

<b>Responsible Officer:</b>	Associate Vice President
<b>Responsible Office:</b>	<a href="#">Office of the Associate Vice President</a>
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<b>Scope:</b>	This policy applies to all UC ANR academic appointees that (in accordance with APM-110-4(27), <i>Academic Personnel Definitions</i> ) are not members of the UC Academic Senate, and that are not attached to a UC campus and subject to campus processes. Campus-based academic appointees should consult the departmental administration of their UC campus for information regarding grievances and appeals.

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**Note: For links to referenced documents see  
 Section VI, *Related Information*, below.**

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## **I. POLICY SUMMARY**

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- A.** This section of the Policy and Procedure Manual for the University of California (UC) Agriculture and Natural Resources (ANR) describes the local implementing procedures for UC Academic Personnel Policy (APM) Section 140, *Non-Senate Academic Appointees/Grievances* as well as APM-011, *Academic Freedom, Protection of Professional Standards, and Responsibilities of Non-Faculty Academic Appointees*. Nothing contained in these implementing procedures should be read or interpreted to contradict the UC APM policy. If any provision should contradict the UC APM policy, the UC APM policy shall prevail.

Note: The Professional Researcher, Project Scientist and Specialist title series are subject to the Academic Researcher's Unit Memorandum of Understanding (MOU) (a.k.a. collective bargaining agreement). Refer to Section VI, *Related Information*, below for a link to the MOU. For non-Senate academic appointees covered by an MOU, this policy applies only to the extent provided for in the MOU.

- B.** APM-140 and this Manual section provide non-Senate academic appointees the opportunity to initiate and resolve grievances. The use of this policy shall not be discouraged by UC, either directly or indirectly. Voluntary resolution of grievances, including mediation, is strongly encouraged when it is desired by the parties.
- C.** The information provided below is general, and cannot address all of the unique concerns that could arise regarding academic grievances and/or appeals. Questions regarding specific situations should be directed to the UC ANR Academic Human Resources Manager (contact information on page 1 above).
- D.** Selected academic appointees have been assigned to a UC campus with personnel actions approved through campus academic policies and procedures. Thus, those selected academic appointees are subject to campus policies and procedures and are not addressed in UC ANR local implementing procedures. This section of the Policy and Procedure Manual is applicable only to academic appointees subject to UC ANR personnel actions.

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## **II. DEFINITIONS**

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In the context of this PPM section the below terms shall be defined as follows.

**A. Grievance:**

1. A complaint by an eligible non-Senate academic appointee that meets the APM-140 criteria, and that alleges that the academic appointee was subjected to:
  - a. A specific administrative act that was:
    - i. Arbitrary or capricious, and
    - ii. Adversely affected the academic appointee's then-existing terms and conditions of appointment.

and/or,

- b. A violation of applicable UC rules, regulations, or APM policies that:
    - i. Adversely affected the academic appointee's then-existing terms and conditions of appointment.
    - c. For the purposes of this policy, an act is not arbitrary or capricious if the decision-maker exercised reasoned judgment.
  2. A grievance alleging an **inappropriate salary action** is covered by this PPM section and, by extension, APM-140, only if the complaint includes an allegation of discrimination, sexual harassment, and/or retaliation that is directly related to the salary action, and thus allegedly violates APM-035, *Affirmative Action and Nondiscrimination in Employment* and Section 602, *Employment Policies and Procedures* of this Manual.
    - a. Salary action grievances that do not include an allegation of discrimination, sexual harassment, and/or retaliation are governed by PPM Section 315, *Advancement*.
    3. A grievance alleging a **violation of any of the following APM policies** may be made only in accordance with Item II.A.1.b. above (e.g., a violation of rules) and is not subject to Item III.A.1.a. above (e.g., an administrative act).
      - a. APM-137, *Non-Senate Academic Appointees/Term Appointment*, and
      - b. APM-145, *Non-Senate Academic Appointees/Layoff and Involuntary Reduction in Time*, and
      - c. APM-150, *Non-Senate Academic Appointees/Corrective Action and Dismissal*.
- B.** The UC ANR "**Grievance Liaison**" is determined upon receipt of the complaint and designated by the UC ANR Vice President (Vice President).

