of an appropriate mediator.

Once charges have been filed with P&T, however, the Chair of P&T should request that the Chancellor or Chancellor's designee consult with P&T or its chair prior to completion of any early resolution.

EARLY TERMINATION CASES


Under what circumstances is a faculty member entitled to request a hearing in front of P&T for an early termination case?

Privilege and Tenure Grievance Guidelines
A Senate or non-Senate faculty member may request a P&T hearing: in cases of proposed termination before the expiration of the faculty member’s appointment; in cases where a tenure faculty member faces termination for incompetent performance; or for other faculty members whose right to a hearing before a senate committee is given by Section 103.9 or Section 103.10 of the Standing Orders of The Regents.


What if a P&T hearing has not started by the time a faculty member's term of appointment ends?
No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before P&T. However, if the hearing has not commenced by the end of the faculty member’s term of appointment, the faculty member no longer has a right to an early termination hearing pursuant to Senate Bylaw 337. Instead, the faculty member may seek a grievance hearing by grieving the non-reappointment, either pursuant to Academic Senate Bylaw 335 in the case of Senate faculty, or pursuant to Academic Personnel Manual (APM) 140, in the case of non-Senate faculty.

If P&T conducts a hearing regarding an early termination, what is it determining?
P&T shall determine whether, in its judgment, the proposed early termination is 1) for good cause, and 2) has been recommended in accordance with a procedure that does not violate the privileges of the faculty member.

Are there procedures that govern an early termination hearing?
## Chart: Grievance vs. Disciplinary vs. Early Termination

<table>
<thead>
<tr>
<th>Initiation of Proceedings</th>
<th>GRIEVANCE</th>
<th>DISCIPLINARY</th>
<th>EARLY TERMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By Senate member filing grievance with P&amp;T</td>
<td>By Administration filing written charges with P&amp;T</td>
<td>By Senate or non-Senate faculty member requesting a hearing before P&amp;T</td>
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<table>
<thead>
<tr>
<th>Time Limitations</th>
<th>GRIEVANCE</th>
<th>DISCIPLINARY</th>
<th>EARLY TERMINATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grievance can’t be considered if filed more than 3 years after grievant knew or should have known of the violation of rights and privileges and resulting injury</td>
<td>Disciplinary action can’t commence if notice of proposed disciplinary action is delivered more than 3 years after Chancellor or Chancellor’s designee knew or should have known about the alleged violation of the Code of Conduct</td>
<td>If the hearing has not begun before the faculty member’s term of appointment ends, member loses the right to an early termination hearing and instead can file a grievance</td>
<td></td>
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<thead>
<tr>
<th>Availability of advisory panel</th>
<th>Yes</th>
<th>Not applicable</th>
<th>Not applicable</th>
</tr>
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</table>

| Determination of prima facie case, followed by preliminary review of the evidence | Yes | Not applicable | Not applicable |

<table>
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<th>Burden of proof</th>
<th>Borne by grievant</th>
<th>Borne by Chancellor or Chancellor’s designee</th>
<th>Borne by Chancellor’s designee</th>
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</table>

| Standard of proof | Preponderance of the evidence (means generally that the Hearing Committee must be persuaded by the evidence that it is more likely than not that a claim is true) | Clear and convincing evidence (means generally that the Hearing Committee must be persuaded by the evidence that it is highly probable that the allegations are true. This standard is a heavier burden than the “preponderance of the evidence” standard, but less than “beyond a reasonable doubt”). | Clear and convincing evidence (means generally that the Hearing Committee must be persuaded by the evidence that it is highly probable that the allegations are true. This standard is a heavier burden than the “preponderance of the evidence” standard, but less than “beyond a reasonable doubt”). |

| Basic Issue(s) to be determined at the hearing | Whether a Senate member’s rights or privileges were violated | Whether Senate member or other qualifying faculty member violated the Faculty Code of Conduct | Whether the proposed early termination is for good cause and has been recommended in accordance with a procedure that does not violate the privileges of the faculty member |
|-----------------------------------------------|-----------------------------------------------------|-----------------------------------------------------|
|                                              | In cases involving tenure, promotion or reappointment, the only issues which may be reviewed are: | | |
|                                              | (A) whether the procedures were not in consonance with the applicable rules and requirements of the University of any of its Divisions, or | | |
|                                              | (B) whether the challenged decision was reached on the basis of impermissible criteria, including race, sex or political conviction | | |
|                                              | (C) whether the challenged decision was reached on the basis of impermissible criteria, including race, sex or political conviction | | |
P&T Inquiry Form

Name of Caller: __________________________________________________________

Date of Initial Contact:  __________________________________________________

Series of Caller:  _________________________________________________________

School/Department of Caller:  ______________________________________________

Caller’s Phone No. or e-mail: ______________________________________________

Type of Issue (Grievance, Disciplinary, Hybrid) ______________________________

Brief Description of Problem/Issue/Inquiry:  __________________________________________________________________
________________________________________________________________________________________________________
________________________________________________________________________________________________________
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Information Provided to Caller:  ____________________________________________________________________________
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Additional Contacts with Caller:

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<tr>
<th>Date of Contact</th>
<th>Description of Conversation</th>
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Name of Person Completing Form  ________________________________
## Resource Contact List

<table>
<thead>
<tr>
<th>Type of Resource</th>
<th>Contact Person</th>
<th>Phone</th>
<th>E-mail</th>
<th>Campus Box/Address</th>
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<tbody>
<tr>
<td><strong>Academic Personnel</strong></td>
<td>Cynthia Leathers, Director, Academic Personnel</td>
<td>(415) 476-2888</td>
<td><a href="mailto:cal@acadpers.ucsf.edu">cal@acadpers.ucsf.edu</a></td>
<td>Academic Affairs Box 0401</td>
</tr>
<tr>
<td><strong>Senate Faculty Grievances, Disciplinary Issues and Complaints</strong></td>
<td>Shilpa Patel, Senior Analyst</td>
<td>(415) 514-2696</td>
<td><a href="mailto:shilpa.patel@ucsf.edu">shilpa.patel@ucsf.edu</a></td>
<td>Academic Senate Box 0764</td>
</tr>
<tr>
<td><strong>Affirmative Action, Equal Opportunity &amp; Diversity Issues</strong></td>
<td>Michael B. Adams, Director</td>
<td>(415) 476-4753</td>
<td><a href="mailto:madams@aaecod.ucsf.edu">madams@aaecod.ucsf.edu</a></td>
<td>Office of Affirmative Action/Equal Opportunity &amp; Diversity Box 0988</td>
</tr>
<tr>
<td><strong>Mediation/Voluntary Dispute Resolution</strong></td>
<td>Randy Daron, Acting Director, Work-Life Resource Center or Marueen Brodie, Mediation Officer</td>
<td>(415) 502-9600</td>
<td><a href="mailto:rdaron@worklife.ucsf.edu">rdaron@worklife.ucsf.edu</a></td>
<td>Work Life Resource Center Box 1264</td>
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<td></td>
<td>(415) 502-3272</td>
<td><a href="mailto:mbrodie@worklife.ucsf.edu">mbrodie@worklife.ucsf.edu</a></td>
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<tr>
<td><strong>Grievances &amp; Disciplinary Issues – Non Senate Series</strong></td>
<td>Sally Marshall, Vice Provost, Academic Affairs</td>
<td>(415) 514-0266</td>
<td><a href="mailto:sally.marshall@ucsf.edu">sally.marshall@ucsf.edu</a></td>
<td>Academic Affairs Box 0401</td>
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<tr>
<td><strong>Sexual Harassment</strong></td>
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<td>Work Life Resource Center Box 1264</td>
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<tr>
<td><strong>Status of Women Issues</strong></td>
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<td><a href="mailto:ozere@peds.ucsf.edu">ozere@peds.ucsf.edu</a></td>
<td>Department of Pediatrics Box 0503</td>
</tr>
<tr>
<td><strong>Women and Gender Resources</strong></td>
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<td>(415) 476-5837</td>
<td><a href="mailto:glevine@genderequity.ucsf.edu">glevine@genderequity.ucsf.edu</a></td>
<td>Center for Gender Equity Box 0909</td>
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<td>LGBT Resource Center Box 0909</td>
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<tr>
<td><strong>Whistleblower Policy Compliance Issues</strong></td>
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<td><a href="mailto:rick.catalano@ucsf.edu">rick.catalano@ucsf.edu</a></td>
<td>Audit Services Box 0818</td>
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**Website:** https://secure.ethicspoint.com/domain/media/en/123531/index.html
### P&T Advisory Panel

#### School of Dentistry:

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<tr>
<th>Name</th>
<th>Department</th>
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<tbody>
<tr>
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#### School of Medicine:

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<tbody>
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Confidentiality and Liability Issues for Members of P&T

Confidentiality Issues

1. Information about specific individuals and matters brought to the attention of the Privilege and Tenure Committee is generally considered highly sensitive and confidential. You have a responsibility to maintain confidentiality to the greatest extent permitted by law and University policy.

2. If you have any questions about whether it is appropriate to disclose information to another University employee or to a third party, you should contact Shilpa Patel or Heather Alden in the Academic Senate Office. They can contact OGC or the campus Information Practices Coordinator for further advice as necessary.

3. In general, individuals have a legal right to access records pertaining to themselves, under the California Information Practices Act. However, there are some exceptions to this general rule, so you should not automatically assume that a faculty member has a right to access all documents pertaining to him or her. Common exceptions to the rule of disclosure to the individual include: attorney-client privileged materials, confidential academic review materials, the identity of confidential sources of information, and personal information about other individuals. If an individual requests information or records pertaining to himself, you should contact the Academic Senate office for assistance.

4. Under the California Information Practices Act, disclosure of confidential information to other university officials is legally permitted where the information is relevant and necessary for them to perform their job. This is the basis for the various Bylaw provisions requiring or permitting disclosure of information to campus officials. If the Bylaws do not expressly require or permit disclosure to another university official, you should presume that disclosure is not permitted, unless and until receiving different advice from the Academic Senate office or legal counsel.

5. Other departments are not subject to the same legal confidentiality requirements. Therefore, other departments are often reluctant to produce requested by the P&T Committee, on these grounds. However, the P&T Committee is authorized in the Bylaws to obtain records about a grievant or accused individual, including confidential personnel materials, so in most cases the other department should provide the records. If you need assistance in obtaining records from another department, you should contact the Academic Senate office for advice.

6. Members of the Advisory Panel are neither permitted nor required by the Bylaws to disclose any information to anyone about a potential grievant. Therefore, complete confidentiality should be maintained, to the extent permitted by law.

Liability Issues

1. This is an area of a lot of concern, but the number of cases where individuals are named in lawsuits related to P&T matters are very small. The unlikely prospect that you could be named in a lawsuit should not cause you significant concern, given the University’s responsibility to protect your interests in such a case.

2. The University is generally required to defend and indemnify University employees who are named as defendants in a lawsuit relating to their University activities. This is a legal requirement under the California Tort Claims Act, which governs tort liability of public entities and their employees. This is a requirement regardless of whether the University itself is named as a defendant.

3. Participation in an administrative hearing, or otherwise undertaking your assigned role as a member of the P&T Committee or a member of the Advisory Panel, is generally considered a University activity, for purposes of the University’s obligation to defend and indemnify its employees.

4. Defense and indemnification means that: (1) the University would provide you with a legal defense (including your own separate attorney if it turns out that your legal interests diverge from the University’s); and (2) that the University would pay any judgment entered against you.

5. As a practical matter, the University generally attempts to have individual named defendants dismissed as soon as possible, leaving the University itself as the sole defendant.
6. The only time that the University is not required to defend and indemnify its employees is if they are not acting within the “course and scope” of their employment. For example, a University employee who is found to have committee sexual harassment will not be defended by the University in any lawsuit against them based on the sexual harassment. This is because committing sexual harassment is not within the “course and scope” of employment.

7. In the vast majority of cases, individual University employee defendants are provided with a defense by the University. Good faith participation in administrative hearings and other P&T-related matters would virtually always be considered to be within the course and scope of your employment.

8. Note that the University's obligation to defend and indemnify its employees applies only to University-related activities, and not to other personal activity. As discussed above, it also does not apply where the activity may have been University-related, but was not within the course and scope of employment.

9. Although the University is generally required to defend and indemnify its employees, that does not mean that there is no practical consequence to being named as a defendant in a lawsuit. Named defendants will be required to cooperate with the University legal counsel, are likely to have their deposition taken, may have to testify in court, etc. The time, resources and emotional energy involved can be substantial. But the University makes efforts to support its employees through this process.

General Background and Best Practices for Advisory Panel Members

Rules Governing the Role of Advisory Panel Members

- Senate By-Law 335.B.1 authorizes the formation of an advisory panel.
- Advisory panel members are only authorized to assist a faculty member in potential grievance cases. There is no authority in the by-laws for assisting a faculty member in disciplinary or early termination cases. (SBL 335.B.1).

Senate By-Law 335.B.1 states:
For the purpose of advising Senate members on the available relief in case of a potential grievance, each Division (in accordance with specifications to be determined by the Division) shall appoint an individual or panel (preferably former members of the P&T Committee, but not current members) who shall be available to each grievant to discuss the claim of violation of rights and privileges and provide advice on the appropriate procedure to be followed.

- Such individuals or panel members shall not serve as representatives of any grievant.
- Such individuals or panel members shall maintain full confidentiality to the extent allowable by law.
- An aggrieved Senate member may consult with the individuals appointed under this provision with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice to the campus or University administration.

How the Ad Hoc Advisory Panel is Created at UCSF
At UCSF, former members of P&T are appointed by the Committee on Committees to the Ad Hoc Advisory Panel. If a potential grievant contacts the Senate Office, he/she will be advised of the availability of the Advisory Panel. The potential grievant will be asked if they prefer to talk with someone inside or outside their Department or School. Their preference will be respected when possible. The Senate Office will then provide the panel member's name and contact information to the potential grievant. A potential grievant may also be referred to a panel member by a P&T Committee member or by self-referral from the Senate website.

Best Practices
1. Your role as a panel member is to provide information on available procedures, not on the substance of the potential grievance. It is very important to remember that your role does NOT include giving legal advice. It is best to let the faculty member know this at the outset. Referring to SBL 335.B.1 may be helpful in educating the faculty member about the scope of assistance you can provide.
2. You should encourage the faculty member to pursue all available administrative remedies, through the Department or School, unless this has already occurred or it would be futile.

3. You should inform the faculty member about the existence of mediation as an option, either formal or informal. It may be helpful to explain that the by-laws encourage informal resolutions when possible. You can remind the faculty member that in a negotiated resolution, he or she has some control in the outcome, but when a grievance goes to a Hearing Committee, the outcome rests in the hands of others.

4. Although you should be helpful and supportive within the limits of your role, you should avoid sympathizing with the faculty member, as the faculty member may misinterpret sympathy as support for his/her position. It is best to remain objective and provide the potential grievant with procedural information only.

5. You should try to avoid expressing an opinion about the grievant’s situation, about the merits of their potential grievance, or about what course of action you think they should take. Instead, you should simply provide the potential grievant with information about procedures and resources.

6. If you have questions about interpretation of the Bylaws and your role as an advisory panel member, you should contact Shilpa Patel or Heather Alden in the Academic Senate office.
Reference

Bylaws

*Please note that this information is current as of November 2010 and is superseded by any subsequent revisions. The most up-to-date information can be found here: http://www.universityofcalifornia.edu/senate/manual/blpart3.html

Divisional Bylaw 141.

A. Membership: This Committee shall consist of nine members. A quorum shall always include either the Chair or Vice Chair. [Am 10 Feb 98]

B. Duties: To take cognizance of all matters affecting privilege or tenure of all members of the Academic Senate or officers of instruction in the San Francisco Division, and shall conduct hearings in individual cases. In all instances it must accord the person whose case is being considered an opportunity to be heard in his or her own behalf before a decision is rendered. The principles and detailed procedures governing the conduct of the Committee are set forth in Academic Senate Bylaw 334-337. [Am 10 Feb 98]

C. In accordance with Academic Senate Bylaw 335(B)(1), the San Francisco Division shall appoint an individual or panel (preferably former members of the Privilege and Tenure Committee, but not current members) who shall be available to each grievant to discuss the claim of violation of rights and privileges and to provide advice on the appropriate procedure to be followed. Such individuals or panel members shall not serve as representatives of any grievant, and they shall maintain full confidentiality to the extent allowable by law. An aggrieved Senate member may consult with the individuals appointed under this provision or under Academic Senate Bylaw 335(B)(1) with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice of the grievance to the campus or University administration.

