



Date: October 31, 2022

To: Kris Bezdecny, Chair
Academic Senate

From: Heidi Riggio, Chair
Faculty Policy Committee

Copies: D. Fazzi, E. Porter, R. Roquemore, V. Salcido

Subject: **Proposed New Policy for Chapter VI (Section E: Employment Policies and Procedures) of the *Faculty Handbook*:**
FPC 21-10.5: *Procedures for Letters of Reprimand for Academic Personnel*

This is a new policy developed by FPC to address due process rights of faculty in procedures related to Letters of Reprimand. The new policy affirms the right of Cal State LA faculty members to due process (fair process and procedures, the right to defend oneself against allegations of wrongdoing) when letters of reprimand are being considered. Specifically, faculty must be notified when a letter of reprimand is being considered, before such letters are placed in the Permanent Personnel Action file (PPAF); that faculty have the right to be informed of any allegations against them and copies of any evidence, statements, or documents (as per Weingarten rights) prior to placement of any letters of reprimand in the PPAF; that faculty have a right to submit information, including evidence and names of witnesses, to Cal State LA administrators prior to placement of any letters of reprimand in the PPAF; and that faculty have a right to meet with administrators (and a right to be accompanied by a CFA or faculty representative at such meetings) prior to placement of any letters of reprimand in the PPAF. The Collective Bargaining Agreement allows for a minimum of 5 days between notifying faculty that a letter of reprimand is pending and placement of the letter in the PPAF. This new policy is consistent with the Collective Bargaining Agreement.

FPC deliberated about FPC 21-10 at its meetings of September 18, September 25, November 29, 2021, and January 31, 2022. FPC voted unanimously to approve the new policy FPC 21-10.4, *Procedures for Letters of Reprimand for Academic Personnel*, on January 31, 2022.

This new policy was approved by the Academic Senate in Spring, 2022, but returned unsigned by President Covino in August, 2022, on the basis that “*It is beyond the purview of the Academic Senate to create policy for items that address the terms and conditions of employment that were bargained for between the CFA and the CSU.*” In rebuttal to that statement, the charge of Faculty Policy Committee (Faculty Handbook Chapter II) includes recommending policy on “all matters concerning the faculty,” including “*personnel matters,*” which are defined in the policy on Personnel Committees as including discipline matters (Faculty Handbook, Chapter VI, Section B) (the FPC Charge includes a hyperlink to the definition of personnel matters in the Personnel Committees policy).^{*} Creating a policy addressing Procedures for Letter of Reprimand for Academic Personnel (a form of progressive discipline) is within the charge of FPC. The President is acting inconsistently with the Faculty Handbook when he states that the Academic Senate and its Committees have no role in addressing faculty personnel matters, including discipline.

In a response to an Intent to Raise Questions about FPC’s right to make policies about items contained in the Contract, the University indicated that “past practice” of the University is important. This new policy is consistent with past practice as indicated in the FPC Charge contained in Chapter II of the current Faculty

Handbook. The University in its response also indicated that this policy “expands on” what is in the Contract. That is exactly right, many current Handbook policies expand on what is in the Contract. It is not a violation of the Contract to expand on what is in the Contract.

Finally, although FPC did its due diligence and consulted extensively with many parties, including CFA, regarding the consistency of this new policy with Article 18 in the Contract and concluded that it is consistent with the Contract, Executive Committee of the Senate also consulted with CFA and was informed that this new policy is consistent with the Contract.

FPC engaged in additional deliberation about FPC 21-3.8 at its meetings of September 12, 19 and 26, and voted unanimously to resubmit this policy modification to the Academic Senate on September 26, 2022.

The following points summarize the new policy:

- Lines 2-5: Governing document are indicated, including Article 18 of the Collective Bargaining Agreement; CSU Executive Order 1096 (revised), which governs investigations of harassment, retaliation, dating violence, and other investigations on campus and mandates that all parties have the opportunity to present information before any decisions are made or actions taken; and the U.S. Supreme Court decision that established Weingarten Rights.
- Lines 6-7: Asserts that Cal State LA faculty have a right to due process in procedures surrounding letters of reprimand.
- Lines 7-10: Language indicates that the appropriate Cal State administrator(s) will notify any faculty person for whom a letter of reprimand is being considered prior to placement of any letters of reprimand in the PPAF.
- Lines 11-14: Language indicates that faculty members have a right to be informed of allegations against them and to receive copies of any evidence and documentation prior to placement of any letters of reprimand in the PPAF.
- Lines 15-18: Language indicates that faculty have the right to provide information and evidence to the appropriate Cal State administrator(s) prior to placement of any letters of reprimand in the PPAF.
- Lines 19-20: Language indicates that faculty have the right to meet with appropriate Cal State administrator(s) prior to placement of any letters of reprimand in the PPAF.
- Lines 21-22: Language indicates that faculty have the right to be accompanied by a CFA or faculty representative(s) when they attend meetings with administrators.
- Lines 23-24: Language indicates that letters of reprimand should be corrective and not punitive whenever possible.
- Lines 25-26: Language refers faculty members and others to Article 18 of the Collective Bargaining Agreement for information about letters of reprimand.

