

**Special Senate Committee on Faculty Discipline and Redress
Report, February 1998**

To the Academic Senate, Santa Cruz Division:

The Special Committee on Faculty Discipline and Redress is pleased to report significant progress in the establishment of well-defined procedures for faculty and administration in disciplinary and grievance matters.

This progress has been achieved through the cooperation of the administration, the Committee on Privilege and Tenure (P&T), the Special Committee, and other relevant committees and offices on campus. The Special Committee wishes to express its sincere gratitude for this cooperation over the past two years.

The main output of these mutual efforts is a revised version of Section 002.015 of the UCSC Campus Academic Policies and Procedures Manual - Procedures for Implementation of University Policy on Faculty Conduct and Administration of Discipline, that is appended to this report. These procedures will be sent out to the campus community to allow for any comments, per the usual procedure, so that it must be formally considered a draft at this point. The Special Committee presents a resolution relating to this that is appended as the last page of this report.

The changes to the procedures from those written in October 1995 are the following:

1. Section C: The standard of proof upon which the recommendation of the Committee on Charges is based is now stated explicitly as that of probable cause.
2. Sections D and F: It is now stated that the chancellor normally delegates to the Executive Vice Chancellor authority to take action upon receipt of the report of the Committee on Charges, leaving open other possibilities. The new Section F describes some of the possibilities as a panel of Deans or other University administrators, as appropriate to the case.
3. Section D: The complainant is informed of whether a charge is held to have merit, regardless of whether the complainant is a member of the Senate or not.
4. Section E: This section is nearly all new. Its main purpose is to define more clearly how a faculty member is informed of possible discipline, and to provide for the informing of the Chair of P&T in all cases. Also, it is made clear that P&T uses the standard of "clear and convincing evidence" in its deliberations. The section further defines the faculty member's right to request, or to waive, a hearing before P&T, and makes clear the level of confidentiality that results from these decisions.

The administration, the Special Committee, and the Committee on Privilege and Tenure have all agreed that these procedures will be evaluated after three years to see if they have improved communications and built trust in the administration of discipline on campus as it affects Academic Senate members.

There are two areas that have been discussed in past reports of the Special Committee that are not covered in the new Procedures:

1. The Special Committee made clear that it was going to move for a change in the Committee on Charges from an administrative committee to a committee of the Academic Senate. However, since the Spring 1997 Academic Senate meeting, it became clear that there was substantial opposition to that change, not only from the administration, but from within the Senate: in particular, from P&T. Substantial discussion ensued, and the outcome is to leave the Committee on Charges as an administrative committee, with appointments, as in the past, taking place through the Committee on Committees. All negotiating committees have agreed to this outcome as the most appropriate solution to be tried over the next three years (see above).
2. The Special Committee worked to bring into the procedures a discussion of grievance cases as well as disciplinary cases. The resolution of that problem is in progress, under the leadership of P&T. A working group is being established that will create an information sheet that will be given to any faculty member approaching any committee or administrator with a problem associated with the Faculty Code of Conduct. The working group will include representatives from Academic Human Resources, the Ombudsman's Office, the Title IX Office, the Chancellor's Office, the Faculty Union, and the Academic Senate Committees of Privilege and Tenure and Academic Freedom. The information sheet will provide a faculty member with a guide through the maze of regulations and options in the various types of cases.

Furthermore, P&T is also establishing a subcommittee to address the complex matter of conflict of interest. Because the fundamental issues must be addressed at a UC-wide level, with attention to the specific histories of each campus, the first step for the subcommittee will be to bring specific questions to the University Committee on Privilege and Tenure, based on experiences at this campus.

Respectfully submitted,

Special Senate Committee on Faculty Discipline and
Redress

Stanley Flatté, Chair

February 6, 1998

UCSC CAPP: (proposed modifications to the October 1995 version are underlined and in bold type):

002.015 PROCEDURES FOR IMPLEMENTATION OF UNIVERSITY POLICY ON FACULTY CONDUCT AND ADMINISTRATION OF DISCIPLINE

At UCSC, the following serves to implement university policy on faculty conduct and the administration of discipline, as defined by the Regents on 14 June 1974, and applies to all members of the Academic Senate and officers of instruction as defined in the Standing Orders of The Regents 105.1 and Bylaw 113(B) of the Academic Senate.

The responsibility and authority to discipline faculty members lies with the Chancellor and hence with the administration. There is to be no redelegation of the Chancellor's authority to impose disciplinary sanctions within the terms of the University Policy on Faculty Conduct and the Administration of Discipline; no such sanction shall be imposed except as a consequence of the processes set forth below.