Senate Bylaws 334-337.

334. Privilege and Tenure: Divisional Committees -- Jurisdiction (En 23 May 01)*
[See Legislative Rulings 3.73, 12.80, 3.93.A-B, 4.94]

A. Divisional Privilege and Tenure Committees shall have jurisdiction to deal with three distinct categories of cases:

1. grievance cases (SBL335), where a member of the Senate claims injury through the violation of his/her rights and privileges;

2. disciplinary cases (SBL 336), where a member of the Senate is accused of having violated the Faculty Code of Conduct; and

3. early termination cases (SBL 337), where a Senate or non-Senate faculty member challenges whether there is good cause for his/her early termination.

Such committees may also be called upon by the campus administration of their Division to render advice on campus policies or local regulations that may affect academic privileges and tenure. [See Legislative Ruling 12.80]

B. At the end of every year, the Divisional Committee will supply a summary of its cases to the University Committee on Privilege and Tenure, to be used for statistical purposes only. This summary shall not include the name of any individual involved in a case before the Divisional Committee. For any matter held over from the previous year, the Committee shall report the final disposition of the case. The Divisional Committee shall also report any final disagreements with their Chancellor.

C. Resolution of Disagreements with the Chancellor. After any formal hearing on grievance, discipline, or early termination, upon notice of the Chancellor’s tentative decision to disagree with the Privilege and

Privilege and Tenure Grievance Guidelines
Tenure findings or recommendations, the Chair of the Divisional Privilege and Tenure Committee should either meet with the Chancellor or arrange for the full Divisional Privilege and Tenure Committee to meet with the Chancellor. The Committee is obliged to report the existence of agreement or disagreement with the Chancellor annually to the Division of the Senate, without divulging confidential information.

*In May 2001, Bylaws 334-337 replaced the former Senate Bylaw governing all divisional Privilege and Tenure activities, Bylaw 335.

### 335. Privilege and Tenure: Divisional Committees -- Grievance Cases (En 23 May 01)

#### A. Scope

1. Any member of the Academic Senate may grieve to the Divisional Privilege and Tenure Committee (hereafter, the Committee) that the member’s rights or privileges have been violated. Before considering the grievance and determining whether a formal evidentiary hearing is warranted, the Committee may require that the grievant shall first exhaust all appropriate administrative avenues of redress. Administrative avenues of redress include, but are not limited to, presentation of the grievance along with a request for an administrative remedy to the department chair, dean, or other appropriate academic administrator with authority to investigate and offer a remedy.

2. In cases of personnel review involving tenure, promotion, or reappointment, such grievances may be based only on allegations: (a) that the procedures were not in consonance with the applicable rules and requirements of the University or any of its Divisions, and/or (b) that the challenged decision was reached on the basis of impermissible criteria, including (but not limited to) race, sex, or political conviction. The committee shall be empowered to determine the validity of the grievances under (a) or (b) but shall not be empowered to reevaluate the academic qualifications or professional competence of the grievant.

#### B. Preliminary Procedure in Grievance Cases

1. For the purpose of advising Senate members on the available relief in case of a potential grievance, each Division, in accordance with specifications to be determined by such Division, shall appoint an individual or panel (preferably former members of the Privilege and Tenure Committee, but not current members) who shall be available to each grievant to discuss the claim of violation of rights and privileges and to provide advice on the appropriate procedure to be followed. Such individuals or panel members shall not serve as representatives of any grievant, and they shall maintain full confidentiality to the extent allowable by law. An aggrieved Senate member may consult with the individuals appointed under this provision with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice of the grievance to the campus or University administration. In cases where the grievance contains allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities, panel members shall inform grievants of their right to make a protected disclosure of allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities to the Locally Designated Official (LDO) pursuant to the Whistleblower Policy and the Whistleblower Protection Policy. Panel members also shall inform grievants that any such allegations that are part of a grievance brought to the Privilege and Tenure Committee will be reported to the LDO in accordance with the Whistleblower Policy and/or the Whistleblower Protection Policy. (Am 10 Mar 04)

2. Upon receipt of a written grievance, the Privilege and Tenure Committee shall first determine whether or not the grieving Senate member has made out a prima facie case. This determination shall be limited to a review of the written grievance only. A prima facie case shall be deemed established if the Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member’s rights and privileges. If the grievance includes allegations of improper governmental activities and/or allegations of retaliation for reporting improper governmental activities, the Committee shall report those allegations to the LDO in accordance with the Whistleblower Policy and/or the Whistleblower Protection Policy. (Am 10 Mar 04)
3. If it finds that there is a prima facie case, the Committee may conduct a preliminary review of the evidence to determine whether there is sufficient reason to believe that a right or privilege of the grievant may have been violated. In the course of its preliminary review, the Committee shall provide the grievant with an opportunity to discuss his or her allegations with the Committee, either orally or in writing. Upon an appropriate showing of need by any party or on its own initiative, the Committee may request files and documents under the control of the administration, including the grievant’s personnel files and confidential documents contained therein. Such confidential documents shall remain confidential within the committee unless disclosure is required by law. At this stage, the Committee may also give the administrator with authority to offer a remedy notice of the grievance and an opportunity to respond. To further facilitate its review, the Committee may also ask other persons involved in the events that gave rise to the grievance, including the department chair, to appear before or provide information to the Committee.

4. If the committee determines either that the grievant has not made out a prima facie case or that after a preliminary review, there is not sufficient reason to believe that the grievant’s rights and privileges may have been violated, it shall advise the grievant to that effect in a written communication stating the reasons for its conclusion.

5. If the Committee determines that the grievant has made out a prima facie case of violation of a right or privilege, and that there is sufficient reason to believe that the grievant’s rights and privileges may have been violated, the Committee shall advise the Chancellor’s designee of the grievance and the prima facie determination. The Committee shall make an attempt to promote a resolution of the controversy between the grievant and the administrative officer, officers, or other persons concerned. If no resolution can be reached, the Committee shall conduct a formal hearing in accordance with the provisions set forth below.

6. No grievance may be considered by the Committee if more than three years have passed between the time the grievant knew or should have known about the violation of his/her rights and privileges and the resulting injury therefrom, and the filing of a grievance with the Committee.

C. Early Resolution

1. Any party may attempt to resolve the grievance informally through negotiations. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these grievance procedures. If a negotiated resolution is reached after a written grievance is filed, then the Privilege and Tenure Committee should be given notice that the matter has been resolved.

2. The grievance may also be resolved through mediation in cases where such mediation is acceptable to the administration and the grievant. With the consent of the administration and the grievant, the Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation.

D. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each grievance case that is not resolved through a negotiated resolution or mediation. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The committee may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.

2. Prior to the formal hearing, the chair of the Hearing Committee shall schedule a conference with the parties and/or their representatives. This conference should attempt to:
a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.

b. Define the issues to be decided by the hearing committee.

c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the hearing committee.

d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.

e. Attain agreement about whether any person other than the Chancellor, the Chancellor’s designee, the grievant, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.

3. The Chancellor’s designee, the grievant, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.

5. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters.

6. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

7. At the hearing, the grievant shall bear the burden of proving the validity of the grievance by a preponderance of the evidence.

8. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the grievant, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.

9. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.
10. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

E. Grievance Cases Related to Disciplinary Cases

1. There are circumstances in which the same set of facts and allegations lead to both a disciplinary matter and a grievance before the Committee. Under these circumstances, when a single hearing is held, the Committee shall make separate reports of findings, conclusions, and recommendations for the grievance and for the disciplinary matter.
   a. When a grievance involves the same set of facts that are the subject of a disciplinary matter, the Committee on Privilege and Tenure may, at its discretion, hold either matter in abeyance while it proceeds with the other. Alternatively, the Committee may, with the consent of the grievant, the accused in the disciplinary matter, and the Chancellor’s designee, consider both matters within a single hearing.
   b. When a Senate member facing disciplinary charges files a grievance involving the same set of facts and circumstances as the disciplinary matter, the Committee on Privilege and Tenure has the discretion to consider both matters within a single hearing.

2. When a Senate member files a grievance which is based upon the same facts and incidents involved in a prior disciplinary hearing at which the same Senate member was accused of violating the Code of Conduct, the findings and conclusions of the prior disciplinary hearing shall be conclusive.

336. Privilege and Tenure: Divisional Committees -- Disciplinary Cases (En 23 May 01)

A. Right to a Hearing

In cases of disciplinary action commenced by the administration against a member of the Academic Senate, or against other faculty members in cases where the right to a hearing before a Senate committee is given by Section 103.9 or 103.10 of the Standing Orders of The Regents (Appendix I), proceedings shall be conducted before a Divisional Privilege and Tenure Committee (hereafter, the Committee). Under extraordinary circumstances and for good cause shown, on petition of any of the parties and with concurrence of the other parties, the University Privilege and Tenure Committee may constitute a Special Committee composed of Senate members from any Division to carry out the proceedings.

B. Prehearing Procedure in Disciplinary Cases

1. In cases of disciplinary action commenced by the administration against a member of the Academic Senate, or termination of appointment of a member of the faculty in a case where the right to a hearing before a Senate committee is given under Section 103.9 or 103.10 of the Standing Orders of The Regents, proceedings shall be initiated by the appropriate Chancellor or Chancellor’s designee, once probable cause has been established. Procedures regarding the establishment of probable cause are determined by APM 015/016 and Divisional policies. The charges shall be in writing and shall contain notice of proposed disciplinary action and a full statement of the facts underlying the charges. Upon receipt of the charges, the Chair of the Divisional Privilege and Tenure Committee shall promptly deliver a copy to the accused faculty member or send it by registered mail to the accused’s last known place of residence.

2. The accused shall have twenty-one calendar days from the date of the receipt in which to file an answer in writing with the Committee. The Committee shall provide a copy of the answer to the Chancellor or Chancellor’s designee. Upon receipt of a written application, the chair of the Committee may grant a reasonable extension of time for filing of an answer.

3. The Privilege and Tenure committee shall consider the matter within 21 calendar days after receipt of an answer or, if no answer is received, after the deadline for receipt of an answer. The Committee shall evaluate the case and establish time frames for all subsequent procedures. The committee may refer the case to mediation (SBL 336.C) or appoint a hearing committee (SBL 336.D). As a general guide, a prehearing conference (SBL 336.D.2) shall be scheduled within 30 calendar days and a hearing (SBL 336.D) shall be scheduled within 90
calendar days of the appointment of a hearing committee. The accused shall be given, either personally or by registered mail, at least ten calendar days’ notice of the time and place of the hearing. The Chancellor, Chancellor’s designee, or Chair of the Privilege and Tenure Committee may for good reason grant an extension of any of these time limits.

4. No disciplinary action may commence if more than three years have passed between the time when the Chancellor or Chancellor’s designee, who is authorized to initiate proceedings in accordance with SBL 336.B.1 and divisional disciplinary procedures, knew or should have known about the alleged violation of the Code of Conduct, and the delivery of the notice of proposed disciplinary action. For purposes of this section, if an administrator or employee in a supervisory role (e.g., program director, department chair, dean) has actual knowledge about an alleged violation, then it will be conclusively presumed that the Chancellor or Chancellor’s designee should have known about the alleged violation. (Am 9 March 05)

C. Early Resolution

1. The Chancellor or Chancellor’s designee and the accused may attempt to resolve the disciplinary charges informally through negotiations. Such negotiations may proceed with the assistance of impartial third parties, including one or more members of the Committee. A negotiated resolution is permissible and appropriate at any stage of these disciplinary procedures. If a negotiated resolution is reached after written charges are filed, then the Privilege and Tenure Committee should be given notice that the matter has been resolved.

2. The disciplinary charges may also be resolved through mediation in cases where such mediation is acceptable to the administration and the accused. With the consent of the administration and the accused, the Committee may assist in the selection of an appropriate mediator. Other relevant parties, including members of the Committee, may participate in the mediation.

3. Once charges have been filed with the Committee, the Chair of the Divisional Privilege and Tenure Committee should request that the Chancellor or Chancellor’s designee consult with the Committee or its chair prior to the completion of any early resolution.

D. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each disciplinary case that is not resolved through a negotiated resolution or mediation. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The Committee may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.

2. Prior to the formal hearing, the chair of the Hearing Committee shall schedule a conference with the accused, the Chancellor or the Chancellor’s designee, and/or their representatives. This conference should attempt to:

   a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.

   b. Define the issues to be decided by the Hearing Committee.

   c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.

   d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
e. Attain agreement about whether any person other than the Chancellor, the Chancellor’s designee, the accused, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.

3. The Chancellor’s designee, the accused, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.

5. Prior discipline involving the same accused faculty member may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter. Under these conditions, prior hearing reports are always admissible.

6. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters.

7. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

8. At the hearing, the Chancellor or Chancellor’s designee has the burden of proving the allegations by clear and convincing evidence.

9. The Hearing Committee shall not have power to recommend the imposition of a sanction more severe than that proposed in the notice of proposed disciplinary action. In determining the appropriate sanction to recommend, the Hearing Committee may choose to consider previous charges against the accused if those charges led to prior sanctions either after a disciplinary hearing or pursuant to a negotiated or mediated resolution.

10. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law.

11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.

12. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.
E. Relation to Prior Grievance Cases

A disciplinary Hearing Committee shall not be bound by the recommendation of another hearing body, including the findings of the Divisional Committee on Privilege and Tenure in a grievance case involving the same set of incidents. However, the Hearing Committee may accept into evidence the findings of another hearing body or investigative agency. The weight to be accorded evidence of this nature is at the discretion of the Hearing Committee and should take account of the nature of the other forum. In any case, the accused faculty member must be given full opportunity to challenge the findings of the other body.

337. Privilege and Tenure: Divisional Committees -- Early Termination Cases (En 23 May 01)

A. Jurisdiction (Am 10 Dec 2008)

In cases of proposed termination of a Senate or non-Senate faculty member before the expiration of the faculty member’s appointment, or in cases where a tenured faculty member faces termination for incompetent performance, or for other faculty members whose right to a hearing before a Senate committee is given by Section 103.9 or 103.10 of the Standing Orders of The Regents (Appendix I) (hereafter collectively referred to as early termination), the faculty member may request a hearing before a Divisional Privilege and Tenure Committee. The committee shall then conduct a hearing on the case to determine whether, in its judgment, the proposed early termination is for good cause and has been recommended in accordance with a procedure that does not violate the privileges of the faculty member. Resolution of the dispute, either through negotiation or mediation, is permissible and appropriate at any stage of these proceedings.

No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before the Divisional Privilege and Tenure Committee. So long as the faculty member requests a hearing before the end of his or her appointment, the Divisional Privilege and Tenure Committee shall appoint a Hearing Committee and proceed according to Section B below. If the faculty member fails to request a hearing before the end date of the appointment in question, the faculty member may seek a grievance hearing by grieving the non-reappointment pursuant to Senate Bylaw 335 in the case of Senate faculty or the Academic Personnel Manual in the case of non-Senate faculty.

B. Hearing and Posthearing Procedures

1. The Privilege and Tenure Committee shall appoint a Hearing Committee for each early termination case for which a hearing is requested by a faculty member. The Hearing Committee should consist of at least three Division members. At least two of the members shall be members of the Committee on Privilege and Tenure, one of whom shall chair the Hearing Committee. The committee may not appoint a member of the department or equivalent administrative unit of the faculty member facing early termination to the Hearing Committee. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate. A quorum for the conduct of the hearing shall consist of at least half but not less than three members of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.

2. Prior to the formal hearing, the Chair of the Hearing Committee shall schedule a conference with both the faculty member and the Chancellor’s designee, and/or their representatives. This conference should attempt to:

   a. Determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.

   b. Define the issues to be decided by the Hearing Committee.

   c. Set a time for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names were disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.

   d. Specify whether prehearing and post-hearing briefs will be submitted by the parties as well as the deadlines for those briefs.
e. Attain agreement about whether any person other than the Chancellor, the Chancellor’s designee, the faculty member, and their representatives may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.

3. The Chancellor’s designee and the faculty member and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received and to select a representative who may act as counsel. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence, including the identity of confidential sources of personnel evaluations, shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony.

5. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee’s notice of such matters.

6. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.

7. At the hearing, the Chancellor’s designee has the burden of proving, by clear and convincing evidence, that there is good cause for early termination. In assessing the evidence for good cause, the Hearing Committee may consider evidence regarding whether correct procedures were followed in the case.

