To be adopted:

**PRESENT:**

5.3.1 Applicability

At UCR the following shall serve to implement policy on Faculty conduct and the administration of discipline (currently the document "University Policy on Faculty Conduct and the Administration of Discipline" as approved by the Regents 14 June 1974). It applies to all members of the Academic Senate and to all of those officers of instruction who are in charge of courses and not subject to direct supervision.

Under this policy there is to be no redelegation of the Chancellor's authority to impose disciplinary sanctions within the terms of the Regents' document of 14 June 1974, p. 2; nor shall any sanction be imposed except as a consequence of the processes set forth below. The following procedures apply only to those instances in which an individual is charged with improper conduct as a member of the faculty. No Faculty member's right of direct appeal to the Committee on Privilege and Tenure shall in any way be abridged by these procedures.

**PROPOSED:**

5.3.1 Applicability and Principles

At UCR the following implements the University Policy on Faculty Conduct and the Administration of Discipline (set forth in its entirety in APM-016) and the Faculty Code of Conduct (APM-015) and applies to all members of the Academic Senate and to academic staff whose instructional duties are not subject to direct supervision. These procedures adhere to the five principles for Enforcement and Sanctions (Part III, Section A) articulated in the Faculty Code of Conduct (APM-015).

No disciplinary sanctions for professional misconduct shall be imposed by the administration except in accordance with the procedures set forth below. In circumstances where these procedures are silent, the policies and procedures contained in APM-015, APM-016, and UC Academic Senate Bylaw 336 shall govern.

The procedures set forth below describe several stages in the process: (a) an allegation of faculty misconduct, (b) efforts for informal resolution, (c) filing of a formal complaint, (d) inquiry by the Committee on Charges of the Academic Senate, (e) determination by the Chancellor to initiate disciplinary action by filing charges with the Committee on Privilege and Tenure of the Academic Senate, (f) disciplinary hearing by a Hearing Committee of the Committee on Privilege and Tenure, and (g) imposition of disciplinary sanctions by

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1 For the purposes of this document, the “Chancellor” shall be taken to mean “the Chancellor or the appropriate Chancellor’s designee,” such as the Executive Vice Chancellor and Provost. This shall apply in all cases with the exception of imposing discipline, which shall not be delegated by the Chancellor.
the Chancellor.

If the matter involves an alleged violation of the University of California Policy on Integrity in Research, the allegation should be filed according to the UCR Policy and Procedures for Responding to the Allegations of Research Misconduct.

If the matter involves an alleged violation of the University of California Policy on Sexual Harassment, the allegation may be filed according to the UCR Policy and Procedures for Responding to Reports of Sexual Harassment, instead of or in addition to filing an allegation under these Rules of Procedure.

This document indicates the timelines for the conduct of separate steps of the process, and it is important that such matters proceed expeditiously. However, it is recognized that these timelines may not always be adequate. Where individuals or committees require additional time to complete a step(s) in this process, all members involved shall be informed of the reasons for the delay and provided with a revised timeline for this step of the process, with a commitment that the step will be completed as promptly thereafter as possible.

All proceedings covered under this document are to be treated as confidential. No participant in such proceedings shall reveal or disclose the identity of the complainant, the accused Faculty member, witnesses, the nature of the allegation, the evidence, or the deliberations of any decision maker, other than to individuals who have a legitimate need for such information in order to conduct the proceeding or as may be required by law.
5.3.2 Channels

Allegations against a member of the Faculty originating from any source normally shall be addressed to the Chair of that Faculty member’s department, and shall be accepted for inquiry only on the basis of a written, documented, signed statement by the complainant. The channel for processing a matter involving such allegations is from the Department Chair to the Dean of the School or College to the Chancellor to the Charges Committee of the Academic Senate.

If for any reason this normal channel appears inappropriate to the individual making the allegations, (for example, if the complaint is directed against a Chair, Dean, etc.), he/she may address the allegations directly to the next higher level in the process as stated above, deposing a written, signed statement of the allegations.

5.3.2 Allegation Procedures and Channels

Allegations against a member of the Faculty in violation of the Faculty Code of Conduct may originate from members of the faculty, staff, students, the administration, and other members of the University community. Allegations shall be accepted for inquiry only on the basis of a written signed statement by the complainant. Allegations by a complainant shall be addressed to the Chair of the accused Faculty member’s department or to the Dean for units with no Chairs, unless this will present a potential conflict of interest, in which case the allegation will be directed to the administrator to whom this Chair or Dean reports.

