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Office of the Academic Senate  
SANTA CRUZ DIVISION  
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June 20, 2024

JAMES STEINTRAGER  
Chair, Academic Council

**Re: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 016, University Policy on Faculty Conduct and the Administration of Discipline**

Dear James,

The Santa Cruz Academic Senate has reviewed your request for feedback on the proposed changes to APM 016 – Faculty Conduct and the Administration of Discipline. Our Committees on Academic Personnel (CAP), Faculty Welfare (CFW), and Privilege and Tenure (CPT) have opined. The UCSC Senate appreciates the need to formulate a policy for situations where a faculty member may be undergoing personnel review at the same time that they are involved in an investigation of misconduct. Although the proposed policy would address such situations, our division has raised a number of concerns and questions about the proposed revisions.

Responding committees noted the lack of clear explanation of the purpose of the proposed changes. This, unfortunately, appears to follow a pattern of recent proposed policy changes. The absence of the explanation makes the review process less efficient. We understand the proposed revisions would allow the Chancellor, or a Chancellor's designee, to impose a no-fault stay on any ongoing or future personnel action of a faculty member who is under a formal investigation for alleged misconduct. The pause decision will be made at the beginning of the investigation, and will last until the investigation, or, if applicable, the following disciplinary process, is concluded. The proposed policy states that the pause may be imposed if “the Chancellor (or Chancellor’s designee) finds that any of the alleged misconduct is relevant to the assessment criteria for academic personnel review actions”.

A pause in personnel action might have real and lasting financial consequences for a faculty member. If a promotion or merit increase is delayed, the faculty member will lose the associated pay increase for the duration of the delay. If the faculty member is close to retirement, all future retirement payments will be reduced. In either case, this amounts to financial punishment imposed on faculty before they are found guilty of any misconduct. In the case that misconduct is confirmed, the proposed policy adds a financial punishment to the existing disciplinary actions. Either scenario is

unacceptable. To remedy this, the policy should include a clear mechanism for repairing any financial harm caused by the pause that goes beyond what would have happened without the pause imposition.

It is possible that a no-fault pause might be in the faculty member's interest. For example, if the faculty member believes that alleged misconduct might adversely and unfairly influence pending personnel actions. A mechanism for such a faculty member to request a no-fault pause should be possible. Further, CFW suggested that the decision to place a pause in any situation, should be made in consultation with the program chair and dean, who are more familiar with the specific circumstances of the case.

In the April 24, 2023 letter from the University Committee on Privilege and Tenure (UCP&T) endorsed by the Academic Council<sup>1</sup>, Chair Simon wrote that some campuses were imposing pauses in academic personnel reviews even though there was no such provision in the APM. UCP&T proposed to allow for these pauses, but *with safeguards, none of which CPT noted are included in the proposed revision to APM 016*:

1. The no-fault pause could be imposed when disciplinary charges were filed, not before. The letter states, “currently, some administrations pause actions as soon as investigations are opened.”
2. The misconduct being charged must have occurred during the period under review.
3. Materials about disciplinary action (if the misconduct occurred during the period under review and had a direct bearing on the criteria for assessment) could only be inserted in the personnel review file after the conclusion of disciplinary proceedings.

In the absence of these safeguards, we consider the proposed revision to APM 016 as regularizing pauses in personnel reviews that can damage the integrity of the review process.

With regard to timing, CAP noted that more guidance is needed on the question of when a pause in the personnel review process should be implemented. There are pros and cons to any stage chosen. For example, if the pause occurs at the department level, then confidentiality may be breached. And if it occurs later in the process, then initial departmental, senate, or administrative recommendations may need to be revised. In addition, a definitive answer is needed for what constitutes “the beginning of a formal investigation.” Is it the determination by the VPAA that such an investigation is warranted? Is it the appointment of an investigating officer? Or is it the date the actual investigation begins? In order to comment comprehensively on the proposed revision, it is essential to first work out the local procedures to enact this policy (see “Model Communication,” “Locations are responsible for developing implementation procedures”). The details of the “procedures to implement...” (page 3, paragraph 3) should be developed before we implement the new APM 016.

A more definitive resolution is additionally needed to address cases that extend beyond the tenure period. Rather than stating that the Chancellor is authorized to recommend an extension in such cases, a better option might be to require that the appointment in such cases be extended beyond the eighth year to ensure that the review can take place once the disciplinary process is completed.

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<sup>1</sup> Academic Council Chair Cochran to Provost and Executive Vice President Newman, 5/09/23, Re: Request to Update the APM to Address Simultaneous Academic Misconduct Investigations and Personnel Actions: <https://senate.universityofcalifornia.edu/files/reports/sc-qn-request-for-apm-language-to-address-simultaneous.pdf>

Due to the concerns above, the Santa Cruz Division does not support the proposed revisions to APM 016. It is critical that any “pause” in the personnel review process be undertaken with explicit assurances of no harm to faculty who are investigated and eventually vindicated. That said, if the proposed change in policy does moves forward, in order to reduce potential harm caused by the pause, the effects of such a pause should be reviewed on a regular basis while the investigation continues. For example, semiannual, or annual review should be mandated.

Sincerely,

A handwritten signature in black ink that reads "P. Gallagher". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Patty Gallagher, Chair

Academic Senate, Santa Cruz Division

cc: Maureen Callanan, Co-Chair, Committee on Academic Personnel  
Susan Gillman, Co-Chair, Committee on Academic Personnel  
Kimberly Helmer, Chair, Committee on Career Advising  
Alexander Sher, Chair, Committee on Faculty Welfare  
Onuttom Narayan, Chair, Committee on Privilege and Tenure  
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections  
Matthew Mednick, Executive Director, Academic Senate