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### **III. POLICY TEXT**

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#### **A. Step I Informal Grievance Resolution Process**

1. Step I of the grievance process is the attempt at informal grievance resolution.
2. Academic appointees are encouraged to attempt Step I informal grievance resolution with their immediate supervisor (or responsible administrator whose action is being grieved) prior to filing a Step II formal grievance.
3. Attempts at Step I informal grievance resolution do not extend the time limit for filing a Step II formal grievance, unless a written extension is granted by the Grievance Liaison.
  - a. It is the responsibility of the Grievant to file a Step II formal grievance by the applicable filing deadline or to file a written request for an extension before

- the filing deadline.
- b. Attempts at informal resolution may continue after a Step II formal grievance has been filed, but are not required.
  4. To initiate the Step I informal grievance resolution process, the Grievant should contact their immediate supervisor or the responsible administrator, communicate the grievance, and attempt to identify a resolution.
  5. If Step I informal grievance resolution with the immediate supervisor or responsible administrator is attempted but is unsuccessful, the Grievant may request that the Grievance Liaison assist in the Step I process.
  6. If a grievance alleges sexual harassment, the Grievant may elect to use as the method of informal resolution under Step I, the Statement of Policy for UC ANR Sexual Harassment Complaint Resolution & Procedures, as described in the this Manual, Section 602, *Employment Policies and Procedures*, Appendix III, *Statement of Policy for ANR Sexual Harassment Complaint Resolution & Procedures*, as governed by the policy on *Affirmative Action and Nondiscrimination in Employment*, APM-035. If a Grievant selects this mechanism and the complaint is not resolved to the Grievant's satisfaction, he or she may file a Step II formal grievance under APM-140-31-c.
  7. If the Grievant used the sexual harassment complaint process as a method of informal resolution under Step I, the Step II formal grievance must be filed in writing with the Grievance Liaison within (15) calendar days from the date the Grievant is notified of the result of the sexual harassment complaint or within (45) calendar days from the date the Grievant filed the sexual harassment complaint, whichever is earlier.

## **B. Step II Formal Grievance Resolution Process**

1. Grievant's Preparation and Submittal of Written Step II Formal Grievance

A Step II formal grievance must be filed in writing with the Grievance Liaison within thirty (30) calendar days of the date after which the Grievant knew, or could reasonably be expected to know, of the event or act which gave rise to the grievance; or within thirty (30) calendar days after the date of separation, whichever is earlier and as specified in APM-140-23-a.

  - a. Subject to this thirty (30) calendar day deadline, the Grievant may elect to pursue the Step II formal grievance process as follows.
    - i. Immediately (e.g., to bypass the Step I informal grievance resolution process entirely), or
    - ii. At any point during the Step I informal grievance resolution process, or
    - iii. At the conclusion of the Step I informal grievance resolution process if it does not result in resolution of the grievance to the satisfaction of the

Grievant. Grievances that allege sexual harassment are subject to different deadlines; as stated in PPM Section 602.

