Council of Vice Chancellors
Academic Council Chair Powell
Interim Laboratory Director Alivisatos
Vice President Dooley

Re: Proposed Technical Revisions to Academic Personnel Policies 015, Part II; 036-0; 140-33-b; 160, Appendix A; 230-20-b; 220-4-b; 310-17-c

Dear Colleagues:

Enclosed for systemwide review are proposed technical revisions to the following Academic Personnel policies, all of which are suggested to insure uniformity between existing policies.

- APM-015, Part II (The Faculty Code of Conduct – Types of Unacceptable Conduct)
  
  Conforms APM-015, Part II, Types of Unacceptable Conduct, Sections A(2.), C(5.) and D(2.) to the definition of Nondiscrimination found in APM-035-0.

- APM-036-0 (Academic Appointees Employment)
  
  Conforms APM-036-0(b.), (c.) and (d.) to the definition of Nondiscrimination found in APM-035-0.

- APM-140-33(b.)(2.a) (Non-Senate Academic Appointees/Grievances)
  
  Conforms this section to the definition of Nondiscrimination found in APM-035-0.

- APM-160, Appendix A(b.)(2) (Academic Personnel Records/Maintenance of, Access to, and Opportunity to Request Amendment of)
  
  Conforms this section to the definition of Nondiscrimination found in APM-035-0.

- APM-220-4(b) (Appointment and Promotion Professor Series)
  
  Adds “Professor of Clinical _____ series,” which is defined as a separate series in APM-275, to the list of series titles distinct from the professorial series.
October 22, 2009
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• APM-230-20(h.)(2)(b) (Conditions of Employment Visiting Appointments)

   Adds "domestic partner (same sex or opposite sex)" to the list of those near relatives entitled
to accompany Visiting appointees, to conform to APM-520-4, defining near relatives.

• APM-310-17(c)(3) (Professional Researchers)

   Adds additional information regarding the criteria for advancement to Step 6 and
Above Scale to conform to the recently revised criteria in APM-220-18(b)(4).

As this is a systemwide review of technical changes to Academic Personnel policy proposals,
employees should be afforded the opportunity to review and comment on the revisions, which are
available online at: http://www.ucop.edu/acadadv/acadpers/apm/review.html. Enclosed is a model
communication which can be used to inform non-exclusively represented employees affected by
these proposals. Please forward your comments to Policy Analyst Ann Del Simone
(ann.delsimone@ucop.edu) by January 31, 2010.

Sincerely,

[Signature]
Lawrence H. Pitts
Interim Provost and Executive Vice President
Academic Affairs

Enclosures

cc: Interim Executive Vice President Brostrom
    Vice President Duckett
    Vice Provosts for Academic Personnel
    Academic Personnel Directors
    Interim Executive Director Price
    Executive Director Winnacker
    Director Frazier
    Director Pripas
    Director Simon
    Academic Employee Relations Manager Okada
    University Labor Relations Consultant Donnelly
    Universitywide Policy Coordinator Capell
    Senior Counsel Van Houten
    Associate Director Lockwood
    Human Resources Analyst Bello
    Policy Analyst Del Simone
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, color, religion, sex, sexual orientation, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, 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.
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, color, religion, sex, sexual orientation, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, 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, color, religion, sex, sexual orientation, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, 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.)
GENERAL UNIVERSITY POLICY REGARDING ACADEMIC APPOINTEES
Employment

INTERIM POLICY

NOTE: Appendices B-1 and B-2 of APM - 035 are rescinded.

036-0 Policy

Personnel actions dealing with recruitment, selection, promotion, and transfer are of critical importance to the success of the University’s Affirmative Action Personnel Program. The education, experience, skill, knowledge, and any other qualifications required for a position shall be limited to those qualifications directly related to the satisfactory performance of the duties and responsibilities of the position.

a. Recruitment

Current methods of recruitment and search for candidates for appointment shall be reviewed and, when necessary, new or modified methods shall be introduced in order to broaden the scope of the search. Attention shall be given to effective efforts to enhance the pool of applicants for those job groups and units where underutilization has been determined to exist.

b. Selection

Selections for appointment from among applicants who meet the requirements of each position shall assure continuation of University standards of excellence. In accordance with applicable law, no applicant may be denied employment, nor shall any applicant be selected for employment in preference to an equally or more qualified candidate, on the basis of race, color, national origin, religion, sex, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, pregnancy, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 status as a Vietnam-era veteran or special disabled veteran. Every good faith effort shall be taken to assure equal opportunity for employment for men and women in job groups that have traditionally been identified with one sex. In selecting from among candidates who are substantially equally well-qualified for a particular position, the appointing authority is reminded to pay attention to the general University commitment and policy of encouraging promotion of University employees.
c. Promotion