The following procedures apply ~~only~~ in those instances in which an individual is charged with improper conduct as a member of the faculty. No faculty member's right to direct appeal to the Committee on Privilege and Tenure, or under APM 140, shall be abridged in any way by these procedures.

A. ESTABLISHMENT OF AN ADMINISTRATIVE COMMITTEE ON CHARGES

An Administrative Committee on Charges shall be composed of at least three (3) Academic Senate members, one of whom must have formerly served on the Academic Senate Committee on Privilege and Tenure. Nominations of six to ten **Senate** faculty members shall be provided to the Executive Vice Chancellor by the Academic Senate Committee on Committees **by March 1 of the previous year**. The Executive Vice Chancellor shall select the membership from the list provided by the Academic Senate **during the previous spring quarter**.

Appointments to the Committee on Charges shall be for staggered one or two-year periods, to assure continuity from year to year.

The Committee on Charges conducts investigations regarding complaints made against members of the faculty charging violation of university policy regulating individual conduct, in order to determine whether there is sufficient evidence to warrant the initiation of a disciplinary action.

B. COMPLAINTS

Allegations against a member of the faculty, originating from any source, shall normally be addressed to the Executive Vice Chancellor, and shall normally be accepted for inquiry only on the basis of a written, signed complaint form by the complainant (see Appendix A). The Executive Vice Chancellor may consult with the appropriate ~~board~~ **department** chair and/or dean.

The Executive Vice Chancellor may provide to the complainant a copy of the rules of procedure of the Committee on Charges. It shall be the complainant's responsibility to draft his/her complaint in the form furnished to him/her and to submit it to the Executive Vice Chancellor (or designated representative) for inspection to insure that it conforms to a reasonable standard of conciseness and order. If any changes in the complaint are required to meet this standard, they shall be made in consultation with, and with the approval of, the complainant.

The Executive Vice Chancellor will forward all charges of violations of the Faculty Code of Conduct by Academic Senate members to the Committee on Charges.

C. PROCEDURES OF THE COMMITTEE ON CHARGES

The Committee on Charges will advise the Executive Vice Chancellor, in accordance with the "Procedures for Implementation of University Policy on Faculty Conduct and Administration of Discipline":

1. whether any of the allegations in the complaint, if true, would constitute a violation of university policy on faculty conduct;
2. if so, whether there is sufficient evidence to warrant the administration's initiating a disciplinary action; and
3. if so, what disciplinary action is appropriate.

The Committee on Charges has the Chancellor's authority to seek further information in writing from people (witnesses) who may have relevant information.

The Committee on Charges should advise individuals that the University **will do all in its power to ensure** that information will be kept confidential to the extent required by law.

The Committee on Charges has access to and may examine files and documents under the control of the administration, including relevant personnel files and confidential documents therein. Such confidential documents will remain confidential within the committee.

The Committee on Charges may discuss procedural and interpretive questions with the Executive Vice Chancellor and/or his or her designee, and with University Counsel.

It is expected that the Committee on Charges will conclude its work in ninety (90) calendar days or less, unless an extension is granted by the Executive Vice Chancellor.

A member of the staff will be assigned to assist the Chair of the Committee on Charges with scheduling, preparation of correspondence, and maintenance of a complaint file.

The complaint file shall include the letter to the Committee on Charges from the Executive Vice Chancellor, forwarding the charge for investigation; the original copy of the complaint; any background materials submitted to the committee; and the committee's final report giving its

determinations, assessment of the evidence, and proposed disciplinary action, if any. **The standard of proof upon which the recommendation is based shall be that of probable cause.** Upon conclusion of the work of the Committee on Charges the complaint file will be maintained in the ~~Chancellor's~~ Administrative Records Office.

D. DISPOSITION OF THE REPORT OF THE COMMITTEE ON CHARGES

In any case of discipline of a faculty member, the Chancellor **will normally** delegate to the Executive Vice Chancellor ~~his~~ authority to take action upon receipt of the report of the Committee on Charges.

Upon receipt of the report, the Executive Vice Chancellor, acting on behalf of the Chancellor, will decide whether to dismiss the complaint or whether to initiate a disciplinary action against the faculty member. The Executive Vice Chancellor shall notify the Committee on Charges of the action s/he intends to take in response to the Committee's recommendation(s). ~~A faculty member who brings charges~~ **The complainant bringing the** charges against another Academic Senate **a faculty** member, including **against** faculty serving in an administrative capacity, will be informed as to whether the charge is held to have merit, but will not know what, if any, disciplinary action is taken.