- b. Except by written mutual agreement of the parties, no additional allegations shall be introduced after the written Step II formal grievance has been filed.
- c. If the Grievant initiates a Step II formal grievance, the Grievance Liaison shall provide information regarding policy and procedures and shall otherwise facilitate the Step II process.
- d. To file a Step II formal grievance, the Grievant should prepare a written document stating the type of act to which they believe they were subjected, e.g.:
  - i. A specific administrative act that was arbitrary and capricious and that adversely affected the then-existing terms and conditions of the Grievant's appointment,  
and/or
  - ii. A violation of UC rules, regulations or policies that adversely affected the then-existing terms and conditions of the Grievant's appointment.
  - iii. If the Grievant believes they were subjected to a **specific administrative act** that was arbitrary and capricious and that adversely affected the terms and conditions of their appointment, their written Step II formal grievance must provide the following information.
    - a. The specific administrative act(s) alleged,
    - b. The name(s) of the person(s) alleged to have carried out the act(s) and any other individual(s) involved,
    - c. The date(s) the alleged act(s) occurred,
    - d. Factual information demonstrating how the alleged act(s) was arbitrary or capricious,
    - e. Factual information demonstrating how the alleged act(s) adversely affected the terms, and conditions of the academic's appointment, and
    - f. The remedy requested.
  - iv. If the Grievant believes they were subjected to a **violation of UC rules, regulations or policies** that adversely impacted the terms and conditions of their appointment, their written Step II formal grievance must provide the following information.
    - a. The specific UC rule, regulation, or policy alleged to have been violated,
    - b. Factual information describing how the violation(s) was carried out,

- c. The date(s) the alleged violation(s) occurred,
- d. The name(s) of the person(s) alleged to have carried out the violation(s) and any other individual(s) involved,
- e. Factual information demonstrating how the alleged violation(s) adversely affected the then-existing terms and conditions of the academic's appointment, and
- f. The remedy requested.
- v. The written Step II formal grievance must also include information regarding any earlier attempt(s) at informal resolution of the grievance, e.g., the dates(s) of attempt(s) at such informal resolution, and the result of the attempt at informal resolution.
- e. The Grievance Liaison must receive a Step II grievance within the thirty (30) calendar-day period unless a written extension has been granted by the grievance liaison. To file the written Step II formal grievance, the Grievant should submit it to:

UC ANR Office of the Academic Personnel Unit, Attention Grievance Liaison  
PHYSICAL and MAILING ADDRESS – UC ANR, 2801 2nd Street  
Davis, California 95618

(Electronic submittal and/or email is allowable.)

## 2. Grievance Liaison's Review of Written Step II Formal Grievance

- a. Upon receipt of a written Step II formal grievance the Grievance Liaison shall review it and shall determine if it meets all of the following requirements.
  - i. It is timely (e.g., it was received within the required 30-day timeframe),
  - ii. It is complete (e.g., it includes all required information and contains sufficient facts to support the allegations made), and
  - iii. It is within the jurisdiction of APM-140.
- b. Within ten (10) calendar days of receipt of the written Step II formal grievance, the Grievance Liaison shall issue a written determination to the Grievant indicating whether the written Step II formal grievance is acceptable in whole or in part.
- c. If any part of the written Step II formal grievance does not meet the requirements of Item V.C.1. above, the Grievance Liaison may issue a written notice of dismissal of the Step II formal grievance and shall provide a specific reason(s) for the dismissal. If the grievance is not accepted, the reasons shall be specified as follows:
  - i. If the grievance liaison determines that the grievance is incomplete or

factually insufficient, the grievant will have ten (10) calendar days from the date of the written notice to provide information to make the grievance complete, including additional facts. If the grievant fails to make the grievance complete or provide sufficient facts, the grievance will be dismissed.

- ii. If the grievance liaison determines that the grievance is untimely or outside the jurisdiction of APM - 140, the grievance will be dismissed.
  - iii. If the grievance raises multiple issues, the grievance liaison will make a determination described above with regard to each issue. The grievance liaison may accept some issues and dismiss others pursuant to this review process.
3. Grievant's Preparation and Submittal of **Amended** Written Step II Formal Grievance
- a. If the initial written Step II formal grievance states insufficient facts, the Grievant may amend and resubmit it. The revised written Step II formal grievance should expand upon existing information, and/or add new information, to remedy those deficiencies identified by the Grievance Liaison.
  - b. The Grievant must submit an amended written Step II formal grievance no later than ten (10) calendar days after the date of the Grievance Liaison's written notice that the original written Step II formal grievance contained insufficient facts.
  - c. To file the amended written Step II formal grievance, the Grievant should submit it to:  
  