Promotions shall be decided in accordance with the appropriate University policy in a manner which shall assure continuation of University standards of excellence. Opportunity for promotion shall be available equally to all eligible employees. In accordance with applicable law, no employee may be denied a promotion, nor shall any employee be selected for a promotion in preference to an equally or a more qualified applicant, on the basis of race, color, national origin, religion, sex, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, pregnancy, marital status, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 status as a Vietnam-era veteran or special disabled veteran.

d. Transfer

All transfers of employees shall be handled in accordance with University procedures and, in accordance with applicable law, shall be without regard to race, color, national origin, religion, sex, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, pregnancy, marital status, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 status as a Vietnam-era veteran or special disabled veteran.
(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, color, national origin, religion, sex, sexual orientation, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, citizenship, service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, 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.
Supplemental Information Regarding Academic Policy
Including Interpretive Material Regarding the Need for
"Confidential Academic Review Records" and Provisions for Procedural
Safeguards Designed to Assure Fairness in the Academic Personnel Process

The use of “confidential academic review records” as set forth in APM - 160 is justified by
two factors: (a) the need in the academic personnel process for candid evaluations of
individuals under review, and (b) the provision of safeguards in the process to assure that
confidentiality does not cloak abuse or unfairness.

(b) There are several elements in the academic personnel process of the University
which provide safeguards to assure that the use of confidential documents in that
process, as described in APM - 160, does not cloak abuse. There are
understandable concerns that the use of confidential evaluations may sometimes
produce unjust results. Various elements in the personnel process provide
safeguards against potential injustice, while retaining the benefits to that process
from the receipt of confidential evaluations.

These safeguards are:

2. A multi-tiered process of academic review, as set forth in APM - 220,
typically involving (and in particular in cases of decisions concerning tenure)
three different faculty review agencies (departmental faculty, campus ad hoc
committee, and standing Committee on Academic Personnel or equivalent
Committee), and two or three different administrative reviews (department
chairperson, Dean or Provost, and Chancellor’s Office). Thus this is a process
in which there are many participants, including the individual’s colleagues. It
is a process in which evaluations received in confidence are considered by
various reviewing agencies and weighed with other evaluations (those of
departmental faculty, administrative officers, and campus ad hoc and standing
committees). All of the persons involved in the academic personnel review
process (departmental faculty, departmental chairperson, Dean or Provost,
members of campus ad hoc and standing committees, Chancellor’s Office), in
considering confidential letters from extramural evaluators, are entitled to
know the identities of those evaluators. All participants in the review process
are required to base their judgments solely on official University criteria.
Under Part II.D. of the Faculty Code of Conduct, it is unacceptable conduct to
evaluate the professional competence of faculty members “by criteria not
directly reflective of professional performance,” or to discriminate against a
faculty member “on political grounds, or for reasons of race, color, religion,
sex, sexual orientation, gender identity, ethnic origin, national origin, ancestry,
marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics)\(^2\), status as a Vietnam-era veteran or disabled veteran service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994, or, within the limits imposed by law or University regulations because of age or citizenship, or for any other arbitrary or personal reasons.”

3. Opportunity for the individual to receive, upon request, a redacted copy of all confidential academic review records in the personnel review file, as provided in APM - 160-20-c(1), (2) and (3).

4. Opportunity for the individual to contribute to the personnel review file, as set forth, for example, in APM - 220-80 and 220-84.

5. Clearly defined grievance procedures through which individuals can have their complaints inquired into concerning allegations of failure to comply with applicable procedural requirements in the academic personnel process, or allegations of the use of impermissible criteria in the process.

APM - 160-20-c(1), (2) and (3) provide the opportunity for an individual to receive, upon request, a redacted copy of all confidential academic review records in the individual’s academic personnel records which are described in APM - 160-20-b(1). This opportunity to receive redacted copies provides a means for the individual to learn the content of confidential documents in the individual's academic personnel records.

The recognition in APM - 160 of the limited use of “confidential academic review records” as described above is confined to the academic personnel process and the review in that process of the qualifications and performance of individuals.