8. At the conclusion of the hearing, the Hearing Committee shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation, and forward these to the parties in the case, the Chancellor, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the faculty member, authorize release of the findings, conclusions, recommendations to other individuals or entities, to the extent allowed by law.

9. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter (whose cost is borne by the administration) for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the copy shall be assumed by the requesting party.

10. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

*Please note that this information is current as of November 2010 and is superceded by any subsequent revisions. The most up-to-date information can be found here: http://www.ucop.edu/acadadv/acadpers/apm/sec1-pdf.html

GENERAL UNIVERSITY POLICY APM - 015
REGARDING ACADEMIC APPOINTEES
Rev. 7/24/03

The Faculty Code of Conduct

Additional policies regarding the scope and application of the Faculty Code of Conduct and the University’s policies on faculty conduct and the administration of discipline are set forth in APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline.

The Faculty Code of Conduct as Approved by the Assembly of the Academic Senate
(Code of Professional Rights, Responsibilities, and Conduct of University Faculty, and University Disciplinary Procedures)

Preamble

The University seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom. Effective performance of these central functions requires that faculty members be free within their respective fields of competence to pursue and teach the truth in accord with appropriate standards of scholarly inquiry.

The faculty’s privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty’s special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members. It is the intent of the Faculty Code of Conduct to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

Part I of this Code sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty’s pursuit of the University’s central functions.

Additional policies regarding the scope and application of the Faculty Code of Conduct and the University’s policies on faculty conduct and the administration of discipline are set forth in APM - 016, the University Policy on Faculty Conduct and the Administration of Discipline.

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It is the intent of the Faculty Code of Conduct to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning.

Part I of this Code sets forth the responsibility of the University to maintain conditions and rights supportive of the faculty’s pursuit of the University’s central functions.
Part II of this Code elaborates standards of professional conduct, derived from general professional consensus about the existence of certain precepts as basic to acceptable faculty behavior. Conduct which departs from these precepts is viewed by faculty as unacceptable because it is inconsistent with the mission of the University. The articulation of types of unacceptable faculty conduct is appropriate both to verify that a consensus about minimally acceptable standards in fact does exist and to give fair notice to all that departures from these minimal standards may give rise to disciplinary proceedings.

In Part II a clear distinction is made between statements of (1) ethical principles and (2) types of unacceptable behavior.

1. **Ethical Principles**

   These are drawn primarily from the 1966 *Statement on Professional Ethics* and subsequent revisions of June, 1987, issued by the American Association of University Professors. They comprise ethical prescriptions affirming the highest professional ideals. They are aspirational in character, and represent objectives toward which faculty members should strive. Behavior in accordance with these principles clearly precludes the application of a disciplinary sanction. These Ethical Principles are to be distinguished from *Types of Unacceptable Faculty Conduct* referred to in the following paragraph. The *Types of Unacceptable Faculty Conduct*, unlike the Ethical Principles, are mandatory in character, and state minimum levels of conduct below which a faculty member cannot fall without being subject to University discipline.

2. **Types of Unacceptable Faculty Conduct**

   Derived from the Ethical Principles, these statements specify examples of types of unacceptable faculty behavior which are subject to University discipline because, as stated in the introductory section to Part II, they are “not justified by the Ethical Principles” and they “significantly impair the University’s central functions as set forth in the Preamble.”

The Ethical Principles encompass major concerns traditionally and currently important to the profession. The examples of types of unacceptable faculty conduct set forth below are not exhaustive. It is expected that case adjudication, the lessons of experience and evolving standards of the profession will promote reasoned adaptation and change of this Code. Faculty may be subjected to disciplinary action under this Code for any type of conduct which, although not specifically enumerated herein, meets the standard for unacceptable faculty behavior set forth above. It should be noted, however, that no provision of the Code shall be construed as providing the basis for judging the propriety or impropriety of collective withholding of services by faculty. Rules and sanctions that presently exist to cover such actions derive from sources external to this Code.
Part III of this Code deals with the enforcement process applicable to unacceptable faculty behavior. That process must meet basic standards of fairness and must reflect significant faculty involvement. In order to guide each campus in the development of disciplinary procedures that comply with this policy and Senate Bylaws, Part III provides an outline of mandatory principles to which each Division must adhere and discretionary principles which are strongly recommended.

**Part I – Professional Rights of Faculty**

In support of the University’s central functions as an institution of higher learning, a major responsibility of the administration is to protect and encourage the faculty in its teaching, learning, research, and public service. The authority to discipline faculty members in appropriate cases derives from the shared recognition by the faculty and the administration that the purpose of discipline is to preserve conditions hospitable to these pursuits. Such conditions, as they relate to the faculty, include, for example:

1. free inquiry, and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. participation in the governance of the University, as provided in the Bylaws and Standing Orders of The Regents and the regulations of the University, including
   (a) approval of course content and manner of instruction,
   (b) establishment of requirements for matriculation and for degrees,
   (c) appointment and promotion of faculty,
   (d) selection of chairs of departments and certain academic administrators,
   (e) discipline of members of the faculty, and the formulation of rules and procedures for discipline of students,
   (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
   (g) determination of the forms of departmental governance;
5. the right to be judged by one’s colleagues, in accordance with fair procedures and due process, in matters of promotion, tenure, and discipline, solely on the basis of the faculty members’ professional qualifications and professional conduct.

**Part II – Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct**

This listing of faculty responsibilities, ethical principles, and types of unacceptable behavior is organized around the individual faculty member’s relation to teaching and students, to scholarship, to the University, to colleagues, and to the community. Since University discipline, as distinguished from other forms of reproval or administrative actions, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition, or its consequences, the following general principle is intended to govern all instances of its application:

University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University’s central functions as set forth in the Preamble. To the extent that violations of University policies mentioned in the examples below are not also inconsistent with the ethical principles, these policy violations may not be independent grounds for imposing discipline as defined herein. The *Types of Unacceptable Conduct* listed below in Sections A through E are examples of types of conduct which meet the preceding standards and hence are presumptively subject to University discipline. Other types of serious misconduct, not specifically enumerated herein, may nonetheless be the basis for disciplinary action if they also meet the preceding standards.

**A. Teaching and Students**

**Ethical Principles.** “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student’s true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.” (AAUP Statement, 1966; Revised, 1987)
The integrity of the faculty-student relationship is the foundation of the University’s educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Whenever a faculty member is responsible for academic supervision of a student, a personal relationship between them of a romantic or sexual nature, even if consensual, is inappropriate. Any such relationship jeopardizes the integrity of the educational process.

In this section, the term student refers to all individuals under the academic supervision of faculty.

**Types of unacceptable conduct:**

1. Failure to meet the responsibilities of instruction, including:
   
   (a) arbitrary denial of access to instruction;

   (b) significant intrusion of material unrelated to the course;

   (c) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled;

   (d) evaluation of student work by criteria not directly reflective of course performance;

   (e) undue and unexcused delay in evaluating student work.

2. Discrimination, including harassment, against a student on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.

3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of disability.
4. Use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons.

5. Participating in or deliberately abetting disruption, interference, or intimidation in the classroom.

6. Entering into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future, academic responsibility (instructional, evaluative, or supervisory).

7. Exercising academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship.

B. Scholarship

Ethical Principles. “Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

Violation of canons of intellectual honesty, such as research misconduct and/or intentional misappropriation of the writings, research, and findings of others.

1 A faculty member should reasonably expect to have in the future academic responsibility (instructional, evaluative, or supervisory) for (1) students whose academic program will require them to enroll in a course taught by the faculty member, (2) students known to the faculty member to have an interest in an academic area within the faculty member’s academic expertise, or (3) any student for whom a faculty member must have academic responsibility (instructional, evaluative, or supervisory) in the pursuit of a degree.
C. The University

Ethical Principles. “As a member of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of the work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.” (AAUP Statement, 1966; Revised, 1987)

Types of unacceptable conduct:

1. Intentional disruption of functions or activities sponsored or authorized by the University.

2. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that violence or abuse against persons or property will occur or that the University’s central functions will be significantly impaired.

3. Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.

4. Forcible detention, threats of physical harm to, or harassment of another member of the University community, that interferes with that person’s performance of University activities.

5. Discrimination, including harassment, against University employees on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran or, within the limits imposed by law or University regulations, because of age or citizenship, or for other arbitrary or personal reasons.

6. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against employees on the basis of disability.

7. Serious violation of University policies governing the professional conduct of faculty, including but not limited to policies applying to research, outside professional activities, conflicts of commitment, clinical practices, violence in the workplace, and whistleblower protections.
D. **Colleagues**

**Ethical Principles.** “As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debts and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.” (AAUP Statement, 1966; Revised, 1987)

**Types of unacceptable conduct:**

1. Making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance.

2. Discrimination, including harassment, against faculty on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.

3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against faculty on the basis of disability.


E. **The Community**

**Ethical Principles.** “Faculty members have the same rights and obligations as all citizens. They are as free as other citizens to express their views and to participate in the political processes of the community. When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University.” (U.C. Academic Council Statement, 1971)

**Types of unacceptable conduct:**

1. Intentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member’s name in a public statement or appearance is permissible, if used solely for purposes of identification.)
2. Commission of a criminal act which has led to conviction in a court of law and which clearly demonstrates unfitness to continue as a member of the faculty.

Part III – Enforcement and Sanctions

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.

Procedures shall be consistent with the Bylaws of the Academic Senate. Each Division should duly notify the University Committee on Rules and Jurisdiction and the University Committee on Privilege and Tenure of the procedures it has adopted and any subsequent changes therein. These Committees in turn are directed to report periodically to the Assembly of the Academic Senate on procedures adopted by the Divisions and to recommend to the Assembly such action as they deem appropriate for assuring compliance with the Bylaws of the Academic Senate or the promotion of uniformity among Divisions to the extent to which it appears necessary and desirable.

A. In the development of disciplinary procedures, each Division must adhere to the following principles:

1. No disciplinary sanction for professional misconduct shall be imposed by the administration except in accordance with specified campus procedures adopted after appropriate consultation with agencies of the Academic Senate, as prescribed in the introduction to this part of the Code. Systemwide procedures for the conduct of disciplinary hearings are set forth in Academic Senate Bylaw 336.

2. No disciplinary sanction shall be imposed until after the faculty member has had an opportunity for a hearing before the Divisional Committee on Privilege and Tenure, subsequent to a filing of a charge by the appropriate administrative officer, as described in Academic Senate Bylaw 336.

3. No disciplinary action may commence if more than three years have passed between the time when the Chancellor knew or should have known about the alleged violation of the Faculty Code of Conduct and the delivery of the notice of proposed disciplinary action.
4. The Chancellor may not initiate notice of proposed disciplinary action unless there has been 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. In cases where the Chancellor wants a disciplinary action to proceed, the Divisional hearing committee 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.

5. The procedures adopted shall include designation of the following disciplinary sanctions authorized in the University Policy on Faculty Conduct and the Administration of Discipline, of which this Faculty Code of Conduct is an integral part: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. The Divisional Committee on Privilege and Tenure shall not recommend the imposition of a sanction more severe than that in the notice of proposed disciplinary action. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g. a letter of censure and a suspension.

B. In the development of disciplinary procedures, it is recommended that each Division adhere to the following principles:

1. In order to facilitate the efficient and timely handling of disciplinary matters, it is recommended that procedures be developed that allow each Divisional Committee on Privilege and Tenure to sit in hearing panels smaller than the full committee.

2. There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, staff, students, the administration, and other members of the University community. Procedures should be developed which encourage a single formal investigation of the allegations leading to the proposed disciplinary action.

3. Because it is desirable that the faculty meaningfully participate in its own self-discipline, and in order to provide the administration with faculty advice in the beginning stages of what may become formal disciplinary proceedings, appropriate procedures should be developed to involve the faculty in participating in the investigation of allegations of misconduct and/or in making recommendations to appropriate administrative officers whether a disciplinary charge should be filed. Divisions are encouraged to develop procedures to
provide faculty investigators with training, consultation, or legal counsel to
assist with the investigation of faculty disciplinary cases.

4. There should be provision for informal disposition of allegations of faculty
misconduct before formal disciplinary proceedings are instituted. Procedures
should be developed for mediation of cases where mediation is viewed as
acceptable by the Chancellor and the faculty member accused of misconduct.
Mediators should be trained in mediation, be regarded as neutral third parties
and have experience in the University environment. 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 Divisional Committee on Privilege and Tenure prior to finalizing
the settlement.

5. Appropriate precautions should be taken to safeguard the confidentiality of
investigative and disciplinary proceedings. Procedures should be developed that
allow information about an ongoing disciplinary proceeding, including
information about the outcome, to be shared with complainant(s), to the extent
allowable by State law and University policy.

6. There should be provision, to the maximum feasible extent, for separating
investigative and judicial functions. A faculty member who has participated in
investigating an allegation of misconduct or in recommending that a charge
should be filed should thereafter not participate, as a member of the Committee
on Privilege and Tenure, in the hearing of that charge.

7. In the implementation of all procedures, specific provisions should be made for
the time span within which certain actions may or must be taken. Every effort
should be made to conform to reasonable, specified time frames. Ideally, a
hearing should commence within 90 days of the date on which the accused
faculty member has been notified of the intention to initiate a disciplinary
proceeding. A faculty member who is entitled to a hearing should not be
permitted thereafter to delay imposition of discipline by refusing to cooperate or
being unavailable for a scheduled hearing. A hearing shall not be postponed
because the faculty member is on leave or fails to appear.

8. There should be consideration of provision for the availability of removal or
termination of a sanction, either automatically or by administrative discretion, in
individual cases. The nature and circumstances of the offense should determine
the severity and type of discipline.
9. Procedures should be developed 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.
University Policy on Faculty Conduct and the Administration of Discipline

The University policy on faculty conduct and the administration of discipline is set forth in its entirety in this policy and in the Faculty Code of Conduct.

Section I – Introduction and General Policy

This policy, as recommended by the President of the University and approved by The Regents on June 14, 1974, and November 15, 2001, supersedes the President’s interim statement on the same subject, issued on January 15, 1971. The present policy is to be read in conjunction with the Faculty Code of Conduct.

The Faculty Code of Conduct is set forth in APM - 015. Part I of the Faculty Code of Conduct notes the responsibility of the administration to preserve conditions that protect and encourage the faculty in its central pursuits. Part II defines normative conditions for faculty conduct and sets forth types of unacceptable faculty conduct subject to University discipline. Part III makes recommendations and proposes guidelines to assure the development of fair procedures for enforcing the Code.

Nothing in the Faculty Code of Conduct, or in this policy, is intended to change the various authorities and responsibilities of the Academic Senate, the administration, and The Regents as currently set forth in the Standing Orders of The Regents, the policies and regulations of the University, and the Bylaws and Regulations of the Academic Senate.

The Faculty Code of Conduct explicitly does not deal with policies, procedures, or possible sanctions pertaining to strikes by members of the faculty. These are covered by Regental and administrative policies external to the Code.

Except for the matter of strikes, and with recognition that Part III of the Faculty Code of Conduct consists of mandatory principles and recommendations to the Divisions of the Academic Senate and the campus administrations, the Faculty Code of Conduct, as set forth in APM - 015, is the official basis for imposing discipline on members of the faculty for professional misconduct.

With respect to the imposition of disciplinary sanctions, the Faculty Code of Conduct deals only with the professional responsibilities, ethical principles, and standards of conduct that pertain to the professional obligations of faculty members. No disciplinary sanctions
described in this policy may be imposed on faculty members other than through the procedures pursuant to this policy and the Faculty Code of Conduct. In addition, faculty members may be subject to certain administrative actions which are outside the scope of faculty discipline. For example, like all other members of the University community, faculty members are subject to the general rules and regulations of the University such as those pertaining to parking, library privileges, health and safety, and use of University facilities. Faculty are subject to appropriate administrative actions for failure to comply with such rules and regulations. Another example applies to faculty members serving in administrative appointments who are subject to administrative actions for misconduct in their role as administrators. Faculty members serving in administrative roles may be subject to disciplinary sanctions under this policy in addition to administrative actions, if the faculty member’s misconduct in the role of an administrator also violates the ethical and professional standards for faculty set forth in the Faculty Code of Conduct.