UC ANR Office of the Academic Personnel Unit, Attention Grievance Liaison  
PHYSICAL and MAILING ADDRESS – UC ANR, 2801 2nd Street  
Davis, California 95618  
  
(Electronic submittal and/or email is allowable.)
  - d. If the Grievant does not file an amended written Step II formal grievance within ten (10) calendar days, this shall indicate the Grievant's acceptance of the Grievance Liaison's determination and the grievance will be dismissed.
4. Grievance Liaison's Review of **Amended** Written Step II Formal Grievance
- a. The Grievance Liaison shall review the revised written Step II formal grievance (if submitted by Grievant) to determine if, whether in whole or in part, it now meets all requirements and thus will now be accepted.
  - b. Subsequent to the Grievance Liaison's receipt of the amended written Step II formal grievance, the Grievance Liaison shall issue to the Grievant a written

- determination indicating whether the revised grievance is acceptable, either in whole or in part.
- c. If one or more individual parts of the revised written Step II formal grievance are acceptable and one or more parts are not, the Grievance Liaison's determination shall accept or deny each of the individual parts of the revised grievance.
  - d. If the Grievance Liaison determines that the revised written Step II formal grievance is unacceptable, this shall conclude the Step II formal grievance process. The Grievance Liaison will provide the Grievant with a written explanation of the basis for the dismissal of the grievance.
5. Conduct of the Step II Formal Grievance Process
- a. Identification of the Step II Formal Grievance Process Reviewer
    - i. The Grievance Liaison is responsible to designate an academic appointee to serve as the Step II Formal Grievance Process Reviewer (hereinafter "Step II Reviewer").
    - ii. The Grievance Liaison **shall** decline the services of a UC ANR administrative officer as a Step II Reviewer if:
      - a. They are the Grievant's immediate supervisor and/or,
      - b. They are alleged by the Grievant to have implemented the alleged arbitrary or capricious administrative act, and/or applicable policy violation(s).
    - iii. The Grievance Liaison **may** decline the services of a UC ANR administrative officer as a Step II Reviewer if that individual has been extensively involved in the Step I informal grievance resolution process. In such a situation the Grievance Liaison may, at their discretion, designate another academic appointee with comparable authority to act as the Step II Reviewer, and so notify the Grievant and the UC ANR administrative officer.
  - b. The Grievance Liaison shall, within fifteen (15) calendar days of determining the formal grievance is complete and timely, forward the written Step II formal grievance (including any supporting materials provided by the Grievant), to the Step II Reviewer. As well, the Grievance Liaison shall advise both the Step II Reviewer and the Grievant of the due date of the Step II Reviewer's written decision.
  - c. If the written Step II formal grievance raises allegations of discrimination, sexual harassment, or retaliation in violation of PPM Section 602 and APM-035; the Grievance Liaison shall forward a copy of the grievance to the UC ANR Affirmative Action and Title IX Officer for their review.

- i. If appropriate in the judgment of the UC ANR Affirmative Action and Title IX Officer, they shall conduct an investigation and the Section 350, Step II formal grievance process shall be suspended until completion of such an investigation.
  - ii. The results of any related grievances or investigations shall be made available to the Grievance Liaison. The Grievance Liaison may, at their discretion, forward such information to the Step II Reviewer for their consideration in evaluating the grievance and making their decision.
- d. Step II Reviewers' Evaluation of Written Step II Formal Grievance
- i. The Step II Reviewer shall review the written Step II formal grievance (including any supporting materials provided by the Grievant).
  - ii. The Step II Reviewer, if appropriate, shall investigate and/or meet with the parties identified in the grievance.
  - iii. Having completed their evaluation of the written Step II formal grievance, the Step II Reviewer shall prepare a written report of the decision regarding the grievance. This report shall:
    - a. Include a statement that the Step II formal grievance is dismissed or upheld, either in whole or in part,
    - b. Shall state that the Grievant has the right to appeal the decision in Step III of the grievance procedure, and
    - c. Shall be provided to the Grievant and the Grievance Liaison within thirty (30) calendar days of the Step II Reviewer's receipt of the formal Step II written grievance.