In addition to the recognition in APM - 160-20-b and -c(1) of the use in the academic personnel process of the described confidential academic review records, APM - 160-20-b(1)(a) is also intended to include other types of documents pertaining to an individual which occasionally can, for good reason, be received by the University in confidence. An example would be an unsolicited letter from a student, describing allegedly inappropriate (though not necessarily unprofessional) conduct by a member of the faculty. The author of such a letter may request that his or her identity be held confidential, because of fear of retaliation. (The identity of an individual who makes allegations of unprofessional conduct by a faculty member leading to invocation of formal disciplinary procedures is not

\(^2\)Medical condition, according to the California Fair Employment and Housing Act, means health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured.\(^2\)
220-0 Policy

The policy on appointments in the Professor series is found in the Regents’ Policy on Funding of Regular Ranks Faculty Appointments, approved on November 19, 1971, and amended on September 22, 2005, quoted in part below:

Appointments in the Professor Series are for duty in departments of Instruction and Research, or in equivalent administrative units (e.g., colleges and divisions) with combined instruction and research functions. Any exception to this rule must be approved by the President.

(The full text of this Regents’ policy is set forth in APM - 220, Appendix A.)

220-4 Definition

a. The professorial series is used for appointees who are members of the faculty of an academic or professional college or school of the University who have instructional, as well as research, University, and public service responsibilities.

b. Persons appointed to titles in the Professor series form the “regular ranks” faculty of the University. This series is distinct from the following series:

Acting Professor series
Adjunct Professor series
Health Sciences Clinical Professor series
Professor in Residence series
Visiting Professor series
Professor of Clinical _______ series

220-8 Types

a. Titles (and ranks) in the Professor series are:

(1) Instructor

(2) Assistant Professor

(3) Associate Professor

(4) Professor
230-20  Conditions of Employment

h.  Travel expenses for Visiting appointees:

(2) When paid to Visiting appointees, travel expenses are subject to the following limitations:

(a) When the appointee travels alone, expenses and method of travel shall be governed by the University travel policy.

(b) When accompanied by spouse, domestic partner (same sex or opposite sex), and/or children, or other near relatives (as defined in APM - 520-4) who regularly form part of the appointee's immediate household, the appointee has the option of claiming one of the following for reimbursement of travel expenses:

(1) The coach air fares from home to the campus to which appointed for the appointee and family members as described above; or

(2) Up to the maximum amount permitted by University policy for travel mileage by a privately owned automobile; or

(3) If the appointee elects to combine air travel from overseas to an airport on the North American continent and subsequent travel by automobile from that point to the campus to which appointed, only the equivalent of the coach air fares from home to the campus to which appointed for the appointee and family members as described above. (This option does not permit reimbursement for overseas air travel plus travel mileage by automobile.)

In case of election of the first or third option, only such miscellaneous expenses related to air travel as are permitted under the provisions of Business and Finance Bulletin G-28, Policy and Regulations Governing Travel, will be allowed.

(c) If, for personal convenience, an indirect route is traveled or travel by a direct route is interrupted, any resulting extra expense shall be borne by the traveler, and reimbursement for expense shall be based only on such charges as would have been incurred by the usually traveled route.
310-17 Terms of Service

Appointments and reappointments may have shorter terms than the maximums described below. The normal periods of service at each step in this series coincide with those of the Professor series as described in APM - 220-18-b.

(3) For appointments with specific ending dates, an appointment or reappointment in the Research (e.g., Physicist) tank may be for a period of three years or less. The normal period of service at step three years in each of the first four steps. Service at Step V may be of indefinite duration. Advancement to Research (e.g., Physicist), Step VI, usually will not occur after less than three years of service at Step V. This involves an overall career review and will be granted on evidence of sustained and continuing excellence highly distinguished scholarship. In interpreting these criteria, reviewers should require evidence of excellence and high merit in original scholarship or creative achievement; and, in addition, Above and beyond that great academic distinction, recognized nationally or internationally, will be required in scholarly or creative achievement. Service at Research (e.g., Physicist), Step VI, or higher may be of indefinite duration. Advancement from Research (e.g., Physicist), Step VI to Step VII, from Step VII to Step VIII, and from Step VIII to Step IX; usually will not occur after less than three years of service at the lower step, and will only be granted on evidence of continuing achievement at the level required for advancement to Step VI.

Advancement to an above-scale salary rank involves an overall career review and is reserved only for the most highly distinguished researchers whose work of sustained and continuing excellence has attained national and international recognition and broad acclaim. Reflective in its significant impact, for scholars of the highest distinction whose work has been internationally recognized and acclaimed. Except in rare and compelling cases, advancement will not occur after less than four years at Step IX. Moreover, mere length of service and continued good performance at Step IX is not a justification for further salary advancement. The record must demonstrate There must be demonstration of additional merit and distinction beyond the performance on which advancement to Step IX was based. A further merit increase in salary for a person already serving at an above-scale salary level must be justified by new evidence of merit and distinction. Continued good service is not an adequate justification. Intervals between such salary increases may be indefinite, and only in the most superior cases where there is strong and compelling evidence will an increase at intervals shorter than four years be approved.