To maintain consistency in the future between the Faculty Code of Conduct, if it should be further amended by the Academic Senate, and any new or changed Regental or administrative policies relating to faculty conduct that might be adopted, the President will consult with appropriate agencies of the Academic Senate, and will undertake to facilitate any needed joint action by the Senate and The Regents or the administration.

Authority for discipline derives from The Regents. The Regents have made the Chancellor of each campus responsible for discipline on the campus (Standing Order 100.6(a)), subject to certain procedures and safeguards involving the President and the Academic Senate (Standing Orders 100.4(c) and 103.9 and 103.10).

This policy regarding faculty discipline requires a spirit of active cooperation between the administration, as embodied by the Chancellor, and the Academic Senate. In case of disagreement between the administration and the faculty over the interpretation or application of the Faculty Code of Conduct, conflicts will be resolved on a case-by-case basis, with the fullest consideration given to peer judgments achieved through procedures for discipline. In cases where a Chancellor’s tentative decision regarding the imposition of discipline on a faculty member disagrees with the recommendation of the Divisional Committee on Privilege and Tenure, the Chancellor shall inform the Chair of the Committee on Privilege and Tenure in writing that he or she may disagree and ask if the Chair would like the Chancellor to meet with the Chair or with the whole committee prior to making a final decision or recommendation.

Disciplinary action is to be distinguished from certain other administrative actions taken as the result, not of willful misconduct but rather, for example, of disability or incompetence. The administration naturally bears the responsibility of assuring that the University’s resources are used productively and appropriately. In meeting this responsibility, administrators must occasionally take actions which resemble certain disciplinary sanctions.
but which are actually of an entirely different character. These actions are subject to separate procedures with due process guarantees and should not be confused with disciplinary action with its implications of culpability and sanction. APM - 075 on Termination for Incompetent Performance articulates the conditions under which faculty members with tenure or security of employment may be terminated for incompetent performance.

Section II – Types of Disciplinary Sanctions

The types of discipline that may be imposed on a member of the faculty are as follows, in order of increasing severity: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University. In any disciplinary proceeding, 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. The Chancellor may impose additional appropriate remedial or corrective sanctions not set forth in this Code only with the consent of the accused faculty member. More than one disciplinary sanction may be imposed for a single act of misconduct, e.g. a letter of censure and a suspension. The Chancellor may remove or terminate a sanction, either automatically or by administrative discretion, in individual cases. The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case.

1. Written Censure

A formal written expression of institutional rebuke that contains a brief description of the censured conduct, conveyed by the Chancellor. Written censure is to be distinguished from an informal written or spoken warning, and must be delivered confidentially to the recipient and maintained in a designated personnel file or files indefinitely or for a lesser period of time specified in the writing. Informal written or spoken warning is not an official disciplinary action.

2. Reduction in Salary

Reduction to lower salary without change in rank or step. The authority to reduce the salary of any faculty member rests with the Chancellor. This authority may not be redelegated. The amount and duration of the reduced salary shall be specified.

3. Demotion

Reduction to lower rank or step with corresponding reduction in salary. Demotion as a disciplinary action should be imposed in a manner consistent with the merit based...
system for advancement. Generally, demotion is an appropriate sanction when the misconduct is relevant to the academic advancement process of the faculty member. The authority to reduce the rank of a faculty member who does not have tenure or security of employment rests with the Chancellor. The authority to reduce, within rank, the step of any faculty member to a lower step rests with the Chancellor. This authority may not be redelegated.

Authority for demoting a faculty member with tenure or with security of employment to a lower rank, also with tenure or with security of employment, rests with the President, on recommendation of the Chancellor. Demotion of a faculty member with tenure or with security of employment to a lower rank without tenure or security of employment is not an option.

4. **Suspension**

Suspension of a faculty member without pay for some stated period of time from the continuance of the appointment on its normal terms. Unless otherwise noted, the terms of a suspension will include loss of normal faculty privileges such as access to University property, participation in departmental governance, voting rights, administration of grants, supervision of graduate students, and use of University administrative staff, and may include loss of other campus privileges such as parking and library privileges. The degree and duration of the suspension shall be specified. Authority for the suspension of a faculty member rests with the Chancellor and may not be redelegated. Suspension as a disciplinary action is to be distinguished from involuntary leave, which is a precautionary action.

5. **Denial or Curtailment of Emeritus Status**

Denial or curtailment of current or future emeritus status of a faculty member, including the privileges associated with the emeritus status. The denial or curtailment of emeritus status does not affect the faculty member’s entitlement to earned retirement benefits. Authority for the denial or curtailment of emeritus status of a faculty member rests with the President, on recommendation of the Chancellor.

6. **Dismissal from the Employ of the University**

The Chancellor has authority to dismiss a faculty member who does not have tenure or security of employment. This authority may not be redelegated. Authority for dismissal of a faculty member who has tenure or security of employment rests with The Regents, on recommendation of the President, following consultation with the Chancellor.
Prior to the imposition of any disciplinary sanction(s) as described above, the Chancellor may waive or limit any or all disciplinary sanction(s) on the condition that the accused faculty member performs some specified action(s) designed to address the harm and/or to prevent future harm. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, or other act to make whole injury caused by the faculty member’s professional misconduct or to prevent future misconduct.

If the imposition of a disciplinary sanction is waived, the subsequent failure to perform the required act or otherwise comply with the conditions of the waiver will immediately subject the faculty member to the implementation of the underlying sanction without an additional hearing. The authority to determine whether the faculty member has complied with the conditions of the waiver rests with the Chancellor. The Chancellor may designate a fixed time period for compliance with the terms of the waiver, after which the authority to impose discipline will lapse. If a faculty member disputes the Chancellor’s determination, the faculty member may grieve under applicable faculty grievance procedures.

A 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 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 procedures. 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. 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, pending the resolution of the faculty member’s employment status with the University. However, within 10 working days after the imposition of involuntary leave, the Chancellor must explain to the faculty member in writing the reasons for the involuntary leave and initiate disciplinary procedures by bringing charges against the faculty member on leave. Thereafter, the faculty member may grieve the decision to place him or her on involuntary leave pursuant to applicable faculty grievance procedures. The Divisional Committee on Privilege and Tenure shall handle such grievances on an expedited basis and may recommend reinstatement of pay and back pay in cases where pay status was suspended.
Section III – Procedures for Imposition of Disciplinary Sanction

Safeguards against arbitrary or unjust disciplinary actions, including provision for hearings and appeals, are well established in the University.

The Standing Orders provide that actions of certain types, some of them disciplinary in character, may not be carried out without the opportunity of a prior hearing before, or without advance consultation with, “a properly constituted advisory committee of the Academic Senate” (Standing Orders 100.4(c), 103.9 and 103.10).

The Academic Senate has established Committees on Privilege and Tenure in each of the nine Divisions. The composition and duties of these committees are defined by the Academic Senate. One of the traditional roles of the Divisional Committees on Privilege and Tenure is to conduct hearings on disciplinary charges initiated by the Chancellor under this policy and make findings of fact and recommendations to the Chancellor regarding proposed disciplinary sanctions. The procedures for disciplinary hearings are set forth in Academic Senate Bylaw 336.

Another traditional role, to be distinguished from the conduct of disciplinary hearings, is to consider grievances by members of the Academic Senate regarding their rights and privileges as faculty members. The procedures for considering grievances are set forth in Academic Senate Bylaw 335. A disciplinary action is distinguished from a grievance action in that a disciplinary action generally is commenced by the administration against a faculty member based on charges that the faculty member has violated the Faculty Code of Conduct. 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 or privileges. A grievance action specifically requests the administration to take appropriate action to eliminate or mitigate the faculty member’s injury. A grievance alleging misconduct by another member of the Academic Senate may result in disciplinary proceedings commenced against that faculty member.

The Faculty Code of Conduct applies to all faculty members, Senate and non-Senate. For members of the Academic Senate, the procedures for disciplinary actions are governed by Senate Bylaws and Divisional rules. For academic appointees who are not members of the Academic Senate (and this group includes certain categories of faculty members) there are procedures for disciplinary actions separate from that of the Senate’s committees. Those procedures are found in APM - 150 and relevant collective bargaining agreements or Memoranda of Understanding.

The Faculty Code of Conduct also applies to faculty members holding administrative appointments. Faculty members serving as administrators may be subjected to disciplinary action under this Code for professional misconduct in their administrative role that violates
the ethical principles and falls within the types of unacceptable conduct set forth in this Code. A disciplinary action against a faculty member holding an administrative title may proceed in two parts. One part involves the removal of an administrative title or other administrative action under procedures established by The Regents and the administration. Such action need not adhere to the disciplinary procedures set forth in this policy. The other part involves the proposed imposition of any type of disciplinary sanction set forth in this policy, which must proceed in accordance with the procedures for discipline outlined in the Faculty Code of Conduct and the applicable Senate Bylaws and Divisional rules. The removal of the administrative title or other administrative action does not preclude or require the imposition of a disciplinary sanction under this policy. Administrative incompetence does not in itself constitute a violation of the Faculty Code of Conduct.

It is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate. No disciplinary sanction for professional misconduct shall be imposed except in accordance with specified procedures. It is not essential that the procedures be identical on every campus. It is important, however, that the same basic principles and standards prevail throughout the University. Requirements and recommendations for developing campus disciplinary procedures pursuant to this policy are set forth in the Faculty Code of Conduct and the Senate Bylaws. Chancellors are to keep the President informed about campus procedures and to report any significant changes made in such procedures. The President will consult periodically with the Chancellors and the Academic Senate about procedures that are being employed in order to assure equitable standards for discipline throughout the University.
140-0 **Policy**

This policy provides non-Senate academic appointees the opportunity to present grievances. The use of this policy shall not be discouraged by the University either directly or indirectly.

140-4 **Scope/Definition**

a. A grievance is defined as a complaint by an eligible non-Senate academic appointee that alleges that:

   (1) a specific administrative act was arbitrary or capricious and adversely affected the appointee’s then-existing terms or conditions of appointment; and/or

   (2) a violation of applicable University rules, regulations, or Academic Personnel policies occurred which adversely affected the appointee’s then-existing terms or conditions of appointment.

b. For the purposes of this policy, an act is not arbitrary or capricious if the decision-maker exercised reasoned judgment.

c. A grievance alleging a violation of APM - 137 (Non-Senate Academic Appointees/Term Appointment), 145 (Non-Senate Academic Appointees/Layoff and Involuntary Reduction in Time), or 150 (Non-Senate Academic Appointees/Corrective Action and Dismissal) shall be filed under APM - 140-4-a(2) only.

140-6 **Responsibility**

a. It is the responsibility of each Chancellor to establish and publish procedures to implement this policy. Prior to planned issuance, such procedures should be submitted to the Provost and Senior Vice President–Academic Affairs for approval.

b. Each Chancellor shall designate an administrator or office as the grievance liaison for academic appointees.
GENERAL UNIVERSITY POLICY REGARDING
APM - 140
ACADEMIC APPOINTEES
Non-Senate Academic Appointees/Grievances

140-14 Eligibility

a. This policy applies to all academic appointees of the University who are not members of the Academic Senate except as provided in APM - 140-14-b, -c, and -d. For non-Senate academic appointees covered by a Memorandum of Understanding (MOU), this policy applies only to the extent provided for in the MOU.

b. APM - 140 does not apply to Postdoctoral Scholars (see APM - 390).

c. Under this policy, student academic appointees not covered by an MOU shall only be eligible to grieve matters related to their academic appointment. Complaints pertaining to academic standing or non-employment-related matters are under the jurisdiction of applicable student grievance or academic appeal procedures.

d. Housestaff (interns and residents) shall be eligible to use APM - 140 unless alternative policies and procedures are instituted by the campus.

e. When a non-Senate faculty member receives notice of termination before the expiration of his or her appointment, he or she may select as a grievance mechanism either APM - 140, as described in this policy, or Section 103.9 of the Standing Orders of The Regents (S.O. 103.9), the procedures of which are described in Academic Senate Bylaw 337. In selecting either APM - 140 or S.O. 103.9, the non-Senate faculty member waives the right to invoke the other mechanism to review the same grievance.

140-15 Mediation

The intent of this policy is to encourage voluntary resolution including mediation when it is desired by both parties. Each campus is encouraged to implement a mediation process to facilitate voluntary resolution of grievances.

140-23 Filing Deadlines

a. A Step II formal grievance must be filed in writing with the grievance liaison within thirty (30) calendar days from the date on which the appointee knew, or could reasonably be expected to know, of the event or act which gave rise to the grievance, or within thirty (30) calendar days after the date of separation, whichever is earlier.
b. A Step III formal grievance appeal must be filed in writing with the grievance liaison within fifteen (15) calendar days from the date on which the Step II response is issued.

c. Filing deadlines shall apply unless a written extension has been granted by the grievance liaison. Either party may submit a written request for an extension to a filing deadline. It is the responsibility of the grievant to file a Step II formal grievance or a Step III formal grievance appeal by the filing deadline or to file a written request for an extension before the filing deadline.

140-31 Step I – Informal Grievance Resolution

a. Step I of the grievance process is the attempt at informal resolution. Prior to filing a Step II formal grievance, the grievant is encouraged to attempt an informal resolution with the immediate supervisor or responsible administrator whose action is being grieved. Attempts at informal resolution do not extend the time limits for filing a formal grievance unless a written extension is granted by the grievance liaison.

b. If informal resolution with the immediate supervisor or responsible administrator is attempted but unsuccessful, a grievant may request that the grievance liaison assist in resolving the grievance. Where appropriate, the grievance liaison may work with the parties to reach an informal resolution.

c. When a grievance alleges sexual harassment, the grievant may elect to substitute the campus Sexual Harassment Complaint Resolution Procedure as Step I. If a grievant selects this mechanism and the complaint is not resolved to the grievant’s satisfaction, he or she may file a Step II formal grievance in writing with the grievance liaison within fifteen (15) calendar days from the date the grievant is notified of the result of the pre-grievance complaint resolution process of the sexual harassment procedure or within forty-five (45) calendar days from the date the grievant filed the sexual harassment complaint, whichever is earlier.

140-32 Step II – Formal Grievance Review

a. If a grievance is not resolved informally to the satisfaction of the grievant, the grievant may file a Step II formal grievance. A Step II grievance must be filed in writing with the grievance liaison within the thirty (30) calendar-day period specified in APM - 140-23-a unless a written extension has been granted by
the grievance liaison. Except by written mutual agreement of the parties, no additional issues shall be introduced after the Step II grievance has been filed. Attempts at informal resolution do not extend the time limits for filing a formal grievance unless a written extension is granted by the grievance liaison. Attempts at informal resolution may continue after a formal grievance has been filed, but are not required.

b. The formal written grievance must include the following information.

(1) If the grievance alleges that a specific administrative act was arbitrary or capricious and adversely affected the grievant’s then-existing terms or conditions of appointment, the grievance must state the specific administrative act(s) to be reviewed, the name of the person(s) alleged to have carried out the administrative act(s), the date(s) the alleged act(s) occurred, and a description of how the administrative act(s) were arbitrary or capricious.

(2) If the grievance alleges that a violation of applicable University rules, regulations, or Academic Personnel policies occurred which adversely affected the grievant’s then-existing terms or conditions of appointment, the grievance must state the applicable University rules, regulations, or Academic Personnel policies the grievant believes have been violated; the name of the person(s) alleged to have violated the applicable University rules, regulations, or Academic Personnel policies; the date(s) the alleged violation(s) occurred; and a description of how the rules, regulations, or Academic Personnel policies have been violated.

(3) All grievances must state how the alleged act(s) and/or violation(s) adversely affected the grievant’s then-existing terms or conditions of appointment and the remedy requested.

c. Upon receipt of a formal written grievance, the grievance liaison shall complete an initial review of the grievance and determine whether the grievance is complete, timely, within the jurisdiction of APM - 140, and contains sufficient facts which support the allegations made in the grievance. Within ten (10) calendar days, the grievance liaison shall notify the grievant in writing of the acceptance of the grievance. If the grievance is not accepted, the reasons shall be specified as follows:

(1) If the grievance liaison determines that the grievance is incomplete or factually insufficient, the grievant will have ten (10) calendar days from the date of the written notice to provide information to make the
grievance complete, including additional facts. If the grievant fails to make the grievance complete or provide sufficient facts, the grievance will be dismissed.

(2) If the grievance liaison determines that the grievance is untimely or outside the jurisdiction of APM - 140, the grievance will be dismissed.

(3) If the grievance raises multiple issues, the grievance liaison will make a determination described above with regard to each issue. The grievance liaison may accept some issues and dismiss others pursuant to this review process.