The Faculty member accused of alleged misconduct shall be promptly informed of the allegation, in writing, by the recipient of the signed allegation. It shall also be the accused Faculty member’s right to examine all relevant documents assembled in connection with the allegation and to be heard at each step in the progress of the case.

The recipient of the allegation shall advise both the complainant and the accused Faculty member to obtain and become familiar with this document (Rules of Procedure for Implementation of Policies on Faculty Conduct and the Administration of Discipline at UCR), as well as the Faculty Code of Conduct (APM-015), the University Policy on Faculty Conduct and the Administration of Discipline (APM-016), and the UC Academic Senate Bylaw 336 (Privilege and Tenure Divisional Committees – Disciplinary Cases).

If the complainant is a student, the complainant shall be given the option of retaining anonymity until the filing of a formal complaint with the Committee on Charges, with the understanding that such anonymity may preclude the opportunity for informal resolution prior to consideration by the Committee on Charges.

The channels for processing a matter involving allegations in violation of the Faculty Code of Conduct that do not pertain to allegations of research misconduct or sexual harassment shall be from the Department Chair (in those Schools and Colleges that have Chairs) to the Dean of the School or College to the Chancellor to the Committee on Charges of the Academic Senate.

If the normal level of the channel appears inappropriate to the individual making the allegations, the complainant may address the allegations, in writing, directly to the next level in the channel.
5.3.3 The Rights of the Accused

The person accused of misconduct shall be informed promptly, in writing, by the recipient of the signed accusation, so that a resolution of the problem may be attempted immediately. It shall also be the accused’s right to examine all documents assembled in connection with the allegation and to be heard at each step in the progress of the case. This given right shall not be discretionary on the part of a Chair or any administrative officer, or on the part of the Charges Committee of the Academic Senate.

5.3.3 Informal Resolution

The goal of informal resolution is to resolve the concerns at the earliest stage possible. The recipient of the signed allegation shall attempt to resolve the matter informally within twenty-one days of receiving the allegation. Informal resolution of the matter may result in withdrawal of the complaint by the complainant prior to the matter reaching the Committee on Charges or may result in a formal settlement, including conditions or the acceptance of disciplinary sanction(s) by the accused Faculty member (SBL 336.C). In cases where a settlement resolving disciplinary charges is entered into after a matter has been referred to the Committee on Privilege and Tenure, the Chancellor shall meet with the Chair of the Committee on Privilege and Tenure prior to finalizing the settlement.

If efforts to resolve the matter informally within twenty-one days prove unsatisfactory to the complainant and/or the accused Faculty member, the recipient of the signed allegation shall forward the signed allegation to the next step in the process as soon as an impasse has been reached, along with his or her written statement describing the efforts to resolve the matter informally and the reasons for forwarding the matter. When the file is forwarded, a copy of the recipient’s written statement shall be provided to the complainant and the accused Faculty member.

5.3.4 Role of the Department Chair, Dean of the School or College, and Chancellor

The Department Chair, Dean of the School or College and Chancellor each must, when the matter comes before him, promptly attempt to settle it informally or pass it on to the most appropriate higher level. In the event such efforts to achieve settlement prove unsatisfactory to either of the parties, each such official respectively shall promptly forward the matter to the next step in the process along with the signed accusation, any notes developed on the case, and a written statement explaining his/her reason for forwarding the file.

5.3.4 The Formal Complaint

If the matter has not been settled to the satisfaction of the complainant at some step in the process described above, and if the Chancellor is unable to resolve the matter informally, the Chancellor shall furnish the complainant with the Academic Complaint Form. To complete the Academic Complaint Form, the complainant must identify the relevant section(s) of the University Policy on Faculty Conduct and the Administration of Discipline and include a full statement of the facts that allegedly constitute a violation of the University Faculty Code of Conduct. The Form must be signed by the complainant and submitted to the Chancellor. Materials elaborating the evidence may be appended to the Academic Complaint Form.

The Chancellor shall promptly transmit the signed formal complaint to the Committee on Charges of the Academic Senate. At the same time, the Chancellor shall transmit the signed formal complaint to the accused Faculty member, along with a statement that the matter has been transmitted to the Committee on Charges.
5.3.5 The Complaint
A. If the matter has not been settled to the satisfaction of the complainant at some step in the process described above, the Chancellor shall furnish a standard complaint form to each complainant. He/she shall also provide the complainant with a copy of the current "Rules of Procedure" of the Charges Committee. 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 Chancellor, or his/her designated representative, for his/her 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.