### **C. Step III – Appeal and Hearing Process**

1. Grievant's Preparation and Submittal of Step III Written Appeal
  - a. If the Grievant objects to the decision of the Step II Reviewer regarding the Step II formal grievance, the Grievant may initiate the Step III appeal process by submitting a written appeal to the Grievance Liaison no later than fifteen (15) calendar days from the date of the Step II written report is issued.
    - i. The written Step III appeal must set forth the unresolved issue(s) and the remedy requested. Except by written mutual agreement of the parties, no additional allegations or issues may be introduced in the written Step III appeal that were not included in the original written Step II formal grievance.

- b. All Step III appeals shall be subject to Step III-A Administrative Consideration unless there is a written request for Step III-B Hearing Consideration and the issue(s) appealed are subject to Step III-B Hearing Consideration.
2. Step III-A Administrative Consideration
    - a. Except when otherwise eligible for Step III-B Hearing Consideration, within seven (7) calendar days from receipt of a written Step III appeal, the Grievance Liaison shall forward the written Step III appeal, the written Step II formal grievance, and the Step II Reviewer's written determination to the grievance to the UC ANR Associate Vice President (Associate Vice President) (or designee) for review and written decision.
    - b. Based on the record (written documents), the Associate Vice President (or designee) shall determine whether the Step II formal grievance process was properly conducted and whether the decision made by the Step II Reviewer shall be upheld, rejected, or modified, whether in whole or in part.
    - c. The Associate Vice President (or designee) shall issue a final written decision regarding the Step III-A Administrative Consideration to the Grievant within thirty (30) calendar days following receipt of the written Step III appeal. If the decision of the Step II Reviewer is rejected or modified, either in whole or in part, the written decision shall include a statement of the reasons for the decision. As well, it shall include a statement that the decision of the Associate Vice President (or designee) is final.
  3. Step III-B Hearing Consideration Eligibility
    - a. Step III-B Hearing Consideration shall be strictly limited to the following issues.
      - i. Non-reappointment (see APM-137-30-c);
      - ii. Layoff or involuntary reduction in time (see APM-145);
      - iii. Corrective action: written censure, suspension, reduction in salary, or demotion (see APM-150);
      - iv. Dismissal (see APM-150);
      - v. Medical separation (see APM-080)
      - vi. Allegations of discrimination in violation of PPM Section 602 and APM-035 involving non-reappointment, layoff, involuntary reduction in time, corrective action, or dismissal; and
      - vii. Allegations that procedures in a personnel review were incongruent with the applicable rules and requirements of UC, 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), genetic information (including family medical history), 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 a Step III-B Hearing Consideration, the Grievance Liaison shall determine whether the issue(s) identified by the Grievant are eligible for Step III-B Hearing.
  - i. If the Grievance Liaison determines that the identified issues are ineligible, the Grievance Liaison shall so notify the Grievant in writing and shall redirect the written Step III appeal for determination under Step III-A Administrative Consideration process.

#### 4. Initiation of the Step III-B Hearing Process

- a. If a written Step III appeal is found to be eligible for a Step III-B Hearing, the Grievance Liaison shall be responsible for the coordination of the selection of the Hearing Officer, within forty-five (45) calendar days from the receipt of an eligible written Step III appeal for a Step III-B Hearing.
- b. Within sixty (60) calendar days of the selection of the Hearing Officer, a hearing date shall be scheduled by the Grievance Liaison or Hearing Officer.
- c. Prior to the hearing date and upon receipt of a written request from either party, reasonable timeline exceptions may be granted by the Grievance Liaison.

#### 5. Election of a Hearing Officer

The Grievant may elect to have the grievance heard by a UC or a non-UC Hearing Officer. Election by the Grievant shall be submitted in writing and shall be final.