(4) If all or part of a grievance is dismissed at this stage, the grievance liaison will provide the grievant with a written explanation of the basis for the dismissal.

d. When a formal written grievance is accepted, the grievance liaison shall forward the grievance and any supportive materials to the Step II reviewer for review and written decision, and notify the Step II reviewer and the grievant of the date the Step II response is due. Generally, the Step II reviewer will be the department or unit head. However, if the department or unit head took the action which is being grieved, the grievance liaison may exercise discretion and designate another administrator as the Step II reviewer, and so notify the department or unit head and the grievant.

e. If a Step II grievance raises allegations of discrimination, harassment, or retaliation in violation of APM - 035, the grievance liaison shall forward a copy of the grievance to the appropriate campus compliance office for review, such as the office handling affirmative action/equal employment opportunity matters. Each campus shall implement procedures for the investigation of such grievances under this policy which include procedures for coordination with the relevant campus compliance offices such as Title IX, Title VII, ADA, and/or Affirmative Action. The results of any related grievances or investigations shall be provided to the grievance liaison. At the discretion of the grievance liaison, information regarding related grievances or investigations may be forwarded to the Step II reviewer for consideration in making a Step II decision.

f. The Step II reviewer shall review the grievance and, if appropriate, shall investigate and/or meet with the parties. Within thirty (30) calendar days from the date of receipt of the formal grievance, the Step II reviewer shall send a written response to the grievant and the grievance liaison. The response will
include a statement that the grievance is denied or upheld in whole or in part and that the grievant has the right to appeal the decision to Step III of the grievance procedure.

140-33 **Step III – Formal Grievance Appeal**

a. A formal grievance not resolved to the satisfaction of the grievant at Step II may be appealed in writing to Step III with the grievance liaison within fifteen (15) calendar days from the date on which the Step II response is issued. The Step III formal grievance appeal must set forth the unresolved issue(s) and the remedy requested. Except by written mutual agreement of the parties, no issues shall be introduced in the appeal that were not included in the original grievance.

b. All formal grievance appeals will be subject to Step III-A administrative consideration unless there is a written request for Step III-B hearing consideration and the issue(s) appealed are subject to Step III-B hearing consideration.

(1) **Step III-A Administrative Consideration**

(a) Except when otherwise eligible for hearing consideration, within seven (7) calendar days from receipt of a formal grievance appeal, the grievance liaison shall forward the appeal, the Step II formal grievance, and the Step II response to the Chancellor for review and written decision.

(b) Based on the record, the Chancellor shall determine whether the Step II formal grievance was properly reviewed and whether the decision made at Step II shall be upheld, rejected, or modified.

(c) The Chancellor shall provide a final written decision to the grievant within thirty (30) calendar days following receipt of the formal grievance appeal. The written decision shall include a statement of the reasons if the decision of the Step II reviewer is rejected or modified in whole or in part and a statement that the decision is final.
(2) Step III-B Hearing Consideration

(a) Only the following issues may be appealed for Step III-B hearing consideration:

- non-reappointment (see APM - 137-30-c);
- layoff or involuntary reduction in time (see APM - 145);
- corrective action: written censure, suspension, reduction in salary, or demotion (see APM - 150);
- dismissal (see APM - 150);
- allegations of discrimination in violation of APM - 035 involving non-reappointment, layoff, involuntary reduction in time, corrective action, or dismissal;
- allegations that procedures in a personnel review were not in consonance with the applicable rules and requirements of the University and/or that the challenged decision was reached on the basis of impermissible criteria, including (but not limited to) race, sex, or political conviction.

(b) Within seven (7) calendar days from receipt of a written request for hearing consideration, the grievance liaison shall determine whether the grievant has identified an issue eligible to be appealed for hearing consideration. If the grievance liaison determines the appeal does not identify an issue eligible to be appealed for hearing consideration, the grievance liaison shall notify the grievant and submit the appeal for determination under Step III-A administrative consideration. When an appeal is eligible for hearing consideration, the grievance liaison shall coordinate a hearing consistent with the policies set forth in APM - 140-80.
140-80  Conduct of Hearing

In advance of the hearing, the parties shall attempt to stipulate in writing issues to be submitted for review at the hearing. If the parties cannot agree on the issues, the hearing officer shall define them.

Hearings shall be conducted in accordance with the following standards.

a.  Election of Hearing Officer

(1) The grievant shall elect whether the grievance is heard by a University or a non-University hearing officer. Election by the grievant shall be in writing and shall be final. The Chancellor shall establish procedures for the selection of the University hearing officer. If the grievant elects a non-University hearing officer, in accord with campus procedures the University shall select the provider. The procedures of the chosen provider shall be used to select the hearing officer.

(2) Whenever possible, within forty-five (45) calendar days from the receipt of the election a hearing officer shall be selected and within sixty (60) calendar days thereafter a hearing date shall be scheduled. The hearing officer shall coordinate the hearing process through the grievance liaison.

b.  Hearing

(1) The hearing officer shall convene a hearing in which each party shall have the opportunity to present evidence, cross-examine witnesses, and submit rebuttal evidence. Evidence may be oral and/or documentary. Issues regarding the admissibility and weight of evidence shall be decided by the hearing officer. The hearing officer shall not have the authority to issue subpoenas. The hearing officer shall handle all procedural issues which arise before and during the hearing.

(2) Upon request, each party shall provide the other with copies of materials to be introduced at the hearing and names of witnesses who will testify on the party’s behalf in its case. To the extent possible, such materials and names of witnesses shall be exchanged at least ten (10) calendar days prior to the hearing.
(3) In cases alleging a violation of APM - 137-30-c, 145, or 150, the University’s representative shall proceed first in presenting the University’s case at the hearing. In all other cases, the grievant shall proceed first in presenting his or her case at the hearing.

(4) The hearing shall be closed unless both parties agree in writing to the presence of additional persons. In the absence of such an agreement, the hearing shall be closed to all persons other than the principal parties to the grievance, i.e., the supervisor or department or unit head, the supervisor’s or department or unit head’s representative, the grievant, the grievant’s representative, and the grievance liaison.

(5) All materials, reports, and other evidence introduced into the hearing and recorded by an audio recorder, stenographic services, or by other means shall be considered confidential to the extent allowed by law and University policy.

(6) The hearing officer shall be bound by the provisions of APM - 160-20-d(2) pertaining to the Academic Senate Committee on Privilege and Tenure regarding access to records.

(7) An audio recording will be made by the University unless the parties agree in advance to share the costs of making a stenographic record. The grievant shall be permitted to arrange for stenographic recording at the grievant’s expense if the University does not agree to share the cost. The parties should be made aware that an audio recording is being made, who will have custody of the recording, and how copies may be obtained.

c. Hearing Officer’s Authority

(1) The hearing officer shall provide the parties in the case and the Chancellor with a written statement of findings and recommendation(s) within thirty (30) calendar days of the close of the hearing. In cases alleging a violation of APM - 145 or 150, the hearing officer shall determine whether the University has established by a preponderance of evidence that it had good cause to take such action. In cases alleging a violation of APM - 137-30-c, the hearing officer shall determine whether the University has established by a preponderance of evidence that it met the standard set forth in APM - 137-30-c. In all other cases, the hearing
A grievance shall be heard and decided in accordance with the procedure set forth in APM - 140-4. The hearing officer shall determine whether the grievant has established that

(1) a specific administrative act was arbitrary or capricious (see APM - 140-4-b) and adversely affected the appointee’s then-existing terms or conditions of appointment; and/or

(2) a violation of applicable University rules, regulations, or Academic Personnel policies occurred which adversely affected the appointee’s then-existing terms or conditions of appointment. The hearing officer shall make findings of fact based upon the evidence presented at the hearing. The hearing officer shall not recommend adding to, deleting from, or otherwise modifying the provisions of University rules, regulations, or Academic Personnel policies.

(2) No evidence other than that presented at the hearing shall be considered by the hearing officer or have weight, except that notice may be taken of any facts that are commonly known and accepted by the parties.

(3) The hearing officer shall not substitute his or her judgment for the academic judgment of a peer review committee or administrative officer, nor shall he or she be empowered to evaluate the academic qualifications or competence of academic appointees.

(4) The Chancellor shall review the hearing officer’s findings and recommendations and issue a final written decision within thirty (30) calendar days of receipt of the hearing officer’s findings and recommendation(s). The Chancellor shall provide to the grievant a statement of the reasons if the hearing officer’s recommendation(s) is rejected or modified. If a decision is based on facts different from those found by the hearing officer, those findings must be based on materials in the record.

d. Fees

There shall be no cost to the grievant for a University hearing officer. In the case of a grievance heard by a non-University hearing officer, the hearing officer’s fees shall be borne equally by the University and the grievant if the Chancellor accepts the hearing officer’s recommendation(s). The fee shall be borne entirely by the University if the Chancellor rejects or modifies the recommendation(s) of the non-University hearing officer.
140-85 General Provisions

a. Representation

Grievants may represent themselves or may be represented by another person at any stage of the grievance process. The University shall be represented as the Chancellor deems appropriate; representation may be provided by the Office of the General Counsel.

b. Time Limits

Prior to expiration of a time limit, extensions may be granted by the grievance liaison upon written request by either party. If the grievant fails to meet a deadline, the grievance will be considered resolved on the basis of the last University response. If a University official fails to meet a deadline, the grievant may move the grievance to the next step in the process. Time limits which expire on days which are not business days at the location where the grievance is filed shall be automatically extended to the next University business day.

c. Pay Status

The grievant and the grievant’s representative, if employed by the University, shall be granted leave with pay based on their regular pay status to attend hearings and meetings convened by the University to consider grievances under this policy. Time spent by the grievant and the grievant’s representative in investigation and preparation of a grievance shall not be on pay status. Time spent by University employee-witnesses in meetings and hearings convened by the University shall be taken as leave with pay based on their regular pay status.

d. Remedy

If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the grievant the pay, benefits, or rights lost either as a result of the violation of University rules, regulations, or Academic Personnel policies, or as a result of an arbitrary or capricious administrative action, less any income earned from any other employment. If the hearing officer’s findings and recommendation(s) include a remedy for back pay, the amount of back pay shall be determined by the administration. Disputes over the amount of back pay due may be referred back to the hearing officer for a separate
recommendation. Any claim of back pay by a grievant must be supported by appropriate documentation. Payment of attorney’s fees shall not be part of the remedy. Unless specifically authorized by the grievance liaison, compensation shall not be paid for any period that is the result of extension(s) of time requested by or on behalf of the grievant.

e. **Consolidation of Grievances**

The following may be consolidated in one review: grievances of two or more academic appointees, where the grievances are related and consolidation is appropriate under the circumstances; two or more grievances filed by the same grievant which are based on the same incident, issues, or act; or two or more grievances filed by the same grievant which are based on the same pattern of conduct. The grievance liaison shall decide whether grievances will be consolidated.
Standing Orders of the Regents

*Please note that this information is current as of November 2010 and is superseded by any subsequent revisions. The most up-to-date information can be found here: [http://www.universityofcalifornia.edu/regents/bylaws/standing.html](http://www.universityofcalifornia.edu/regents/bylaws/standing.html)

STANDING ORDER 100.1 Designation and to Whom Responsible

a. Officers of the University shall be the President of the University, Executive Vice Presidents, Senior Vice Presidents, other Vice Presidents, Associate Vice Presidents, Assistant Vice Presidents, Chancellors, Vice Chancellors, and Director and Deputy Director of the Ernest Orlando Lawrence Berkeley National Laboratory, and Directors of University hospitals.

b. The President shall be responsible directly to the Board. All other Officers shall be responsible to the President directly or through designated channels, with the exception of the General Counsel and Vice President for Legal Affairs and the Senior Vice President - Chief Compliance and Audit Officer, both of whom shall have dual responsibility to the Board and to the President.

*Includes amendments through January 2010*
Standing Orders

STANDING ORDER 100. OFFICERS OF THE UNIVERSITY

STANDING ORDER 100.2 Employment Status

(a) Appointment and dismissal of the President of the University shall be by an affirmative vote of not less than a majority of the members of the Board.

(b) Appointment or reemployment after retirement of all Officers of the University and other members of the Senior Management Group shall be voted by the Board upon recommendation of the President of the University following consultation with an appropriate Standing Committee of the Board, as determined by the President, or with a special committee established for that purpose.

(c) Action to demote or dismiss a Chancellor or the Director of the Ernest Orlando Lawrence Berkeley National Laboratory shall be voted by the Board upon recommendation of or following consultation with the President of the University.

(d) Action to demote or dismiss other Officers of the University shall be taken by the President of the University upon recommendation of or following consultation with appropriate Officers and shall be reported to the Board.

(e) Temporary appointments of acting status in Officer of the University or other Senior Management Group positions shall be voted on by the Board upon recommendation of the President of the University.

(f) Minor changes in titles of Officers of the University and other members of the Senior Management Group may be approved by the President of the University. Any such changes shall be reported to the Board in the Bi-Monthly Transaction Monitoring Report.

Includes amendments through January 2010
Standing Orders

STANDING ORDER 100.3 Compensation

(a) Compensation of the President of the University shall be determined by the Board upon recommendation of the Committee on Compensation.

(b) Compensation of all Officers of the University and other members of the Senior Management Group, including those individuals serving in an acting capacity, and including compensation upon appointment and subsequent changes in compensation, shall be determined by the Board upon recommendation of the President of the University through the Committee on Compensation.

Includes amendments through January 2010
Standing Orders

STANDING ORDER 100.4 Duties of the President of the University

(a) The President shall be the executive head of the University and shall have full authority and responsibility over the administration of all affairs and operations of the University, excluding only those activities which are the responsibility of the Secretary and Chief of Staff, Chief Investment Officer, General Counsel of The Regents, and Senior Vice President - Chief Compliance and Audit Officer. The President may delegate any of the duties of the office except service as an ex officio Regent.

(b) The President is authorized in the name of The Regents to award degrees to candidates recommended by the Academic Senate for degrees in course and certified by the respective registrars, and to confer honorary degrees, the award of which has been approved by the Board. In the absence of the President, or when specifically delegated by the President, the Chancellors on the respective campuses of the University shall confer the honorary degrees so awarded by The Regents. Degrees in course, awarded by the President as prescribed above, may be conferred by any Officer of the University, including Officers of the respective campuses, on delegation by the President. The President shall seek the advice of the Academic Senate, through committees appointed in a manner which the President shall determine, in connection with the award of all honorary degrees.

(c) The President of the University, in accordance with such regulations as the President may establish, is authorized to appoint, determine compensation, promote, demote, and dismiss University employees, except as otherwise provided in the Bylaws and Standing Orders and except those employees under the jurisdiction of the Secretary and Chief of Staff, Chief Investment Officer, and General Counsel of The Regents. Before recommending or taking action that would affect personnel under the administrative jurisdiction of Chancellors, Executive Vice Presidents, Senior Vice Presidents, other Vice Presidents, or the Director of the Ernest Orlando Lawrence Berkeley National Laboratory, the President shall consult with or consider recommendations of the appropriate Officer. When such action relates to a Professor, Associate Professor, or an equivalent position; Assistant Professor; a Professor in Residence, an Associate Professor in Residence, or an Assistant Professor in Residence; a Professor of Clinical (e.g., Medicine), an Associate Professor of Clinical (e.g., Medicine) or an Assistant Professor of clinical (e.g., Medicine); a Senior Lecturer with Security of Employment, or a Lecturer with Security of Employment, the Chancellor shall consult with a properly constituted advisory committee of the Academic Senate.

(d) The President and those of his staff to whom he may delegate such authority are authorized to act as agents of The Regents to carry out the collective bargaining responsibilities of the University under the Higher Education Employer-Employee Relations Act (HEERA sections are 3560-3599). Whenever the President, under either general or specific authority delegated to him, takes action affecting the terms and conditions of employment of University employees, it shall be understood
that for employees represented by an exclusive representative, such action may be taken only after satisfaction of any obligation the University may have to meet and confer with respect to such action, and then only to the extent approved by the President.

(e) The President is authorized to grant leaves of absence with or without pay, in accordance with such regulations as the President may establish, except that paid leaves of absence that exceed ninety days for Chancellors, the Ernest Orlando Lawrence Berkeley National Laboratory Director, Executive Vice Presidents, Senior Vice Presidents, and other Vice Presidents shall be subject to approval by the Board upon recommendation of the President of the University.