E. DECISION TO DISCIPLINE: POSSIBLE HEARING BEFORE THE COMMITTEE ON PRIVILEGE AND TENURE

If the Executive Vice Chancellor decides to initiate disciplinary action 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 of the Standing Orders of The Regents, proceedings shall be conducted before the divisional Committee on Privilege and Tenure, as specified by Bylaw 335 of the Academic Senate, **unless this right is waived by the Academic Senate member.** P&T **will hear the case, using as a standard of proof the basis of clear and convincing evidence, and** will report its findings and recommendations to the Chancellor, who, in turn, will decide which, if any, discipline to impose.

When a letter of intent to discipline a faculty member is prepared, this letter, including a statement of the charges and the proposed discipline, will be given to the accused individual, with the letter delivered by the Executive Vice Chancellor in the presence of the Chair of the Committee on Privilege and Tenure. This shall be the only means by which the proposed discipline shall be initially communicated, with no other formal or informal notification, including phone calls, from the administration to the individual facing possible discipline prior to this letter. The name of the individual involved, the nature of the charges, and the proposed discipline shall be confidential information, limited at this stage to the Chair and not made known to any other members of P&T. If the Chair of P&T has a conflict of interest¹, the chair shall recuse him/herself, as is standard P&T practice. The matter shall be handled by the Vice Chair of P&T or other members as conflicts of interest may dictate.

At the time of delivering the letter to the individual, the Chair of P&T shall make known to the faculty member the Senatorial right to a hearing before P&T. The Chair shall provide information about the options available to the faculty member, including accepting the proposed discipline, negotiating a settlement directly with the administration, negotiating a settlement with the involvement of the Chair of P&T, and proceeding with a hearing before P&T. The Chair shall also be available to provide information about the nature of P&T hearings².

If the accused faculty member chooses to accept the proposed discipline, negotiates a settlement directly with the administration at any point in the administrative process, or negotiates a settlement with the involvement of the Chair of P&T³, the Chancellor shall report, without the faculty member's name, the charge, the finding, and the accepted sanctions to the entire Committee on Privilege and Tenure for information. Members of P&T may be required to sign an explicit confidentiality agreement as part of a negotiated settlement acknowledging that the University shall not indemnify a Committee member who breaches the agreement. An individual member can choose to be recused rather than sign such agreement.

The accused individual may elect to proceed with a hearing. Only in the case of an individual choosing to proceed with a hearing before P&T would the individual's name become known to any members of P&T beyond the Chair.

In the case of other disciplinary actions initiated against a faculty member, the Executive Vice Chancellor ~~will~~ **shall** inform the faculty member of the appropriate mechanism of appeal.

F. ALTERNATE DELEGATION OF CHANCELLORIAL AUTHORITY

If the Executive Vice Chancellor recuses himself from a case at any stage, the Chancellor may delegate her authority at that stage to a panel of Deans from Divisions other than those to which the principals belong, or to other University administrators, if appropriate to the individual case.

G. THE CASE OF AN EXTREME EMERGENCY

If, in the judgment of the Executive Vice Chancellor, there is a clear probability that the continued assignment of the complained-against faculty member to regular duties would immediately and seriously endanger the university community or substantially impair the integrity of the academic program, s/he may place the faculty member on full or partial interim suspension with pay, proceeding immediately to implement the full review procedure as set forth above. Such action does not represent imposition of a disciplinary sanction. The Executive Vice Chancellor shall provide the faculty member with a written statement of the reasons for such suspension.

1. The issue of conflict of interest needs careful attention. For example, same department or program affiliation would be considered a conflict of interest leading to the Chair's recusal, as might prior involvement in any aspect of the case under consideration.

2 The time limits for the individual's response to this letter at the "intent to recommend discipline" stage are defined in Senate Bylaw 335.F.2.

3 When the Chair of P&T is involved in a negotiation which does not lead to a successful outcome, but instead goes to a hearing before P&T, then an assessment of any possible conflict of interest of the Chair as a member of the hearing panel would be necessary.

Proposed Senate Resolution Re: UCSC CAPP 002.015

Resolved: The Santa Cruz Division requests that the administration send out the version of Section 002.015 of the Santa Cruz Campus Academic Policies and Procedures Manual that is presented in AS/SCP/1183 of the call of the Winter 1998 Academic Senate meeting for comment by the campus community. Upon implementation, these procedures will be monitored by both the administration and by the Committee on Privilege and Tenure, and the results of this monitoring will be presented to the Academic Senate three years from now.

Respectfully submitted,

Special Senate Committee on Faculty
Discipline and Redress

Stanley Flatté, Chair

February 6, 1998