##### a. UC Hearing Officer

- i. The Grievance Liaison shall maintain a current list of individuals who have agreed to serve as Hearing Officers. The list shall be made available to the Grievant upon notification that a Step III appeal is eligible for a Step III-B Hearing Consideration.
- ii. The Hearing Officer shall be selected by a process of elimination, with the Grievance Liaison and the Grievant alternately striking names from the list until agreement is reached or until all but one name is eliminated, in which case the remaining person shall be the Hearing Officer.

##### b. Non-UC Hearing Officer

- i. A Grievant may elect to have a grievance heard by a non-UC Hearing Officer. If the Grievant makes this election, the Grievance Liaison shall request the local office of the American Arbitration Association to provide

the names of (5) potential experienced Hearing Officers.

- ii. The non-UC Hearing Officer shall be selected by a process of elimination, with the Grievance Liaison and the Grievant alternately striking names from the list until agreement is reached or until all but one name is eliminated, in which case the remaining person shall be the non-UC Hearing Officer.
- c. Fees  
There shall be no cost to the Grievant for a University hearing officer. In the case of a grievance heard by a non-University hearing officer, the non-University hearing officer's fees shall be borne equally by UC ANR and the Grievant if the Associate Vice President (or designee) accepts the hearing officer's recommendation(s). The fee shall be borne entirely by UC ANR if the Associate Vice President (or designee) rejects or modifies the recommendation(s) of the non-University hearing officer.

6. Decision-Making Authority of the Hearing Officer

The Hearing Officer shall have final decision making authority over the following:

- a. Procedural issue(s) that may arise before, during and after the hearing, including but not limited to matters pertaining to timing and/or scheduling, and
- b. Admissibility and the weight of the evidence, and
- c. Exclusion of evidence if it is deemed irrelevant or unduly repetitive, and
- d. The Hearing Officer shall not have the authority to issue subpoenas.

7. Preparation for the Step III-B Hearing

- a. In advance of the Step III hearing, the parties shall attempt to stipulate to the issues to be submitted for review at the hearing. If the parties cannot agree on the issues, the Hearing Officer shall define the issues for review at the hearing. Except by written mutual agreement of the parties, no issues shall be introduced for review in the hearing that were not included in the original grievance.
- b. The hearing shall provide each party the opportunity to do the following.
  - i. Present evidence,
  - ii. Examine and cross-examine witnesses, and
  - iii. Submit rebuttal evidence.
- c. Evidence and Witnesses
  - i. Evidence may be oral and/or documentary.
  - ii. Upon request, the parties shall exchange copies of any documentary

evidence, as well as a list of all of the witnesses who shall testify on each party's behalf. To the extent possible, this exchange shall be completed at least (10) calendar days prior to the hearing.

8. Conduct of the Step III Hearing

a. The hearing shall be overseen and conducted by the Hearing Officer.

b. Order of Proceedings

- i. In cases alleging a violation of non-reappointment (see APM-137-30-c), layoff or involuntary reduction in time (see APM-145), or corrective action: written censure, suspension, reduction in salary, or demotion (see APM-150), the UC representative shall proceed first in presenting the UC case at the hearing.
- ii. In all other cases, the Grievant shall proceed first in presenting his or her case at the hearing.

c. Attendance at Hearing

The Step III hearing shall be closed to all persons other than the principal parties to the grievance, unless both parties agree in writing to the presence of such additional persons.

d. Hearing Records

- i. An audio recording shall be made by UC unless the parties agree in advance to share the costs of a stenographic record. The Grievant shall be permitted to arrange for stenographic recording at the Grievant's expense if UC does not agree to share the cost. The parties should be made aware that an audio recording is being made, who shall have custody of the recording, and how copies may be obtained.
- ii. All evidence introduced into the hearing and recorded by an audio recorder, stenographic service, or by other means shall be confidential to the fullest extent allowed by law and UC policy.
- iii. The Hearing Officer shall be bound by the provisions of APM-160-20-d(2) pertaining to the Academic Senate Committee on Privilege and Tenure regarding access to records.
- iv. The Academic Personnel Unit shall be the custodian of any tapes, stenographic, or other recordings upon receipt of the report and recommendations from the Hearing Officer. Such recordings shall be retained for three (3) years.