(f) The President annually, through the appropriate Standing Committee, shall present to the Board recommendations as to the budget of the University, recommendations as to the Capital Improvement Program of the University, and recommendations as to requests for appropriations of funds for the University.

(g) The President shall fix and determine the amount, conditions, and time of payment of all fees, fines, and deposits to be assessed against students of the University, except that the President shall secure the Board's approval prior to the assessment of the University Registration Fee, Educational Fee, tuition fees, and fees and charges required in connection with the funding of loan financed projects, except student-fee-funded facilities, parking facilities and housing projects.

(h) The President shall fix the calendar of the University, provided that no session of instruction shall be established or abolished except with the advice of the Academic Senate and the approval of the Board.

(i) The President is authorized to make awards of fellowships, scholarships, and prizes with the advice of the Chancellors and the Academic Senate, and to approve expenditures from appropriations, gifts, and endowments for these purposes.

(j) The President shall consult with the Chancellors and the Academic Senate regarding the educational and research policies of the University, and shall keep the Chancellors and the Academic Senate informed about significant developments within the University and within the State and Federal governments which may have serious consequences for the conduct of education and research within the University. The President shall present recommendations to the Board concerning the academic plans of the University and of the several campuses. The President shall transmit to the Board any memorial which the Academic Senate may address to The Regents.

(k) The President shall develop, initiate, implement, and approve fundraising campaigns for the benefit of the University in accordance with the policies of the Board.

(l) The President shall represent the Corporation and the University in all matters requiring action by the Congress or officers of the United States or by the Legislature or officers of the State of California.
The President is authorized to negotiate and approve indirect cost rates to be applied to contracts and grants under which the University conducts programs supported by extramural funds, provided that such negotiations shall be directed toward full recovery of indirect costs. Newly approved indirect cost rates determined under the provisions of Office of Management and Budget Circular A21, and any successor publication thereto, shall be reported to the Committee on Finance annually.

(n) The President is authorized to permit expenditures against contracts, grants, and gifts, or against firm commitments thereon, provided that the contracts, grants, and gifts have been solicited or negotiated in accordance with established Regental policy.

(o) The President is authorized to approve transfers or allocations of University operating funds and transfers of funds designated for Capital Improvement purposes, subject to any limitations which might be imposed by the terms of said funds, provided:

1. That no such transfer or allocation shall result in the establishment of a new policy, program, or project involving a continuing commitment;
2. That no transfer shall be made from a reserve fund for a purpose other than that for which the reserve fund was established.

(p) The President is authorized to approve the incurring of commitments and expenditures against the following year’s budget in advance of the effective date thereof. Advance commitments for expenditure for materials, services, and equipment shall not exceed fifty percent of the Governor’s budget proposal to the Legislature for such purposes for the ensuing fiscal year. Advance commitments for appointments shall not exceed the number of positions and the funds provided in the Governor’s budget proposal to the Legislature for the ensuing fiscal year. The number of such advance commitments authorized shall be determined annually by the President.

(q)(1) Except as provided in paragraph (q)(2) below, the President is authorized to approve amendments to the Capital Improvement Program for projects not to exceed $10 million. The President is also authorized to approve amendments to the Capital Improvement Program for projects exceeding $10 million up to and including $20 million, provided that concurrence is obtained from the Chairman of the Board and the Chairman of the Committee on Grounds and Buildings and also provided that all actions taken in excess of $10 million up to and including $20 million under this authority be reported at the next following meeting of the Board. However, the following shall be approved by the Board: (1) projects with a total cost in excess of $20 million, (2) for projects in excess of $20 million, any modification in project cost over standard cost-rise augmentation in excess of 25%, or (3) capital improvement projects of any construction cost when, in the judgment of the President, a project merits review and approval by The Regents because of special circumstances related to budget matters, external financing, fundraising activities, project design, environmental impacts, community concerns, or substantial program modifications.

(q)(2) This paragraph shall apply exclusively to capital projects on campuses approved by the Committee on Grounds and Buildings for inclusion in the Pilot Phase of Process Redesign for Capital Improvement Projects.
The President is authorized to approve amendments to the Capital Improvement Program for projects not to exceed $60 million. However, the following shall be approved by the Board: (1) projects with a total cost in excess of $60 million, (2) for projects in excess of $60 million, any modification in project cost over standard cost-rise augmentation in excess of 25%, or (3) capital improvement projects of any construction cost when, in the judgment of the President, a project merits review and approval by The Regents because of special circumstances related to budget matters, external financing, fundraising activities, project design, environmental impacts, community concerns, or substantial program modifications.

This paragraph shall become inoperative and is repealed on March 31, 2011, unless a later Regents’ action, that becomes effective on or before March 31, 2011, deletes or extends the date on which it becomes inoperative and is repealed.

(r) The President is authorized to modify budget estimates of income of wholly or partially self-supporting activities, and in connection therewith to increase or decrease appropriations accordingly. Such authorization is subject to the availability of funds.

(s) The President is authorized, in accordance with the terms specified by the donor, to designate the purpose for which, and the campus or other location at which, the income and/or principal of a gift shall be used and to make allocations in accordance therewith.

(t) The President is authorized to determine, consistent with any expressed intent of the donor, the purpose for which and the campus or other location at which a gift shall be used, to determine whether income and/or principal shall be used, and to make allocations and reallocations in accordance therewith, to the extent not specified by the donor of a gift.

(u) Any action taken pursuant to sections (s) and (t) above shall conform to established University programs and policies and shall not constitute a commitment requiring expenditures in excess of budgeted items.

(v) The President is authorized, after consultation with the General Counsel, to return to the donor all or any unused portion of a gift of personal property, when the purposes of the gift have been fulfilled or fulfillment has become impossible or impracticable and when alternative uses are precluded.

(w) The President is authorized to write off bad debts, provided reserves for that purpose are adequate or that specific income or an appropriation is available for that purpose.

(x) The President is authorized to write off against funds received from the Federal Government in reimbursement of indirect costs, routine disallowed claims under grants and contracts.

(y) The President is authorized to appoint and to execute necessary agreements with executive architects, executive landscape architects, and executive and consulting engineers for approved projects.
The President is authorized to approve building plans and to solicit bids in connection with approved projects, except that the President shall not approve the design of such projects as the Board has specifically designated as requiring design approval by the Committee on Grounds and Buildings.

(aa)
The President is authorized to approve the siting of individual buildings or projects, provided that their locations are generally in accordance with a long-range development plan previously approved in principle by the Board, and to approve the siting of individual buildings or projects on University properties, such as field stations and research stations, which may not be covered by approved long-range development plans.

(bb)
The President is authorized to execute on behalf of the Corporation claims against debtors in bankruptcy, in receivership or in liquidation, and against estates of deceased persons.

(cc)
Except as otherwise specifically provided in the Bylaws and Standing Orders:

The President is authorized to approve and execute on behalf of the Corporation contracts, real property rental agreements, leases, ground leases and other documents pertaining to the use of real property for University-related purposes with a term of not more than twenty years (excluding options when the University is the lessee but including options provided by the University as lessor).

As used in these Standing Orders, the term University-related purposes refers to real property and interests therein held and/or used by the University in furtherance of its mission, but excluding real property held for investment purposes.

(dd)
Except as otherwise specifically provided in the Bylaws and Standing Orders, the President is authorized to execute on behalf of the Corporation all contracts and other documents necessary in the exercise of the President's duties, including documents to solicit and accept pledges, gifts, and grants, except that specific authorization by resolution of the Board shall be required for documents which involve or which are:

1. Exceptions to approved University programs and policies or obligations on the part of the University to expenditures or costs for which there is no established fund source or which require the construction of facilities not previously approved.
2. Renewal or modification of the prime contract with the Department of Energy for the operation of the Ernest Orlando Lawrence Berkeley National Laboratory; renewals or substantive modifications of the Los Alamos National Security LLC and Lawrence Livermore National Security LLC Agreements; and modifications to the prime contracts pertaining to the Los Alamos National Laboratory or the Lawrence Livermore National Laboratory that would constitute a cardinal change.
3. Loans of funds of the Corporation, other than loans from established student, faculty, and staff loan funds.
4. Agreements for the provision of employee group insurance benefits, with the understanding that Board authorization shall not be required for periodic revisions to existing agreements when the revisions do not substantially change the authorized scope of the benefit plans.
5. Affiliation agreements with other institutions or hospitals involving direct financial obligations or commitments to programs not
6. Agreements with associations composed of medical staff for collection of professional fees for services rendered to patients at University or affiliated teaching hospitals.

7. Applications for new licenses to the Federal Communications Commission for authority to operate radio or television broadcast equipment.

8. Construction contracts in excess of appropriated funds.

9. Agreements by which the University assumes liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests. In circumstances where it is deemed necessary by the President, in consultation with the General Counsel, to indemnify non-University persons who have agreed at the University's request to serve as advisors on operational matters for conduct within the scope of their role as advisors, the President is authorized to provide for defense and indemnification. This restriction does not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

(ee) Anything contained in subsection (dd) above to the contrary notwithstanding, the President is authorized to take all actions and to execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board, provided that in all such cases the President shall report such actions to the Board, through an appropriate Standing Committee, at its next regular meeting.

(ff) The President is authorized to negotiate the sale, purchase, receipt by gift, or lease of all interests in real property used, or to be used for University-related purposes, and to administer all such properties and interests.

(gg) The President is authorized to approve the sale, purchase, receipt by gift, or other acquisition of all interests in real property used or to be used for University-related purposes when the consideration does not exceed $20 million. The President is also authorized to approve the sale, purchase, receipt by gift, or other acquisition of all such interests in real property when the consideration exceeds $20 million up to and including $60 million, provided that concurrence is obtained from the Chairman of the Board and the Chairman of the Committee on Finance, and also provided that all actions taken for these amounts under this authority be reported at the next meeting of the Board. Such transactions with consideration exceeding $60 million require Board approval.

(hh) In furtherance of the authorities set forth in (ff) and (gg) above, the President is authorized to execute all documents, except those conveying title; provided, however, that any such documents executed prior to approval required in accordance with (gg) above, shall be conditioned upon obtaining such approval.

(ii) The President shall be the custodian of all contracts of purchase and sale, gift agreement, leases, licenses, easements and rights of way, ground leases, mortgages, deeds of trust, insurance policies and other documents relating to real property transactions for University-related purposes custody for which is not established elsewhere in the Bylaws and Standing Orders.
The President is authorized to approve and execute licenses, easements, and rights-of-way with respect to (1) real property used or to be used for University-related purposes or (2) University-related real property to be used by others.

(kk)

The President is authorized to approve leases, assignments of leases or subleases, and related amendments of such documents for mineral rights, including gas, oil, and other hydrocarbons, or geothermal resources as to real property used or to be used for University-related purposes if the land rent does not exceed $500,000 per year during the primary lease term.

(ll)

The President is authorized to take all appropriate action incident to the administration of University home loan programs as approved by The Regents, including (1) receiving and administering promissory notes, mortgages, deeds of trust, grant deeds, and deeds-in-lieu of foreclosure, (2) executing releases and satisfactions of mortgages and requests for reconveyances of deeds of trust when the University home loan program notes secured by such mortgages and deeds of trust have been paid in full or otherwise satisfied, and (3) accepting title to real property through foreclosure, deed-in-lieu of foreclosure, or other similar actions.

(mm)

The President is authorized to develop and implement policies and procedures on matters pertaining to intellectual property, including patents, copyrights, trademarks, and tangible research products, and to execute documents necessary for the administration of intellectual property, including those which may contain commitments existing longer than seven years. The President annually shall report to the Board on matters pertaining to intellectual property.

(nn)(1)

Except as provided in paragraph (nn)(2) below, the President shall be the manager of all external financing of the Corporation. The President is authorized to obtain external financing for amounts up to and including $10 million for the planning, construction, acquisition, equipping, and improvement of projects. The President is also authorized to obtain external financing for amounts in excess of $10 million up to and including $20 million, provided that concurrence is obtained from the Chairman of the Board and the Chairman of the Committee on Finance, and also provided that all actions taken to obtain external financing for amounts in excess of $10 million up to and including $20 million be reported at the next following meeting of the Board. External financing in excess of $20 million requires Board approval. The President shall have the authority to (1) negotiate for and obtain interim financing for any external financing, (2) design, issue, and sell revenue bonds or other types of external financing, (3) issue variable rate or fixed rate debt, and execute interest rate swaps to convert fixed or variable rate debt, if desired, into variable or fixed rate debt, respectively, (4) refinance existing external financing for the purpose of realizing lower interest expense, provided that the President's authority to issue such refinancing shall not be limited in amount, (5) provide for reserve funds and for the payment of costs of issuance of such external financing, (6) perform all acts reasonably necessary in connection with the foregoing, and (7) execute all documents in connection with the foregoing, provided that the general credit of The Regents shall not be pledged for the issuance of any form of external financing.

(nn)(2)

This paragraph shall apply exclusively to capital projects on campuses approved by the Committee on Grounds and Buildings for inclusion in the Pilot Phase of Process Redesign for Capital Improvement Projects.
The President shall be the manager of all external financing of the Corporation. The President is authorized to obtain external financing for amounts up to and including $60 million for the planning, construction, acquisition, equipping, and improvement of projects. The President shall have the authority to (1) negotiate for and obtain interim financing for any external financing, (2) design, issue, and sell revenue bonds or other types of external financing, (3) issue variable rate or fixed rate debt, and execute interest rate swaps to convert fixed or variable rate debt, if desired, into variable or fixed rate debt, respectively, (4) refinance existing external financing for the purpose of realizing lower interest expense, provided that the President's authority to issue such refinancing shall not be limited in amount, (5) provide for reserve funds and for the payment of costs of issuance of such external financing, (6) perform all acts reasonably necessary in connection with the foregoing, and (7) execute all documents in connection with the foregoing, provided that the general credit of The Regents shall not be pledged for the issuance of any form of external financing.

This paragraph shall become inoperative and is repealed on March 31, 2011, unless a later Regents’ action, that becomes effective on or before March 31, 2011, deletes or extends the date on which it becomes inoperative and is repealed.

The President is authorized to administer University participation in corporations, companies, and partnerships, provided that such participations have been approved by the Board for University-related purposes, and to execute all documents in connection therewith on behalf of the University. The President shall be the custodian of all documents related to such participations.

The President shall be the representative of the Corporation in, and is authorized to execute agreements in connection with, all matters relating to bank accounts and bank services; banking relationships; financial and banking type services provided by entities other than banks, including but not limited to, the following:

1. The President shall select the banks in which funds of the Corporation are deposited and from which funds are disbursed.
2. The President is authorized to transfer to the name of the Corporation all bank accounts, including time certificates of deposit, received as gifts to the Corporation, and to make withdrawals from or close such accounts.
3. The President is authorized to designate representatives of the University who may sign checks, drafts or other orders for the payment of money or initiate electronic transfers of funds against University checking accounts, provided that all such representatives are covered by fidelity bond. The President is authorized to approve the use of and to direct banks or other depositories to honor facsimile signatures.
4. The President is authorized to designate a list of representatives of the Corporation who may sign checks, drafts or other orders for the payment of money or initiate electronic transfers of funds against bank accounts used for deposit of Chief Investment Officer's General Cash and to make withdrawals from savings accounts, provided that all such actions have been approved by two such representatives, including one from the Office of the President and one from the Office of the Chief Investment Officer, and provided further that all such representatives are covered by fidelity bond, and provided that nothing herein shall be construed as empowering the President to direct banks or other depositories to honor facsimile signatures except on authority of the Committee on Finance.
5. The President is authorized to make arrangements for lockbox, electronic transfer of funds, escrow services, credit card and other services to facilitate the collection or disbursement of funds.

(qq)

1. "Extreme Financial Emergency" for purposes of this Standing Order shall mean any event(s) or occurrence(s) creating an imminent and substantial deficiency in available University financial resources which could reasonably be expected to jeopardize the ability of the University, campus, or multiple campuses, to sustain its current or future operations in a manner which would allow it to fulfill its tripartite mission consistent with past practices. The deficiency in available financial resources may result from significant reductions in any of the following: legislative appropriation; state revenues which make appropriated funds unavailable; income from other sources including auxiliary enterprises and services, contracts, grants, gifts, tuition and fees.