B. The complaint, signed by the complainant, shall be transmitted to the Charges Committee of the Academic Senate by the Chancellor, or his/her designated representative, without supporting evidence or substantive comment. At the same time, he/she shall serve a copy of the complaint on the accused, together with a copy of the current "Rules of Procedure" of the Charges Committee, and a covering letter explaining the nature of the complaint and the proceedings.

5.3.5 Inquiry by the Committee on Charges of the Academic Senate

The Committee on Charges shall promptly determine whether the allegations in the complaint, if true, would constitute a violation of the University Faculty Code of Conduct. If the Committee on Charges determines this issue affirmatively, it shall ask the Chancellor for any supporting evidence from earlier stages in the procedure and shall conduct an inquiry to determine whether there is probable cause to warrant a disciplinary hearing before the Committee on Privilege and Tenure of the Academic Senate. For this purpose, 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 there is credible evidence to support the claim.

The Committee on Charges shall treat all steps in its inquiry as confidential. In conducting its inquiry, the Committee on Charges may, at its discretion, conduct interviews in private with the complainant and other individuals relevant to the case. The Committee on Charges shall make every effort to complete its inquiry and make a determination of probable cause and report its findings to the Chancellor within sixty days after receiving the formal complaint.

If the Committee on Charges finds no probable cause to warrant a disciplinary proceeding, the Committee shall promptly (within fifteen days) transmit its decision, in writing, to the Chancellor, along with a report of the substantive review made by the Committee. The Committee also shall recommend that all existing references to the matter be expunged from personnel files, and from the records of the Department Chair and the Dean of the School or College.

If the Committee on Charges finds probable cause to warrant a disciplinary hearing, the Committee shall promptly transmit its decision, in writing, to the Chancellor, along with a report of the inquiry made by the Committee and the complete file assembled by the Committee on Charges during its inquiry.
5.3.6 The Charges Committee of the Academic Senate

Upon receiving the complaint, the Charges Committee of the Academic Senate shall determine whether the allegations in the complaint, if true, would constitute a violation of University policy regulating individual Faculty conduct. If it determines this issue affirmatively, it shall ask the Chancellor for any supporting evidence from earlier stages in the procedure and shall conduct a factual investigation to determine whether there is probable cause to warrant a disciplinary hearing before the Committee on Privilege and Tenure. As part of its investigation, the Charges Committee may, at its discretion, hear witnesses in camera. The Charges Committee shall treat its investigation as confidential; members of the Charges Committee shall therefore be subject to the provisions of the Faculty Code should they transgress.

5.3.6 Determination by the Chancellor to Initiate Disciplinary Action

The Chancellor shall make a final determination of probable cause within thirty days of receiving the recommendation from the Committee on Charges.

If the Chancellor concurs with the Committee on Charges on a no-probable-cause finding, this decision shall be immediately transmitted, in writing, to the Chair of the Committee on Charges. The Chancellor shall promptly (within fifteen days) notify both the complainant and the accused Faculty member, in writing, of the finding of no probable cause by the Committee on Charges, of the concurrence by the Chancellor, and of the substance of the inquiry made by the Committee on Charges. The only record of the case shall be a statement prepared by the Committee on Charges and placed in its permanent file in the Academic Senate. That statement shall include the following information: the date, name of the accused Faculty member, name of the complainant, a brief statement of the allegations, and the decision by the Chancellor to dismiss the case on recommendation of the Committee on Charges.

If the Chancellor determines that there is probable cause to warrant a disciplinary hearing, the Chancellor shall immediately notify the Chair of the Committee on Charges, in writing.

If the Chancellor does not concur with the recommendation of the Committee on Charges, the Chancellor shall inform the Chair of the Committee on Charges, in writing, of the reasons for the decision.

Upon a determination of probable cause, the Chancellor shall initiate notice of proposed disciplinary action, which requires that the Chancellor prepare written charges to be submitted to the Chair of the Committee on Privilege and Tenure of the Academic Senate, with a full statement of the facts underlying the charges and the disciplinary sanction(s) the Chancellor proposes in this case. The types of discipline that may be imposed on a member of the faculty are as follows, in order of severity: written censure, reduction in salary, demotion, suspension, denial or curtailment of emeritus status, and dismissal from the employ of the University.