9. Decision of the Hearing Officer

Within thirty (30) calendar days of the close of the Step III hearing, and via the Grievance Liaison, the Hearing Officer shall provide the Associate Vice President

(or designee) and the parties with a written statement of findings and recommendation(s).

- a. In cases alleging a violation of APM-137-30-c (non-reappointment), the Hearing Officer shall determine whether UC has established by a preponderance of evidence that it met the standard set forth in the policy.
- b. In cases alleging a violation of APM-145 (layoff or involuntary reduction in time) or APM-150 (corrective action: written censure, suspension, reduction in salary, or demotion), the Hearing Officer shall determine whether UC has established by a preponderance of evidence that it had good cause to take such action.
- c. In all other cases, the Hearing Officer shall determine whether the Grievant has established the following.
  - i. A specific administrative act was arbitrary or capricious and adversely affected the Grievant's then-existing terms or conditions of appointment, and/or
  - ii. A violation of applicable UC rules, regulations, or Academic Personnel Policy occurred that adversely affected the Grievant's then-existing terms or conditions of appointment.
- d. The Hearing Officer shall make findings of fact based upon the evidence presented at the Step III hearing. The Hearing Officer shall not recommend adding to, deleting from, or otherwise modifying the provisions of UC rules, regulations, or Academic Personnel Policy.
- e. No evidence other than that presented at the Step III hearing may be considered by the Hearing Officer or have weight, except that notice may be taken of any facts that are commonly known and accepted by the parties.
- f. The Hearing Officer shall not substitute his or her judgment for the academic judgment of a peer review committee or administrative officer, nor shall he or she be empowered to evaluate the academic qualifications or competence of academic appointees.

#### 10. Associate Vice President's Review of Hearing Officer's Decision

- a. The Associate Vice President (or designee) shall review the Hearing Officer's findings and recommendations and issue a final written decision within thirty (30) calendar days of receipt of the Hearing Officer's finding(s) and recommendation(s). The Associate Vice President (or designee) shall provide to the Grievant a copy of the Hearing Officer's finding(s) and recommendation(s) and a statement of the reasons for the rejection or modification of the Hearing Officer's recommendation(s) by the Associate Vice President (or designee). If a decision by the Associate Vice President (or designee) is based on facts different from those found by the Hearing Officer,

- those finding(s) must be based on materials in the record.
- b. Issuance of the Associate Vice President's (or designees') decision shall signify that the Grievant has exercised all of the due process procedures available to him/her concerning all of the issues identified his/her grievance, that the grievance and appeal process is now fully complete and concluded.
  - c. The total time period from the initial grievance filing date to the date of the final decision by the Associate Vice President (or designee) generally shall not exceed ninety (90) calendar days unless a Step III hearing is requested. The Grievance Liaison may grant reasonable requests for extensions of time. Such requests must be submitted to the Grievance Liaison in writing.
  - d. Decisions on grievances shall be in accordance with UC policies, regulations, and procedures that were in effect at the time the alleged action(s) occurred.

## 11. General Provisions

### a. Representation

Grievants may represent themselves or may be represented by another person (the "Grievant's representative") at any stage of the grievance process. UC ANR shall be represented as the Associate Vice President (or designee) deems appropriate; representation may be provided by the Office of the General Counsel.

### b. Time Limits

Prior to expiration of a time limit, extensions may be granted by the Grievance Liaison upon written request by either party. If the Grievant fails to meet a deadline, the grievance will be considered resolved on the basis of the last response from UC ANR. If a UC ANR official fails to meet a deadline, the Grievant may move the grievance to the next step in the process. Time limits which expire on days which are not business days at the location where the grievance is filed shall be automatically extended to the next University business day.

