

DISCIPLINE

I. GENERAL GUIDELINES

The following serves to implement the [University Policy on Faculty Conduct and the Administration of Discipline \(APM 016\)](#) at UC Merced. While the [Faculty Code of Conduct \(APM 015\)](#) applies to all faculty members, both Senate and non-Senate, these procedures apply exclusively to members of the Academic Senate (as identified in the [Standing Order of the Regents 105.1](#)).

No disciplinary sanction for professional misconduct of a member of the Merced Division of the Academic Senate shall be imposed except pursuant to the procedures specified herein and consistent with [UC Academic Senate Bylaw 336](#). In circumstances where these procedures are silent or where a conflict exists, the policies and procedures contained in [APM 015](#), [APM 016](#), and [UC Academic Senate Bylaw 336](#) shall govern.

No faculty member's right to a hearing before the [Committee on Privilege and Tenure](#) under Academic Senate Bylaws [335](#), [336](#), and [337](#), Standing Order of the Regents [103.9](#), or [Bylaw 40.3 of the Regents](#) shall be abridged in any way by these procedures.

University policies and procedures afford safeguards against arbitrary or unjust disciplinary actions, including provisions for hearings and appeal. Senate faculty members may accept the disciplinary sanctions as proposed by the Chancellor, or they may request a hearing before the [Committee on Privilege and Tenure](#) of the Merced Division of the Academic Senate. The role of this Committee is to take under consideration complaints against or by members of the Academic Senate. The Committee holds hearings and advises the administration. The Chancellor will not appoint any current member of the Committee on Privilege and Tenure as an investigator.

Discipline is defined to include the following actions: written censure; reduction in salary; demotion; suspension; denial or curtailment of emeritus status; and dismissal from the employ of the University ([APM 016](#), Section II). More than one disciplinary sanction may be imposed for a single act of misconduct, e.g., a demotion and a suspension.

Timeframes:

1. The Chancellor¹ must initiate disciplinary action by delivering notice of the proposed action to the accused faculty member ("respondent") no later than three years after the Chancellor is deemed to have known about the alleged violation. There is no limit on the time within which a complainant may report an alleged violation. The Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when it is reported to any academic administrator at the level of department chair or above. Additionally, for an allegation of sexual violence or sexual harassment, the Chancellor is deemed to know about an alleged violation of the Faculty Code of Conduct when the allegation is first reported to any academic administrator at the level of department chair or above or the campus Title IX Officer. (APM 015, Part III.A)
2. Every reasonable effort will be made to complete investigations within the time frames stated in these procedures. However, each case presents different circumstances, and it is not always possible to maintain specified timeframes. The Executive Vice Chancellor (EVC)/Provost or Vice Provost for Academic Personnel (VPAP) or designee has the discretion to determine whether circumstances warrant extension of any timeframe set out in Section II (Initiating the Complaint Process) of these procedures

Confidentiality:

¹ Regarding the initiation of disciplinary procedures including initiation of the complaint process, the term "Chancellor" is defined to include the Executive Vice Chancellor/Provost, as delegated by the Chancellor.

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When a complaint has been made, all individuals affected by the investigation, including the complainant and respondent, shall be accorded the utmost confidentiality to the maximum extent reasonably possible consistent with the investigation, and to the extent permitted by law and University policy.

II. INITIATING THE COMPLAINT PROCESS

Systemwide policy statements clearly indicate that the investigation of faculty misconduct should be an administrative function, while holding hearings on such charges is an Academic Senate function to be carried out by the Committee on Privilege and Tenure.

A complaint may be brought under these procedures by any member of the University community.

Sexual Violence or Harassment: If the matter involves an alleged violation of the University of California Policy on Sexual Violence and Sexual Harassment, the allegation must be filed with the UCM [Office for the Prevention of Harassment and Discrimination](#).

Research Misconduct: If the matter involves an alleged violation of the University of California Policy on Integrity in Research, the allegation must be filed with the UC Merced [Office of Research Compliance and Integrity](#).

A. INFORMAL COMPLAINT AND RESOLUTION

In some circumstances, informal resolution may be appropriate as a first resort. Such efforts may include discussion with the faculty member as well as the pursuit of all available administrative actions. Informal complaints may be heard by the relevant Department Chair, Dean, Associate or Assistant Dean, Human Resources, Academic Personnel Office, the VPAP or designee, or the complainant's immediate supervisor ("complaint recipients"). Informal complaints may also be referred to the EVC/Provost to assist in the informal resolution of the complaint.