***The Faculty Policy Committee**

(Senate: 4/15/69, 8/1/72, 3/28/79, 2/10/81, 11/11/81 [EA], 8/4/82, 3/6/90, 8/17/99, 5/20/03; President: 4/21/69, 8/22/72, 4/24/79, 11/22/82, 4/5/90, 9/17/99, 9/5/03; Editorial Amendment: 9/00, 8/01, 11/07, 1/27/16 [EA])

Charge. The Faculty Policy Committee has the following responsibilities:

1. To recommend policy to the Academic Senate on all matters concerning the faculty that are not specifically reserved to the bargaining agent. This includes but is not limited to the following:
 - a. The committee shall develop policies and review procedures for faculty development programs, including grants, awards, publications and research.
 - b. The committee shall deal with **any personnel* matter** that may be assigned to it by the President or the Academic Senate.

Personnel Committees

(Senate: 5/30/89, 4/15/03, 5/31/11, 8/3/11 [EA], 5/9/17; President: 8/8/89, 9/25/03, 8/26/11, 5/30/17; Editorial Amendment: 9/99, 9/00; 8/01, 3/1/18 [EA])

Collective Bargaining Agreement between the California State University and the California Faculty Association, especially Articles 2, 10, 12, 13, 14, 15, 27, 28, and 29.

A faculty personnel matter is defined as a matter pertaining to personnel recommendations and personnel actions regarding a faculty unit employee. Such matters may include appointment, retention, tenure, promotion, retreat rights, **discipline**, grievance, appeals, personal and professional leaves of absence, sabbatical leaves, difference-in-pay leaves, and other awards involving a member of the faculty. Within this same context, a faculty personnel matter is further defined to include incompatibility of employment, nepotism, academic freedom and professional ethics, and other such matters.



Date: February 7, 2022

To: Talia Bettcher, Chair
Academic Senate

From: Heidi Riggio, Chair
Faculty Policy Committee

Copies: A. Avramchuk, D. Fazzi, J. Lazo-Uy, R. Roquemore, V. Salcido

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FPC 21-10: Procedures for Letters of Reprimand for Academic Personnel

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1 **PROCEDURES FOR LETTERS OF REPRIMAND FOR ACADEMIC PERSONNEL**

2 GOVERNING AND OTHER RELEVANT DOCUMENTS: ARTICLE 18 OF THE
3 COLLECTIVE BARGAINING AGREEMENT; CSU EXECUTIVE ORDER 1096
4 (REVISED); *NATIONAL LABOR RELATIONS BOARD V. J. WEINGARTEN INC., 1975*
5 (WEINGARTEN RIGHTS).

6 CAL STATE LA FACULTY HAVE A RIGHT TO DUE PROCESS IN PROCEDURES
7 RELATED TO LETTERS OF REPRIMAND. THE APPROPRIATE CAL STATE LA
8 ADMINISTRATOR(S) MUST NOTIFY ANY FACULTY MEMBER FOR WHOM A
9 LETTER OF REPRIMAND IS BEING CONSIDERED BEFORE ANY REPRIMAND IS
10 PLACED WITHIN THE PERMANENT PERSONNEL ACTION FILE (PPAF).

11 FACULTY MEMBERS HAVE A RIGHT TO INFORMATION ABOUT ALLEGATIONS
12 MADE AGAINST THEM AND TO RECEIVE COPIES OF ANY DOCUMENTS,
13 WITNESS STATEMENTS, OR OTHER EVIDENCE BEFORE ANY REPRIMAND IS
14 PLACED WITHIN THE PPAF.

15 FACULTY MEMBERS HAVE A RIGHT TO PROVIDE STATEMENTS, INFORMATION,
16 NAMES OF POSSIBLE WITNESSES, AND ANY OTHER EVIDENCE TO
17 APPROPRIATE CAL STATE LA ADMINISTRATOR(S) BEFORE ANY REPRIMAND IS
18 PLACED WITHIN THE PPAF.

19 FACULTY MEMBERS HAVE A RIGHT TO MEET WITH APPROPRIATE CAL STATE
20 LA ADMINISTRATOR(S) BEFORE ANY REPRIMAND IS PLACED WITHIN THE PPAF.
21 FACULTY WHO ATTEND SUCH MEETINGS HAVE A RIGHT TO BE ACCOMPANIED
22 BY CFA AND/OR FACULTY REPRESENTATIVE(S).

23 LETTERS OF REPRIMAND SHOULD BE CORRECTIVE AND NOT PUNITIVE
24 WHENEVER POSSIBLE.

25 MORE INFORMATION ON LETTERS OF REPRIMAND CAN BE FOUND IN ARTICLE
26 18 OF THE COLLECTIVE BARGAINING AGREEMENT.

