Appendix 5
Policies on Faculty Conduct and the Administration of Discipline

To Be Adopted

5 Policies on Faculty Conduct and the Administration of Discipline

5.1 University Policy on Faculty Conduct and the Administration of Discipline (UC Policy)

UC Policy APM016

5.2 The Faculty Code of Conduct (UC Policy APM-015)(Am July 17, 2006)

UC Policy APM015

5.3 Rules of Procedure for Implementation of Policies on Faculty Conduct and the Administration of Discipline at UCR

<table>
<thead>
<tr>
<th>PRESENT</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.1</td>
<td>5.3.1 No change</td>
</tr>
</tbody>
</table>

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 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.(Am 20 Feb 07)

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.

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 at UCR).
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. (Am 20 Feb 07)

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. (Am 20 Feb 07)

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. (Am 20 Feb 07)

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 reports 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. (Am 20 Feb 07)
5.3.6 \textit{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. (Am 20 Feb 07)

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, and recommendations to other individuals or entities, to the extent allowed by law.
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. (Am 20 Feb 07)

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. (Am 20 Feb 07)

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 shall be given notice of the hearing and an opportunity to present evidence and arguments in favor of the subject. Details of the hearing shall be kept confidential.

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 investigation 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. (Am 20 Feb 07)

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. (Am 20 Feb 07)
Justification:
There has been some confusion as to what extent the Committee on Charges should “investigate” an issue to determine probable cause in relation to disciplinary cases at UCR. The confusion stems from some inconsistencies between documents that describe procedures for disciplinary cases at UCR.

1) UC systemwide document APM-015 (*The Faculty Code of Conduct*) recommends a single formal investigation:

**APM-015 III.B.2:** “There should be an appropriate mechanism for consideration and investigation of allegations of misconduct received from members of the faculty, staff, students, the administration, and other members of the University community. Procedures should be developed which encourage a single formal investigation of the allegations leading to the proposed disciplinary action.”

2) UCR Division Appendix V provides clear instructions for disciplinary cases in section 5.3 (*Rules of Procedure for Implementation of Policies on Faculty Conduct and the Administration of Discipline at UCR*), including an important distinction between an initial **inquiry** by the Committee on Charges and a subsequent formal hearing by the Committee on Privilege and Tenure.

**Appendix V section 5.3.1:** “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 Chancellor1 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 the Chancellor.”

Existing inconsistencies with the above, for which changes are proposed, are as follows:

**UCR Division Bylaw 8.7.** The present text uses the word “investigation”, but “inquiry” is the more appropriate word, consistent with Appendix V section 5.3.1.

**Appendix 5 section 3.9.** The word "investigation" should be replaced with “inquiry” to become consistent with Appendix 5 section 3.1. Similarly, substitution of the phrase “during any interview that may occur as part of the inquiry” for “when testimony of witnesses is taken” will clarify that it is not within the purview of the Committee on Charges to conduct a formal investigation. A single formal investigation, as recommended by APM-015.III.B.2, is the purview of the Committee on Privilege and Tenure.

**Clearance and Endorsements Preceding Division Vote:**
Endorsed by the Committee on Charges: May 8, 2012
Endorsed by the Committee on Privilege & Tenure: May 7, 2012
The Committee on Rules and Jurisdiction finds the wording to be consistent with the code of the Academic Senate: May 4, 2012

**Additional Actions Related to this Proposed Legislation Change:**
Received by the Executive Council: 5/14/2012