Any complaint recipient may listen to the complainant without informing the accused faculty member of the complaint's existence, to the extent allowed by law and University policy. However, if a complaint recipient begins to explore the merits of the complaint, beyond what can be established by talking to the complainant, the accused faculty member shall at that stage be notified of the nature of the allegations and be given the right to respond, either orally or in writing. Any review at this stage should be completed expeditiously.

Should the complaint be resolved informally or not pursued further, all documents, notes, or other evidence may be destroyed or returned to the complainant, to the extent permitted by law and University policy. Any informal resolution will not involve discipline.

If the complaint recipient deems it appropriate, or if procedures for informal resolution are either unsuccessful, unacceptable to the complainant, or deemed inappropriate by the campus officer, administrator or campus unit involved, then the complaint recipient shall refer the complainant to the EVC/Provost via the VPAP or designee. The VPAP or designee will keep the Chair of the Committee on Privilege and Tenure or the Chair's designee apprised of all such actions.

At this stage of the process, the EVC/Provost's office is not required to notify the faculty member against whom the complaint has been made.

B. FORMAL COMPLAINT

If the complainant wishes to file a formal complaint, the following procedures must be followed.

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Allegations of violations of the [Faculty Code of Conduct \(APM 015\)](#) against a Senate faculty member shall be addressed to the VPAP or designee and shall normally be submitted in the form of a written, signed letter from the complainant, or if directed, on a form provided by the VPAP or designee. The complainant must include a written explanation of any attempts made to resolve the matter or an explanation of why previous attempts were not made prior to the filing of the formal complaint. The complainant should, whenever possible, identify the section(s) of the Faculty Code of Conduct (APM 015) alleged to have been violated. It is important that the complainant submit supporting documentation sufficient to substantiate the allegations of misconduct.

The VPAP or designee shall review the complaint to ensure that it conforms to the above requirements, and to a reasonable standard of conciseness and order.

The VPAP or designee may also consult with the appropriate School Dean as necessary.

The VPAP or designee has the discretion to reject any complaint that does not meet the requirements set forth in this section. In this event, the complaint will be returned to the complainant who shall have the opportunity to correct the stated deficiencies, and then return the complaint for consideration.

1. Preliminary Inquiry:

If the complaint is accepted, the VPAP or designee will conduct a preliminary inquiry to determine whether there are reasonable grounds to believe that a violation of the Faculty Code of Conduct may have occurred. The term “reasonable grounds” as used here, means there are sufficient facts that would make a reasonable person believe that misconduct may exist.

The VPAP or designee may appoint a UC faculty member, a UC administrator, a UC staff member, or an outside individual or entity with appropriate expertise, to conduct the preliminary inquiry. At this point in the process, the respondent may be notified by the VPAP or designee that a formal complaint has been filed against them, and upon request, will be provided with a written summary describing the general nature of the allegations.

The preliminary inquiry should be as brief as possible based on the circumstances of the case, and may involve communicating with the complainant, communicating with the respondent and the gathering of factual background as necessary. The preliminary inquiry is not meant to be a formal investigation. The reviewer(s) may report their conclusions either orally or in writing to the VPAP or designee.

Based on the findings of the preliminary inquiry, the VPAP or designee will determine whether there are reasonable grounds to believe that a violation of the Faculty Code of Conduct may have occurred.

If reasonable grounds are not found, then the process should end. If reasonable grounds are found, and informal attempts at resolution (if any) are unsuccessful, then a formal investigation shall be commenced.

2. Formal Investigation

The VPAP or designee shall appoint an Investigative Officer to conduct a formal investigation and provide a determination as to whether there is probable cause that a violation of the Faculty Code of Conduct has occurred. The Investigative Officer will be a faculty member(s). A UC administrator, UC staff or an outside expert will be appointed to assist as necessary.

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After the Investigative Officer is appointed, the respondent will receive a copy of the complaint with all supporting documentation. However, at the discretion of the VPAP or designee, any part of the complaint or supporting documentation may be redacted or withheld in order to protect the privacy of third parties or to protect individuals from potential retaliation.

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 University can produce credible evidence in support of the claim(s). ([APM 015, Part III.A.4](#)).