At the same time that the Chancellor submits the formal charges to the Committee on Privilege and Tenure, the Chancellor shall also notify both the complainant and the accused Faculty member, in writing, of the decision to file a formal complaint with the Committee on Privilege and Tenure.
5.37 Proceedings after Charges Committee Investigation

In the event that the Charges Committee finds that there is no probable cause to warrant a disciplinary proceeding against either the accused, or the complainant (see #8), the Committee shall recommend to the Chancellor in writing that all existing references to the matter shall be expunged from personnel files, from the records of the Department Chair, from the Dean’s office, and from that of the Chancellor. If the Chancellor concurs in the recommendation, the only record of the case shall be a statement prepared by the Charges Committee and placed in its permanent file in the Academic Senate. That statement shall include the following information: the date, name of the accused, name of the complainant, that the case was dismissed by the Chancellor on recommendation of the Charges Committee, the briefest possible statement of the allegations, and some brief evaluation of these allegations. The Chair of the Charges Committee shall notify both the Complainee and the Complainant only of the disposition and of the Chancellor’s concurrence.

In the event that either the Charges Committee or the Chancellor (see Bylaw 335(F) of the Academic Senate) finds that there is probable cause to warrant a disciplinary proceeding, the Chancellor shall file the charges with the Committee on Privilege and Tenure and notify in writing the Faculty member involved. Said Faculty member shall be entitled to a prompt hearing before the Committee on Privilege and Tenure and to all the procedural privileges and protections specified in the Standing Orders of The Regents and in the provisions of The Manual of the Academic Senate that implement those orders, namely as specified in Bylaw 335(F). In no case will any disciplinary sanction be imposed until the case has been reviewed by the Committee on Privilege and Tenure.

The Committee on Privilege and Tenure shall report its findings directly to the Chancellor and, in the event that it determines that the Faculty member has in fact violated University policy regulating individual Faculty conduct, shall recommend an appropriate sanction, in view of the gravity of the offense and of all of the facts and circumstances. Sanctions which may be imposed are described in the Regents’ document, pp 2-3. They are: written censure, suspension, demotion, dismissal.

The Chancellor shall inform in writing the Vice Chancellor, the Dean, the Department Chair, and the Faculty member of his/her decision, of the sanction applied, and of the recommendation made to him/her by the Committee on Privilege and Tenure. When the sanction to be imposed involves dismissal or demotion of a tenured Faculty member or lecturer with security of employment, the Chancellor’s recommendation is subject to approval by the President.

5.3.7 Disciplinary Hearing by the Committee on Privilege and Tenure

The Committee on Privilege and Tenure shall follow the procedures detailed in UC Academic Senate Bylaw 336 (Privilege and Tenure Divisional Committees – Disciplinary Hearings) with regard to prehearing procedures, early resolution, hearing and posthearing procedures, and relation to prior grievance cases.

At the conclusion of the disciplinary hearing, the Hearing Committee of the Committee on Privilege and Tenure shall promptly make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation. These shall be forwarded promptly to the parties in the case, including the complainant and the accused Faculty member, the Chancellor, the Chair of the 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 Faculty member, authorize release of the findings, conclusions, recommendations, and recommendations to other individuals or entities, to the extent allowed by law (SBL 336.D.10).

If the Committee on Privilege and Tenure determines that there is clear and convincing evidence that the accused Faculty member has violated the Faculty Code of Conduct, the Committee shall also recommend an appropriate sanction that shall not be more severe than the maximum sanction specified in the formal charge from the Chancellor.
5.3.8 The Responsibility of the Complainant

If, in the proceedings described above, it is determined by the Charges Committee that the charges made by the complainant are both groundless and malicious, that finding may serve as the basis for countercharges by the accused because harassment or ill-usage of another member of the University community is a violation of the Faculty Code. If the Committee on Privilege and Tenure then makes a finding on behalf of the accused, it shall report its findings to the Chancellor and recommend an appropriate sanction—just as in Section 7 above.

5.3.9 Complaints brought forth by a Student or Students

The Faculty Code, Part II A, recognizes that a Faculty member may exhibit improper conduct in teaching and in relations with students. It is therefore possible that complaints may be filed by a student or students on these or other grounds. In such a case, sections 2 through 8 of these Procedures shall be followed, except that all student complaints shall remain anonymous until the matter reaches the Charges Committee. Further, should the allegations of the signed original complaint be shown to be groundless and malicious, there will be a second variance. In that case the Committee on Privilege and Tenure shall forward to the Student Conduct Committee its recommendation that sanctions be considered.

