June 22, 2012

Robert Anderson
Chair, Academic Council

Re: Response to proposed revisions to APM 010 (Academic Freedom), 015 (Faculty Code of Conduct) and 016 (University Policy on Faculty Conduct and the Administration of Discipline)

Dear Bob,

Thank you for the opportunity to review and opine on the above references proposed revisions to the APM. Upon receipt, I requested review by the FECs, the Committee on Privilege and Tenure, the Committee on Charges, and the Committee on Academic Freedom. I am attaching the responses I received, for your information. The Executive Board, which speaks for the division on such matters, has reviewed the proposed revisions as well as the responses we received.

1. Regarding the proposed revisions of APM 010 and 015, the UCLA Academic Senate agrees with the necessity and wording of the proposal. The proposed changes appear to respond the courts’ recent decisions and thereby protect faculty when they speak on matters of institutional policy, governance, and action.

2. However, the Executive Board was persuaded by the concerns raised by the College FEC with regard to APM 016. No justification was provided for the inclusion of “policy” into the language, which was the cause of some concern. Moreover, the proposal provides no definition of “policy,” “rules,” and “regulations.” Therefore, without clear rationale for the inclusion of “policy” into the language of APM 016, and without definition of the key terms, we cannot support the proposed language.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Andrew Leuchter
Chair, UCLA Academic Senate

Cc: Martha Kendall Winnacker, Executive Director, Academic Senate
    Jaime R. Balboa, CAO, UCLA Academic Senate
MEMORANDUM

College Faculty Executive Committee
A265 Murphy Hall

June 8, 2012

To: Andrew Leuchter, Chair
UCLA Academic Senate

From: Michael Meranze, Chair
UCLA College Faculty Executive Committee

Re: College FEC response to the proposed revision of APM 010 (Academic Freedom), 015 (Faculty Code of Conduct), and 016 (University Policy on Faculty Conduct and the Administration of Discipline)

The College FEC appreciates the opportunity to review and opine upon the proposed revisions to sections 010 (Academic Freedom), 015 (Faculty Code of Conduct), and 016 (University Policy on Faculty Conduct and the Administration of Discipline) of the Academic Personnel Manual. We discussed the proposal at our June 1, 2012 meeting. At present, the FEC endorses the revisions to sections 010 and 015, but rejects the changes in section 016 pending clarification (12 approve, 0 oppose, 0 abstain). The following summarizes our discussion:

1. The FEC supports the proposed changes to both APM 010 and 015. As you know, recent case law in California and elsewhere has raised questions about the rights of employees (including faculty members) to speak freely about matters internal to their institutions without fear of penalty. By extending the privilege of academic freedom to “address any matter of institutional policy or action, when acting as a member of the faculty whether or not as a member of an agency of institutional governance,” the proposed changes to APM 010 and 015 appear to respond to the courts’ recent decisions. Faculty members, both in their roles within departments and in faculty governance, must be able to speak freely on matters of institutional policy and action. Neither shared governance nor academic freedom can be sustained, if faculty members do not have the right to comment on proposed policies or issues related to academic freedom without the threat of discipline. Consequently, we strongly support these changes.

2. The proposed changes to APM 016 were viewed by members as being far more problematic. On its face, the changes the addition of “policies” to “rules and regulations” in a variety of areas appears innocuous. And if you look at the list of examples you will see things like parking rules. The problem is that “policies” are never defined. It is difficult to understand the necessity of this change, particularly as they relate to the examples provided. From an institutional standpoint, what is gained by including “policy” as opposed to “rules and regulations” when it concerns parking? The addition makes sense only if there are other categories where policies might remain contentious after they have been promulgated. In

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1 Two relevant decisions concerning universities can be found at:
http://www.aaup.org/NR/rdonlyres/5556C028-6780-4B49-ABDE-F180A0E8C97F/0/HongvGrantCDCal.pdf and
such cases, the proposal would place the authority to discipline violations of such policies under administrative rather than faculty oversight. The proposed change of APM 016 is unclear, unnecessary, and uncontrolled. For these reasons the FEC cannot support it.

In sum, the FEC urges the Senate to support the proposed changes to APM 010 and 015, but reject the proposed change to 016. Our membership appreciates the consultative process. If you have any questions or concerns, please contact me at meranze@history.ucla.edu. Kyle Stewart McJunkin, Academic Administrator, is also available to assist you and he can be reached at (310) 825-3223 or kmcjunkin@college.ucla.edu.

cc: Jaime Balboa, Chief Administrative Officer, Academic Senate
Lucy Blackmar, Interim Associate Dean, College of Letters and Science
May 25, 2012

To: Andrew Leuchter  
Academic Senate, Chair

From: Joel D. Aberbach  
Faculty Welfare Committee Chair

Re: Senate Review of APM 010, 015, and 016

The Faculty Welfare Committee reviewed the Senate Review of APM 010, 015, and 016, on Tuesday, April 10, 2012. There were no comments on the items themselves, which were regarded on non-controversial.

Cc: Jaime Balboa, Chief Administrative Officer, Academic Senate  
Dottie Ayer, Assistant to Chief Administrative Officer, Academic Senate  
Brandie Henderson, Policy Analyst, Academic Senate