2. The President of the University shall have authority, consistent with legal requirements, to implement furloughs and/or salary reductions, on terms that the President deems necessary, for some or all categories of University employees, upon Declaration of Extreme Financial Emergency, as specified below. The President further shall have the authority, during the pendency of the Declaration and consistent with applicable legal requirements, to suspend the operation of any existing Regental or University policies otherwise applicable to furloughs and/or salary reductions that are contrary to or inconsistent with the terms the President deems necessary to the proposed implementation. The authority provided herein may be exercised with regard to the University as a whole or with regard to a campus or multiple campuses. For purposes of this section, Furlough means temporary unpaid time off of work where use of accrued vacation leave, compensatory time off, or any other paid leave or compensation may not be used.

3. Extreme Financial Emergency may be declared only by the Regents on the President’s recommendation. Any request by the President for approval of such a Declaration shall be made in writing directed to the Chair and Vice Chair of the Board and to the Chair of the systemwide Academic Senate, with copies directed to the Principal Officers of The Regents and appropriate University Officers. Such writing must generally describe the emergency conditions underlying the Declaration, the current or future effects of such conditions on campus or University operations, the expected duration of the Declaration if known (which in no event may extend beyond one year), a summary of the plan for implementing the proposed furloughs and/or salary reductions, and the expected outcome of the proposed plan.

4. The President shall engage in consultation with campus Chancellors, representatives of the systemwide Academic Senate and the appropriate representatives of systemwide staff and academics concerning the matters to be included in the request for approval of a Declaration of Extreme Financial Emergency prior to submitting the request to The Board of Regents. If the request for approval of a Declaration of Extreme Financial Emergency is submitted by a Chancellor to the President, the Chancellor shall engage in consultation with representatives of the divisional Academic Senate and the appropriate representatives of campus staff and academic representatives concerning the matters to be included in the request for approval of a Declaration of Extreme Financial Emergency prior to submitting the request to the President.

5. The authority provided under this Standing Order is in addition to any authority otherwise provided University officials under other Regental or University policies and, except as provided herein, nothing in this Standing Order shall limit such other authority.

Includes amendments through March 2010
Standing Orders

STANDING ORDER 100.5 Duties of the Vice Presidents

(a) The Executive Vice Presidents and Senior Vice Presidents shall perform such duties of the President of the University as the President shall designate. In the event of the unavailability or inability of the President to act, Executive Vice Presidents shall have and exercise all the duties and powers of the President, other than service as a Regent, in such order and to such extent as the President shall designate.

(b) Other Vice Presidents shall advise and assist the President of the University in connection with those functions of the administration of the University assigned to them by the President.

Includes amendments through September 21, 2006
STANDING ORDER 100.6 Duties of the Chancellors

(a) The Chancellor of each campus shall be the chief campus officer thereof and shall be the executive head of all activities on that campus, except as herein otherwise provided and excepting such activities as may be designated by the Board as University-wide activities; and with reference to these on a particular campus the Chancellor shall be consulted. In all matters within the Chancellor's jurisdiction, the Chancellor shall have administrative authority within the budgeted items for the campus and in accordance with policies for the University as determined by the President of the University. The Chancellor shall be responsible for the organization and operation of the campus, its internal administration, and its discipline; and decisions made by the Chancellor in accordance with the provisions of the budget and with policies established by the Board or the President of the University shall be final. The Chancellor of each campus shall nominate Officers, faculty members, and other employees on that campus in accordance with the provisions of these Standing Orders.

(b) The Chancellor on each campus shall appoint all the members of the instructional staff deemed necessary for the conduct of instruction in any summer session on that campus, and may fix their remuneration in accordance with the provisions of the budget established by the Board and of the salary scales of the University.

(c) The Chancellor of each campus shall preside at all formal functions on that campus. At formal exercises and ceremonies attended by the President, the Chancellor shall present the President, who, as the University's chief executive, shall function in accordance with the University's rules for protocol and procedure. The Chancellor, with the approval of the President, may replace or supplement formal exercises on the campus, including Commencement exercises, with informal functions at which Vice Chancellors, Provosts, or Deans may preside.

Includes amendments through February 19, 1971
Standing Orders

STANDING ORDER 103.2 Privilege of a Hearing Before the Academic Senate

Any member of the Academic Senate shall have the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare.

Not amended after April 18, 1969

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Please email questions or comments about the Regents' website to
Anne Shaw

If you would like to
STANDING ORDER 103.9 Tenure

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

An Assistant Professor who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued after the eighth year unless promoted to Associate Professor or Professor. By exception, the President may approve appointment of an Assistant Professor beyond the eighth year for no more than two years.

Includes amendments through May 15, 1987

[ List of Standing Orders ] [ Home ]

Send questions, comments, or suggestions to Anne.Shaw@ucop.edu.
Standing Orders

STANDING ORDER 103.10 Security of Employment

Except as otherwise provided in a Memorandum of Understanding for faculty who are not members of the Academic Senate, a Lecturer-Potential Security of Employment or Senior Lecturer-Potential Security of Employment appointed at more than half time who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued in that title after the eighth year unless given appointment with security of employment.

By exception, the President may approve appointment of a Lecturer-Potential Security of Employment or Senior Lecturer-Potential Security of Employment on more than half time beyond the eighth year without security of employment, but such appointment may not extend beyond two years.

An appointment with security of employment shall not be terminated except for good cause after the opportunity for a hearing before the properly constituted advisory committee of the Academic Senate.

Includes amendments through 9/16/88

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Anne Shaw

If you would like to
STANDING ORDER 105.1 Organization of the Academic Senate

(a) The Academic Senate shall consist of the President, Vice Presidents, Chancellors, Vice Chancellors, Deans, Provosts, Directors of academic programs, the chief admissions officer on each campus and in the Office of the President, registrars, the University Librarian on each campus of the University, and each person giving instruction in any curriculum under the control of the Academic Senate whose academic title is Instructor, Instructor in Residence; Assistant Professor, Assistant Professor in Residence, Assistant Professor of Clinical (e.g., Medicine); Associate Professor, Associate Professor in Residence, Associate Professor of Clinical (e.g., Medicine), Acting Associate Professor; Professor, Professor in Residence, Professor of Clinical (e.g., Medicine), or Acting Professor; full-time Lecturer with Potential for Security of Employment, full-time Senior Lecturer with Potential for Security of Employment, full-time Lecturer with Security of Employment, or full-time Senior Lecturer with Security of Employment; however, Instructors and Instructors in Residence of less than two years’ service shall not be entitled to vote. Members of the faculties of professional schools offering courses at the graduate level only shall be members also of the Academic Senate, but, in the discretion of the Academic Senate, may be excluded from participation in activities of the Senate that relate to curricula of other schools and colleges of the University. Membership in the Senate shall not lapse because of leave of absence or by virtue of transference to emeritus status.

(b) The Academic Senate shall determine its own membership under the above rule, and shall organize, and choose its own officers and committees in such manner as it may determine.

(c) The Academic Senate shall perform such duties as the Board may direct and shall exercise such powers as the Board may confer upon it. It may delegate to its divisions or committees, including the several faculties and councils, such authority as is appropriate to the performance of their respective functions.

Includes amendments through March 20, 1987
Legislative Rulings

*Please note that this information is current as of November 2010 and is superceded by any subsequent revisions. The most up-to-date information can be found here: [http://www.universityofcalifornia.edu/senate/manual/appendix2.html](http://www.universityofcalifornia.edu/senate/manual/appendix2.html)

Legislative Rulings by the University Committee on Rules and Jurisdiction

3.73 Right to a Hearing

1. The Standing Orders of The Regents guarantee to each member of the Academic Senate "the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental or University welfare." (Standing Order of The Regents 103.2) The Standing Orders also guarantee "the opportunity for a hearing before the properly constituted advisory committee of the Academic Senate" prior to the "termination of a continuous tenure appointment or the termination of the appointment of any other member of the faculty before the expiration of his contract." (Standing Order of The Regents 103.10) While a "hearing" is guaranteed in these instances, the Standing Orders are silent as to the precise nature of the hearing, and also as to the Senate committee which is to afford the hearing. However, the Senate’s Bylaws [SBL 112, renumbered to 113, then to 335, then to 336] fill part of this gap. Bylaw 112(C) provides that "Procedures for the dismissal, suspension, or demotion of members of the Academic Senate or officers of instruction shall be conducted before a Divisional Committee on Privilege and Tenure," and Bylaw 112(C)(2)(e) lays down certain procedures which must be followed in such a hearing. Further, Bylaw 112(D) provides that "Any member of the Academic Senate or officer of instruction who believes his privileges or tenure have been violated may complain to the Committee on Privilege and Tenure of his Division. If such a person makes a reasonable showing of such a violation, the Divisional committee shall make such further investigation of the facts as it deems proper and notify the appropriate administrative officer that the complaint has been filed ... [and] may, in its discretion, after due notice to the parties, hold a hearing as prescribed in (C)(2)(e) of this Bylaw..." (Emphasis added) In short: the Standing Orders guarantee the right of a hearing before a Senate Committee in a broad range of cases, but do not specify the precise nature of the hearing, or the committee which shall conduct it. The Senate Bylaws provide that in certain types of cases a hearing conducted under specified procedures must be held by the Divisional Committee on Privilege and Tenure and that in other cases the Divisional Committee on Privilege and Tenure may in its discretion afford such a hearing.

2. The procedures to be followed by Divisional Privilege and Tenure Committees in exercising its discretion under Bylaw 112(D) [renumbered to 335(D), then to 337] in determining whether to afford a hearing of the type specified by Bylaw 112(C), are not specified in the Manual of the Academic Senate. However, contemporary standards of due process indicate that in determining how to exercise such discretion, the Committee shall at a minimum: (a) accord the complainant, on written request, a timely opportunity to appear in person before it and state his grievance; and (b) provide the complainant, within a reasonable time, a written statement reporting the Committee’s disposition of his grievance and the reasons therefore.

3. No Division may enact legislation which limits the jurisdiction or discretion granted to the Divisional Committee on Privilege and Tenure under Senate Bylaw 112.

4. The Senate Committee on Privilege and Tenure has been specifically charged with responsibility for advising the Senate and its Divisions on general matters of policy involving the privileges or tenure of all members of the Academic Senate or officers of instruction (Senate Bylaw 112(B)). Therefore, this Universitywide committee must be consulted before any marked deviation from accepted procedures in these matters is legislated.

5. While decisions in individual cases arising under Bylaw 112 may not be appealed on the merits to any other Senate agency, a Divisional Committee on Privilege and Tenure may be asked, under Senate Bylaw 8(A), [renumbered to 40.A] by the Assembly, the Division, or a Faculty of the Division to describe its procedures and policies. Such procedures and policies may be reviewed for conformance with item 2 above and with other applicable sections of the Code of the Academic Senate.
3.93A Applicability of Senate Bylaw 335 [now 334, 335, 336, and 337] and the Faculty Code of Conduct to Administrators

Standing Order of the Regents 105.1(a) specifies those persons who are members of the Academic Senate by virtue of appointment either to certain administrative titles or to certain instructional titles, including the professorial title or its equivalent and the title of Lecture or Senior Lecturer with Security of Employment. Both categories of members have all the same rights, privileges, and responsibilities of Senate membership, including the privilege of a hearing by the appropriate committee of the Academic Senate, "on any matter relating to personal, departmental, or University welfare," as provided by Standing Order 103.2. Standing Order 100.4(c) requires the Chancellor to consult with a properly constituted committee of the Academic Senate before taking any action, including some actions disciplinary in character, that would affect a person holding one of the instructional titles that confer membership in the Academic Senate under Standing Order 105.1(a), but there is no such provision for actions affecting a person holding one of the administrative titles that confer membership in the Academic Senate.

Senate Bylaw 335 [now 334, 335 and 336] establishes Divisional Committees on Privilege and Tenure or, under certain circumstances, another committee constituted for the purpose by the University Committee on Privilege and Tenure, as the sole committees of the Academic Senate authorized to consider cases of grievance by or disciplinary action against a member of the Academic Senate.

Appendix IV of the Manual of the Academic Senate, incorporated also as Section 015 in the Academic Personnel Manual, sets forth the "University Policy on Faculty Conduct and the Administration of Discipline." Section I of the policy defines the disciplinary sanctions that may be imposed upon a faculty member and summarizes the provisions of the Standing Orders and of Senate Bylaw 335 [now 336] for the administration of discipline. Section II, subtitled "The Faculty Code of Conduct," summarizes the professional rights of the faculty, sets forth standards of professional conduct, and recommend the establishment of campus procedures for the administration of discipline.

Appendix IV, including the Faculty Code of Conduct and campus disciplinary procedures implementing it, applies only to those members of the Academic Senate who hold one of the instructional titles specified in SOR 100.4(c), and only to the extent that any proposed disciplinary sanctions affect the status of the person charged as a member of the faculty holding one of the titles specified in SOR 100.4(c).

Under Standing Orders 100.2, 100.4(c), and 100.6(a), the suspension or dismissal of an administrator from an administrative title or appointment is reserved to the Regents, the President, and the Chancellors, with no requirement for consultation with the Academic Senate. An administrator whose title confers membership in the Academic Senate may, however, invoke the privilege of a hearing guaranteed by SOR 103.2. In that case, the Divisional Committee on Privilege and Tenure or another hearing committee constituted as provided for in Senate Bylaw 335.C [now 336] shall consider the case and render its advice prior to the imposition of discipline. Since Senate Bylaw 335.F(1) [now 336.B(1)] uses the term "member of the Academic Senate," the procedures outlined in Senate Bylaws 335.F and 335.G [now 336.B and 336.D] must be followed, but other procedures established for discipline of faculty under the Faculty Code of Conduct need not be applied. In the absence of any proposed sanction involving demotion, suspension, or dismissal from one of the titles listed in SOR 100.4(c), and in the absence of an appeal to the privilege of a hearing, the Administration is not required by the Standing Orders to consult with the Academic Senate prior to the imposition of discipline upon an administrator, whether or not the administrative title confers membership in the Academic Senate, although such consultation may very well take place.

A disciplinary action against an administrator who also holds an instructional title may proceed in two steps, one involving the proposed removal of the administrative title under procedures established by the Regents and the Administration, and a second stage involving the proposed censure, demotion, suspension or dismissal from a professorial title or its equivalent, under the procedures for discipline established in accordance with Appendix IV and the Faculty Code of Conduct.

In accordance with Standing Orders 100.1(b), 100.2(a), 100.2(b), 100.2(c), and 100.2(d), in the event that the person upon whom it is proposed that a discipline be imposed is a Chancellor, Vice-President, Director, or the chief admissions officer in the Office of the President, from whom such title has not
been removed, the role in procedures for discipline ordinarily reserved to the Chancellor shall be assumed by the President. The President is responsible directly to the Board of Regents.

The kinds of conduct specified as unacceptable and subject to disciplinary action in the Faculty Code of Conduct are as unacceptable in the behavior of an administrator holding a faculty appointment as in that of any other faculty member. Section I of Appendix IV explicitly distinguishes, however, between willful misconduct and incompetence. Administrative incompetence does not in itself constitute a violation of the Faculty Code of Conduct.

Senate Bylaw 335 provides a separate set of procedures whereby any member of the Academic Senate may complain to the Divisional Committee on Privilege and Tenure that the member’s rights and privileges have been violated. SBL 335.A [now 334.A] characterizes grievances and disciplinary actions as “distinct categories of cases” and this distinction must carefully be observed. Among other differences, grievances may be brought before the Committee by any member of the Academic Senate, whereas disciplinary proceedings come to the Committee as a consequence of actions proposed against a member of the Academic Senate by the chancellor.