The Investigative Officer will advise the EVC/Provost:

- Whether any of the allegations in the formal complaint, if true, would constitute a violation of the Faculty Code of Conduct;
- If so, whether there is probable cause to warrant the initiation of disciplinary action by the administration; and
- If there has been a finding of probable cause, what specific disciplinary sanction(s) are recommended by the Investigative Office.

The Investigative Officer may discuss procedural and interpretive questions with the VPAP or designee at any stage of the investigation and/or may utilize administrative support as provided by the VPAP or designee. The Investigative Officer may also seek legal interpretation or advice from University Counsel as necessary.

In conducting the investigation, the Investigative Officer has the VPAP's or designee's authority to seek further information (either in writing or in person as deemed appropriate) from individuals who may have relevant information, and to review any and all relevant documents, including documents of a confidential nature.

The Investigative Officer should advise individuals who are consulted that the University will do all in its power to assure that information will be kept as confidential as reasonably possible consistent with the investigation, and to the extent allowable by law and University policy.

Following its investigation of the formal complaint, the Investigative Officer shall write a final report to the VPAP or designee. The report shall include the Investigative Officer's assessment of the evidence, a recommendation to dismiss the complaint or to initiate disciplinary action, and a recommendation of the type of disciplinary sanction(s) proposed, if any.

The Investigative Officer is expected to conclude work within 90 calendar days after receiving the complaint, unless an extension is granted by the VPAP or designee.

III. INITIATING THE DISCIPLINE PROCESS

A. EARLY RESOLUTION

As an alternative to formal disciplinary procedures, the respondent and the administration may explore early resolution at any point in the disciplinary process.

Respondents who are interested in pursuing an early resolution may negotiate directly with the administration. Either the administration or the respondent may request the involvement of the Chair of the Committee on Privilege and Tenure. Respondents are encouraged to contact the EVC/Provost and/or the Chair of Privilege and Tenure to discuss this option further or to propose an early resolution.

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Pursuant to a written agreement executed by the EVC/Provost and the respondent, the EVC/Provost may agree to waive a proposed disciplinary sanction(s) on the condition that the respondent perform some specified action(s) designed to address the violation and/or to prevent future harm or continued violation. Such actions may include, but are not limited to, monetary restitution, repayment of misappropriated resources, compliance with a commitment not to repeat the misconduct, a leave of absence for a specified term, or other action to remedy the harm caused by the respondent. The written agreement must contain a provision expressly providing that the respondent shall not have the right to grieve any determination by the EVC/Provost that the respondent has violated the terms of the early resolution agreement.

The EVC/Provost has the discretion to determine whether that respondent has violated the terms of the above early resolution agreement. If there is a violation, the EVC/Provost shall notify the respondent of the violation in writing and may immediately proceed with the next stage of the disciplinary process.

If an early resolution is reached with the administration at any point in the disciplinary process (with or without participation of the Chair of the Committee on Privilege and Tenure or the Chair's designee), the Chancellor shall report to the entire Committee on Privilege and Tenure for informational purpose (and without using the Respondent's name), a statement of the charges and the negotiated resolution.

B. INVOLUNTARY LEAVE

The EVC/Provost may initiate involuntary leave with pay prior to the initiation of disciplinary action if it is determined that there is a strong risk that the respondent's continued assignment to regular duties or presence on campus will cause immediate and serious harm to the campus community or impede the investigation of respondent's alleged wrongdoing, or in situations in which the respondent's conduct represents a serious crime or felony that is the subject of investigation by a law enforcement agency. 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 in addition to the Chancellor's power to suspend the pay of a faculty member who is absent without authorization and fails to perform duties for an extended period of time, pending the resolution of the respondent's employment status with the University.

When involuntary leave is necessary, it must be possible to impose the involuntary leave swiftly, without resorting to normal disciplinary procedures. Thereafter, the respondent may grieve the decision to place them on involuntary leave pursuant to applicable faculty grievance procedures. The Committee on Privilege and Tenure shall handle such grievances on an expedited basis, if requested by the respondent. The Committee may recommend reinstatement of pay and back pay in cases where pay status was suspended.

Within five (5) working days after the imposition of involuntary leave, the Chancellor must explain to the respondent in writing the reasons for the involuntary leave, including the allegations being investigated and the anticipated date when charges will be brought, if substantiated.