5.3.8 Imposition of Disciplinary Sanction

The authority to impose disciplinary sanctions and the procedures for imposition of sanctions are detailed in the University Policy on Faculty Conduct and the Administration of Discipline, (APM-016, Section II — Types of Disciplinary Sanctions). The final decision to impose disciplinary sanction shall be made by the Chancellor and shall not be delegated.

If the Chancellor’s decision differs from the findings and recommendation of the Hearing Committee of the Committee on Privilege and Tenure, the Chancellor shall meet with the Hearing Committee prior to reporting the decision to explain the reasons for his or her decision.

Within forty-five days after receiving the findings from the Hearing Committee of the Committee on Privilege and Tenure, the Chancellor shall report his or her decision, in writing, to the Committee on Privilege and Tenure, the Executive Vice Chancellor and Provost, the Dean of the School or College, the Department Chair, the accused Faculty member, and the complainant.

5.3.9 Role of the Complainant

Complainants have a legitimate interest in being kept informed as the process proceeds and, within appropriate parameters, should be able to participate in various stages of the process. In the investigatory stage by the Committee on Charges, the complainant must be willing to meet with the Committee on Charges should that Committee consider such appearance necessary to the investigation. The complainant does not have a right to receive written statements submitted by the accused Faculty member or any other evidence uncovered in the course of the investigation by the Committee on Charges, nor does the complainant have a right to be present when testimony of witnesses is taken.

If it is determined by the Committee on Charges or the Hearing Committee of the Committee on Privilege and Tenure that the allegations brought by the complainant are both groundless and malicious, that finding may serve as a basis for counter charges by the accused Faculty member.
5.3.10 The Case of an Extreme Emergency

If in the judgment of the 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, he/she 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 (cf. Regents’ document, p.2).

5.3.10 Provision for Interim Suspension in Extreme Emergency

If in the judgment of the Chancellor there is a high probability that the continued assignment of a Faculty member to regular duties will be immediately and seriously harmful to the University community, the Chancellor may place the Faculty member on full or partial interim suspension with full pay. Such a suspension is a precautionary action and not a form of discipline. Before imposing such an interim suspension, the Chancellor shall, to the extent feasible under the circumstances in the individual case, consult with the chairs of the Committee on Charges and the Committee on Privilege and Tenure. The Chancellor shall promptly provide the Faculty member with a written statement of the reason for such suspension and shall promptly refer the matter to the Committee on Privilege and Tenure. The Committee on Privilege and Tenure shall promptly provide an opportunity for a hearing to the Faculty member and report its findings and recommendations with respect to the propriety of the suspension to the Chancellor.

JUSTIFICATION:

The Committee, whose membership included current and former chairs of the Academic Senate committees on Charges and Privilege and Tenure, proposes the changes to clarify the channels through which allegations against a faculty member are to be lodged and to articulate more precisely the steps in the process, in order to reduce ambiguity of interpretation and inconsistency in application of the existing policy. The proposal also incorporates changes in the APM (015 and 016), changes in the University and UCR policies on Integrity in Research and Sexual Harassment, and changes in the system-wide Senate bylaws pertaining to disciplinary cases (SBL 336).

More specifically, these proposed changes do not differ from UC Rules or the APM. Since our bylaws were last amended, the APM 015 and 016 have been modified, as have the UC Senate Bylaws, and our bylaws needed to be brought into compliance. For example, UC Academic Senate Bylaw 336 has been substantially rewritten, with much more detail about how hearings are to be conducted. Thus, rather than rephrase these procedures, we added a reference to SBL 336 as the document guiding how hearing are to be conducted (our proposed 5.3.7).

Second, consistent with procedures on other campuses, the proposed changes refer complainants to the newly written policies on sexual harassment and research misconduct, which have their own investigation routes.

Third, the proposed changes make more explicit (than does UCR's current bylaw appendix 5) the steps and channels for addressing complaints, adding timelines for each step where feasible. Without divulging confidential about particular cases, these proposed changes are suggested by current and former members of UCR's Charges and P&T committees, as a way to address inconsistencies and ambiguities that have arisen in previous cases.

Our first and foremost goal was how to assure that faculty rights were preserved to the greatest extent possible, while still being consistent with the administrative dictates of the APM. Although we carefully reviewed the parallel procedures
on the other UC campuses, we worked to modify our existing procedures and to clarify the language in a way that our committee determined was most appropriate for UCR.

Reviewed by Committee on Charges: October 17, 2006
Reviewed by Privilege and Tenure: October 16, 2006
Reviewed by Rules & Jurisdiction: January 22, 2007
Endorsed by the Advisory Committee: February 12, 2007