### c. Pay Status

The Grievant and the Grievant's representative, if employed by the University, shall be granted leave with pay based on their regular pay status to attend hearings and meetings convened by UC ANR to consider grievances under these guidelines. Time spent by the Grievant and the Grievant's representative in investigation and preparation of a grievance shall not be on pay status. Time spent by University employee-witnesses in meetings and hearings convened by UC ANR shall be taken as leave with pay based on their regular pay status.

d. Remedy

If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the Grievant the pay, benefits, or rights lost either as a result of the violation of University rules, regulations, or Academic Personnel policies, or as a result of an arbitrary or capricious administrative action, less any income earned from any other employment. If the hearing officer's findings and recommendation(s) include a remedy for back pay, the amount of back pay shall be determined by the Associate Vice President (or designee).

e. Back Pay

Disputes over the amount of back pay due may be referred back to the hearing officer for a separate recommendation. Any claim of back pay by a Grievant must be supported by appropriate documentation.

f. Attorney's Fees

Payment of attorney's fees shall not be part of the remedy. Unless specifically authorized by the Grievance Liaison, compensation shall not be paid for any period that is the result of extension(s) of time requested by or on behalf of the Grievant.

g. Consolidation of Grievances

The Grievance Liaison shall decide whether grievances will be consolidated. At the discretion of the Grievance Liaison, s/he may consolidate the following into one review.

- i. Filing of a grievance(s) by two (2) or more academic appointees, where the grievances are related and consolidation is appropriate under the circumstances.
- ii. Filing of two (2) or more grievances by an individual academic appointee which are based on the same incident, issues, or act.
- iii. Filing of two (2) or more grievances by an individual academic appointee which are based on the same pattern of conduct.

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## **IV. COMPLIANCE / RESPONSIBILITIES**

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### **A. Academic Human Resources Unit (AHR)**

The AHR unit has specific responsibility to implement and ensure compliance with this policy, as well as to serve as the Grievance Liaison.

## **B. Associate Vice President**

The Associate Vice President is responsible to oversight the work of the AHR unit in the specific implementation of this policy, to render a final decision in the event of a Step III Hearing, and to advise the Vice President in related matters.

## **C. Vice President**

The Vice President has general responsibility for the overall implementation of this policy. The Vice President has the authority to make exceptions to this policy, congruent with relevant UC policy.

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## **V. PROCEDURES**

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Refer to Item III, *Policy Text* above.

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## **VI. RELATED INFORMATION**

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- [UC ANR Academic Personnel Unit](#)
- [UC Office of the President Academic Personnel](#)
- [UC Academic Personnel Manual, Section 035, Affirmative Action and Nondiscrimination in Employment](#)
- [UC Academic Personnel Manual, Section 110, Academic Personnel Definitions](#)
- [UC Academic Personnel Manual, Section 137, Non-Senate Academic Appointees/Term Appointment](#)
- [UC Academic Personnel Manual, Section 140, Non-Senate Academic Appointees/Grievances](#)
- [UC Academic Personnel Manual, Section 140, Non-Senate Academic Appointees/Grievances](#)
- [UC Academic Personnel Manual, Section 145, Non-Senate Academic Appointees/Layoff and Involuntary Reduction in Time](#)
- [UC Academic Personnel Manual, Section 150, Non-Senate Academic Appointees/Corrective Action and Dismissal](#)
- [UC Academic Personnel Manual, Section 160, Academic Personnel Records/Maintenance of, Access to, and Opportunity to Request Amendment of](#)
- [UC Academic Researchers Unit MOU](#) (a.k.a. Collective Bargaining Agreement), November 8, 2019 – September 30, 2022
- [UC ANR Policy and Procedure Manual, Section 602, Employment Policies and Procedures](#)
- [UC ANR Policy and Procedure Manual, Section 602, Employment Policies and Procedures, Appendix III, Statement of Policy for ANR Sexual Harassment](#)

[Complaint Resolution & Procedures](#)

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**VII. FREQUENTLY ASKED QUESTIONS**

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Not used.

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**VIII. REVISION HISTORY**

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**November 2017:**

Format updated:

**March 2021:**

Revised for current practices, consistency and clarity, and titles and links updated.