The action of involuntary leave does not represent the imposition of a disciplinary sanction; however, the Respondent's return to University premises without written permission from the EVC/Provost may create independent grounds for disciplinary action.

C. INFORMING THE RESPONDENT OF THE INTENT TO DISCIPLINE

Upon receipt of the Investigative Officer's report, the EVC/Provost will determine whether there is probable cause for undertaking disciplinary action against the accused faculty member. If so, the EVC/Provost will transmit the findings of the Investigative Officer to the Chair of the Committee on Privilege and Tenure, together with a written notice of intent to discipline (in the aggregate "disciplinary charges")

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describing the reasons for undertaking the proposed action and the type of sanction(s) that are recommended. *The Chancellor may not impose a type of discipline more severe than that set forth in this notice.*

At this stage, the name of the respondent, the nature of the charges, and the proposed discipline shall be confidential information, limited to the Chair of the Committee on Privilege and Tenure or the Chair's designee and not known to the other members of the Committee.

If practicable, the EVC/Provost shall deliver the disciplinary charges at an in-person meeting with the Chair of the Committee on Privilege and Tenure or the Chair's designee and the respondent. If this is not practicable, the EVC/Provost shall deliver the disciplinary charges electronically to the Chair of the Committee on Privilege and Tenure or the Chair's designee, with a copy to the respondent sent electronically to the respondent's official University email account and a courtesy copy by overnight delivery service to the respondent's last known place of residence. The respondent will be deemed to have received the disciplinary charges when they are sent to the respondent's official University email account.

Along with a copy of the disciplinary charges, and consistent with [Senate Bylaw 336.C.1.b](#), the EVC/Provost shall provide written notice to the respondent of: (1) the deadline for submitting a written answer to the disciplinary charges to the Privilege and Tenure Committee (see [Senate Bylaw 336.C.2](#)); and (2) the deadline for the Privilege and Tenure Committee's commencement of the hearing. (See [Senate Bylaw 336.E.1](#))

The Privilege and Tenure Committee shall immediately provide to the EVC/Provost, a copy of the respondent's answer to the charges. ([Senate Bylaw 336.C.2](#))

Within five (5) business days after receiving disciplinary charges from the EVC/Provost, the Chair of the Committee on Privilege and Tenure or the Chair's designee shall contact the respondent, the EVC/Provost, and/or their representatives, in writing in order to schedule the hearing. ([Senate Bylaw 336.C.3](#)) For further information regarding the scheduling of hearing dates, please see [Senate Bylaw 336.C.3.b](#) and [336.C.3.c](#).

D. DISCIPLINARY HEARING

Please see [Senate Bylaw 336.E \(Time Frame for Hearing Process in Disciplinary Cases\)](#) and [Senate Bylaw 336.F \(Hearing and Post-hearing Procedures\)](#)

Upon receipt of the findings and conclusions of the Senate Hearing Committee, the Chancellor has final authority to determine and execute appropriate sanctions, with the following exceptions (as provided in [APM 016, Section II](#)):

Authority for demoting a faculty member with tenure or with security of employment to a lower rank, also with tenure or 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 without security of employment is not an option.

Authority for the denial or curtailment of emeritus status of a faculty member rests with the President, on recommendation of the Chancellor.

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.

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The Chancellor will inform the accused faculty member of the final decision in writing. The complainant shall be informed in writing by the EVC/Provost that the investigation has been concluded and that appropriate action has been taken, but the details of any action shall not be shared with the complainant unless required by law or University policy.

E. COMPLAINT FILE

Upon final resolution of the formal complaint, the complaint file will be maintained only in the Academic Personnel Office. The complaint file shall include the following:

- The original formal complaint and all accompanying documentation;
- The letter from the EVC/Provost forwarding the complaint to the Investigative Officer for its probable cause investigation;
- The Investigative Officer's final report;
- The EVC/Provost's written notice of intent to initiate disciplinary action, if any;
- A copy of the Committee on Privilege and Tenure's hearing report, if any;
- A copy of the Chancellor's letter communicating the decision to the respondent; and
- A copy of the EVC/Provost's communication to the complainant notifying them of the closing of the investigation.

In the event that the allegations against the respondent are not sustained; all materials related to the claim shall be destroyed after a period of three years, unless retention of said records is otherwise required by law or University policy. All other files shall be maintained for ten years after separation of the respondent from UC Merced and then destroyed.