3.93B Campus Procedures for Discipline of Faculty

Standing Order 100.6(a) vests the responsibility for the discipline of each campus to the Chancellor of that campus, subject to the requirement of Standing Order 100.4(c) that the Chancellor shall consult with a properly constituted advisory committee of the Academic Senate before taking any action that would affect a member of the Academic Senate holding a professorial title or its equivalent. Senate Bylaw 335 [now 334 and 336] establishes divisional committees on Privilege and Tenure or, under certain circumstances, another committee constituted for the purpose by the University Committee on Privilege and Tenure, as the sole committees authorized to hold evidentiary hearings and to advise the administration prior to the imposition of discipline. Consistent with SOR 100.6(a), Senate Bylaw 335 [now 336] specifies that disciplinary proceedings before the Committee on Privilege and Tenure shall be initiated by the Chancellor. Appendix IV of the Manual of the Academic Senate entitled "University Policy on Faculty Conduct and the Administration of Discipline," also published as Section 015 of the Academic Personnel Manual, outlines the circumstances under and the general procedures by which disciplinary charges against members of the Faculty are initiated and investigated. Appendix IV is intended as an implementation of the Standing Orders and of Senate Bylaw 335 and in Section I explicitly states that nothing contained in the policy is intended to change the various authorities and responsibilities vested in the Regents, the Administration, or the Academic Senate as set forth in the Standing Orders of the Regents and the Bylaws of the Academic Senate. Section I also states that while the Faculty Code of Conduct contained in Section II of Appendix IV of the policy is the official basis for imposing discipline on members of the faculty for professional misconduct, its Part III consists solely of suggested guidelines and recommendations to the Divisions of the Academic Senate and the campus administrations. Campus procedures that are consistent with the suggested guidelines and recommendations of Part III of the Faculty Code of Conduct are therefore also consonant with the Code of the Academic Senate, which incorporates the Faculty Code of Conduct, but nothing in Part III of the Faculty Code of Conduct may be construed as limiting the authority for discipline vested in the Chancellors by the Regents. In the case of any apparent inconsistency between Part III of the Faculty Code of Conduct and the Standing Orders of the Regents, the Bylaws of the Academic Senate, or Section I of Appendix IV, the provisions of the latter shall prevail.

1. Under Appendix IV, Section I, the procedures under which allegations of a violation of the Faculty Code of Conduct are initiated and processed need not, with the exception of the procedures for formal hearing provided for by Senate Bylaw 335 [now 336], be identical on every campus; but all must be consistent with the Standing Orders of the Regents and with the Bylaws of the Academic Senate, and no discipline may be imposed except in accordance with established procedures. Appendix IV, Section I, specifies that it is the responsibility of each Chancellor to establish procedures for the administration of discipline on the campus, in consultation with the campus Division of the Academic Senate and such other advisory groups as are appropriate. While Part III of Section II of Appendix IV recommends that each Division, in cooperation with the campus administration, promptly develop procedures dealing with the investigation of allegations of faculty misconduct," the sole authority for this recommendation is the Assembly of the Academic Senate, and it does not confer on the
Divisions a role that is more than advisory nor does it supersede the ultimate authority for the establishment of disciplinary procedures vested in the Chancellor by the Standing Orders and affirmed in Section I of Appendix IV. No disciplinary procedures may therefore be established, through divisional legislation or by any other means, except with the approval of the Chancellor and, as provided for in Section I of Appendix IV, the concurrence of the President. Since procedures need not be identical on every campus, it follows that a Chancellor may reasonably withhold approval of a proposed procedure, even if such a procedure would be consonant with the Code of the Academic Senate, would be consistent with the Standing Orders of the Regents, and may be in effect on another campus. Standing Order 100.6(a) defines the Chancellor’s decisions in the administration of the campus, including the administration of discipline, as “final,” subject only to the authority of the President and the Regents. Any Division that believes the Chancellor to have unreasonably withheld approval of proposed disciplinary procedures consonant with the Code of the Academic Senate and consistent with the Standing Orders of the Regents or to have established procedures that deny to the faculty the meaningful participation in campus discipline guaranteed under Appendix IV, Section II, Part I.4(c) may appeal the Chancellor’s decision through a Memorial or a Resolution as provided for in Standing Order 105.2(e) and Senate Bylaw 90.

2. The Chancellor’s ultimate authority for the administration of discipline and for the initiation of formal proceedings before the Committee on Privilege and Tenure notwithstanding, the initiation of a disciplinary complaint against a member of the faculty is not dependent on or exclusively reserved to the Chancellor or, by delegation, other officers of the campus administration. While a Chancellor or other administrative officer administers disciplinary sanctions, disciplinary complaints against a member of the Faculty can be initiated by individuals and groups other than administrators, including students, other members of the faculty, and members of the university community. The procedures for investigating and processing complaints against a member of the faculty shall be as specified in campus procedures for discipline, as recommended in Appendix IV, Section II, Part III.4. In the absence of such procedures on the campus, allegations of professional misconduct against members of the faculty shall be delivered in writing to the Chancellor.

3. In accordance with the recommendations of Appendix IV, Section II, Part III.4, and III.8, campus procedures may include a preliminary investigative process whose purpose is to determine whether there is “probably cause.” “Probable cause” is established if it is determined that a person of ordinary prudence would be led to believe and conscientiously to entertain a strong suspicion that there has been a violation of the Faculty Code of Conduct. The investigative process may be conducted by an officer of the Administration, by a committee of the Academic Senate, or through another mechanism established for the purpose of accordance with disciplinary procedures in effect for the campus. While Appendix IV, Section II, Part III.7 recommends involvement of members of the faculty in the investigation of allegations of misconduct, campus procedures may or may not include such a provision. In the absence of any specific procedures on the campus, the responsibility for investigating allegations of professional misconduct against members of the faculty rests with the Chancellor.

4. Under Standing Orders of the Regents 100.4(c) and 100.6(a) and Senate Bylaw 335.F.1 [now 336.B.1], the responsibility for determining at the conclusion of the investigative phase whether or not formal disciplinary sanctions against a member of the faculty should be proposed and charges lodged with the Divisional Committee on Privilege and Tenure rests with the Chancellor of each campus or, in the event that the accused person is the Chancellor, with the President. Under disciplinary procedures established for the campus, the Chancellor may or may not delegate this authority to another officer of the administration, to a committee of the Academic Senate, or to some other person or committee designated for the purpose under campus procedures for discipline.

4.94 Privilege of a Hearing
Standing Order of the Regents 103.2 guarantees to any member of the Academic Senate “the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or university welfare.” The Standing Orders do not define the nature of the hearing so guaranteed nor do they specify the committee or committees by whom such hearing
Legislative Rulings 5.75 and 12.80 and Senate Bylaw 335 (now 334) have specified Divisional Committees on Privilege and Tenure or, in certain cases, another committee constituted either by the Divisional Committee or by the University Committee on Privilege and Tenure as the sole Senate agencies authorized to grant to a member of the Academic Senate the privilege of a hearing in disciplinary cases, cases of early termination, and grievances in which a member of the Academic Senate alleges that the member's rights or privileges have been violated. Senate Bylaw 335 (now 336) specifies the circumstances and the procedures under which the committee shall hold a formal hearing in disciplinary actions or cases of early termination. In grievances, Senate Bylaw 335.E (now 335.B) provides that in any case "the complainant shall have the right to appear before the committee," but requires a formal hearing only if the committee determines that "the complainant has made out a prima facie case of violation of a right or privilege" and only if the committee is unable to effect an informal settlement of the controversy.

The privilege of a hearing guaranteed by SOR 103.2 is not limited to formal hearings or informal appearances before Committees on Privilege and Tenure. Such hearings or appearances discharge the privilege primarily in matters relating to "personal welfare." Except for those cases covered by SBL 335 (now 334), however, and except that SBL 60, 120.D.5, and 315.E grant to each member of the Academic Senate the privilege of the floor, with voice, at any meeting of the Assembly or of the member's Division or its Assembly, Senate Bylaws nowhere guarantee to members of the Academic Senate the right of personal appearance or of voice before any universitywide or divisional committee. Except as may otherwise be provided in Divisional bylaws, therefore, the Bylaws of the Academic Senate have limited the privilege of personal appearance and voice to appearances before the Committee on Privilege and Tenure in those cases covered by SBL 335 (now 334) and, in other cases, before those committees authorized to adopt or amend legislation -- namely, the Assembly of the Academic Senate and the Divisions or their Assemblies. The Academic Senate has accordingly defined those committees in which legislative authority has been vested as "the appropriate committee or committees" under SOR 103.2 by whom the privilege of a hearing, in the strict sense of personal appearance and voice, must be afforded in matters other than those cases covered by SBL 335.

Other committees of the Academic Senate may afford to members of the Academic Senate the privilege of a hearing, in a less formal sense, on matters of "departmental or university welfare" within the purview of the committee. A member of the Academic Senate wishing to exercise that privilege should address the issue in writing through the Chair of the Academic Council. In cases of universitywide committees or the Chair of the Division for Divisional committees. Under SBL 110.A.3 and similar provisions in the bylaws of the Divisions, it is within the discretion of the Chair of the Academic Council or the Division to determine within which committee's purview the matter properly belongs. Since the Academic Senate has limited the privilege of personal appearance to appearances before Committees on Privilege and Tenure and before those committees in which legislative authority has been vested, it is left to the discretion of other committees of the Academic Senate to determine whether or not to grant to any member of the Academic Senate the privilege of personal appearance and voice before the committee.

Among the senses of the word "hear" in Webster's Third International Dictionary is "to receive a message or letter." Except as provided in SBL 60, 120.D.5, 315.E, and 335 (now 334), the privilege of a hearing may be afforded entirely through the medium of written communication.

12.80 Privilege and Tenure - Hearings [supersedes 5.75A]
Under Bylaw 113 (renumbered 335, with relevant portions now subsumed under 334, 335, and 337) Divisional Committees on Privilege and Tenure are designated the sole Senate Agencies to hold hearings, and make findings of fact, conclusions, and recommendations on complaints that the privilege or tenure of a Senate member has been violated. Under SOR 103.9 the Divisional Committees on Privilege and Tenure shall also provide an opportunity for hearing those cases involving the termination of the appointment of a Senate or non-Senate member of the faculty before the expiration of his or her contract. The extension of the hearing rights of non-Senate academic personnel beyond this point is outside Senate jurisdiction. The administration may appoint members of a Committee on Privilege and Tenure to an administrative committee to conduct such hearings, but these members would not be
exercising Senate jurisdiction in doing so. Other Senate agencies may consider and make recommenda-
tions about the general conditions out of which complaints arise, but they may not adjudicate indi-
vidual cases.
Letter from the Chancellor

Members of the Campus Community:

As members of the University of California, San Francisco (UCSF) community, we all share the responsibility to conduct our professional and personal practices with integrity and compassion. This responsibility is the foundation for the UCSF Campus Code of Conduct. There is perhaps no more important obligation that you and I have than to uphold the principles and standards included in this Code. UCSF is a prominent public institution and a major employer in San Francisco. To maintain our status as a leader in the community and to earn the trust and respect we each desire, we must aspire to the highest standards of human conduct. We must never lose sight of our ultimate goal of pursuing knowledge in order to cure, alleviate, or prevent illness. I am counting on everyone to reach our goal with pride in each other and our work.

Susan Desmond-Hellmann, M.D., M.P.H
Chancellor
Arthur and Toni Rembe Rock Distinguished Professor
UCSF Mission & Vision

Mission: advancing health worldwide™

Vision: In advancing health worldwide, the University of California, San Francisco (UCSF) will:

- Develop innovative, collaborative approaches for education, health care and research that span disciplines within and across the health sciences
- Be a world leader in scientific discovery and its translation into improved health
- Develop the world’s future leaders in health care delivery, research and education
- Deliver the highest-quality, patient-centered care
- Build upon its commitment to diversity
- Provide a supportive work environment to recruit and retain the best people and position UCSF for the future
- Serve the local, regional and global communities and eliminate health disparities

UCSF Code of Ethics

The citizens of California entrust UCSF with the responsibility for providing high quality teaching, health care and research, and for assuring that the highest standards of ethical conduct and integrity are practiced in meeting these responsibilities. The professional conduct of each member of the campus community is expected to be consistent with and fully comply with these principles. All members of the campus community are expected to engage in the following:

- Integrity – conducting ourselves with integrity in our dealings with and on behalf of the University.
- Respectful behavior – treating everyone with civility, courtesy, tolerance and acceptance, and recognizing the worth, dignity and unique characteristics of each individual.
- Trustworthy conduct – including dependability, loyalty and honesty in communications and actions.
- Accountability – taking personal responsibility for one’s actions and decisions.
- Fair and just actions – utilizing equitable processes in decision-making.
- Responsible management – including prudent use of University resources in a fiscally responsible manner.
- Compassion – caring for others, both within and apart from the UCSF community, and providing the highest-quality service to patients and humanity.
- Good citizenship – striving to make the UCSF community function well now and in the future.
- Excellence – conscientiously striving for excellence in our work.

Principles of Community

The San Francisco campus of the University of California is dedicated to learning and teaching in the health sciences. As a graduate and professional school campus, UCSF serves society through four primary missions: teaching, research, patient care and public service. Faculty, staff and students on the UCSF campus are a composite of many races, creeds and social affiliations. To achieve campus goals, individuals must work collaboratively with mutual respect and with forbearance.

Several principles of community life are established to guide individual and group actions on the campus. Adherence to these principles is essential to ensure the integrity of the University and to achieve campus goals. UCSF faculty, staff and students are asked to acknowledge and practice these basic principles of community life:

- We affirm that members of the campus community are valued for their individual qualities, and members are encouraged to apply their unique talents in creative and collaborative work.
- We recognize, value and affirm that social diversity contributes richness to the University community and enhances the quality of campus life for individuals and groups. We take pride in our various achievements, and celebrate our differences.
We affirm the right of freedom of expression within the UCSF community and also affirm commitment to the highest standards of civility and decency toward all persons.

We are committed to creating and maintaining a community where all persons who participate in University activities can work together in an atmosphere free from all forms of abusive or demeaning communication.

We affirm the individual right of public expression within the bounds of courtesy, sensitivity and respect.

We recognize the right of every individual to think and speak as dictated by personal belief, to express individual ideas and to state differences with other points of view, limited only by University requirements regarding time, place and manner.

We reject acts of discrimination, including those based on race, ethnicity, gender, age, disability, sexual orientation and religious or political beliefs.

We recognize that UCSF is devoted to public service, and encourage members of the campus community to participate in public service activities in their own communities and recognize their public service efforts in off-campus community settings.

We affirm that each member of the campus community is expected to work in accord with these principles and to make individual efforts to enhance the quality of campus life for all.

Addressing Issues and Concerns

Employees are encouraged to discuss questions or concerns with their immediate supervisor. If this is not practical or issues or conflicts arise that cannot be resolved between the individual and the immediate supervisor, the individual should raise the concerns through the department administrative or academic hierarchy. This may include the next level of manager, the department head, and the office of the dean or vice chancellor where the unit reports. Faculty with concerns or questions should discuss them with the department chair. MSOs and department chairs encountering ethical conflicts involving any campus member are expected to work through the associate dean of the school or the office of the vice chancellor to which they report. Students with questions or concerns should speak with their faculty of record or advisor, contact the student affairs office in their school, contact the Office of Student Life, or the Graduate Division for assistance. Postgraduate scholars should address questions to their faculty Principal Investigator/mentor or the Graduate Division.

Whistleblower Policy

Under University policy, individuals are encouraged to use the University Whistleblower Policy if they have a good faith belief that an activity occurred or is continuing to occur that is not in compliance with federal or state law or University policy. Such individuals are protected from retaliation for making such a “protected disclosure.” A “protected disclosure” may be made to the campus Whistleblower Coordinator, Clinical Compliance Officer, or any campus administrator, director, manager or supervisor. This policy may be found on the campus website at: http://ucsfhr.ucsf.edu/policies/whstlblo.html

Whistleblower Coordinator (415) 502-2810

Faculty Misconduct

Academic Personnel Manual (APM) Section 015—The Faculty Code of Conduct establishes standards of professional conduct and includes listings of faculty responsibilities, ethical principles and types of unacceptable behavior. Faculty Misconduct occurs when there is a violation of the Faculty Code of Conduct as defined in APM 015 Part II—Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct. Concerns about possible faculty misconduct should be reported to the responsible Academic Vice/Associate Dean or the Vice Provost—Academic Affairs.
Research Misconduct

The campus adheres to the Department of Health and Human Services definition of Research Misconduct as follows: “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. Concerns about possible research misconduct should be reported to the UCSF Research Integrity Officer, Vice Provost Sally J. Marshall. Individuals should not undertake investigations of suspected research misconduct on their own. The UCSF Integrity of Research Policy (Campus Administrative Policy 100-29) can be viewed at http://policies.ucsf.edu/100/10029.htm

The Clinical Enterprise

The Mission of the UCSF Medical Center is “Caring, Healing, Teaching and Discovering” and its Vision is “to be the best provider of health care services, the best place to work and the best environment for teaching and research.” The UCSF Medical Staff Bylaws and Clinical Compliance Program provide guidance and clarification of roles and responsibilities of all UCSF faculty, staff, students and house staff participating in the delivery of health care.

http://www.ucsfmedicalcenter.org/medstaffoffice/MedStaffBylawsRulesReqs.htm

http://medschool.ucsf.edu/compliance/index.aspx