



*Robert Anderson*  
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*Chair of the Assembly and the Academic Council*  
*Faculty Representative to the Board of Regents*  
*University of California*  
*1111 Franklin Street, 12th Floor*  
*Oakland, California 94607-5200*

December 1, 2011

**SUSAN CARLSON, VICE PROVOST**  
**ACADEMIC PERSONNEL**  
**UNIVERSITY OF CALIFORNIA**

**Re: Proposed revisions to APM 200 and 205**

Dear Susan:

In response to your request to review proposed revisions to APM 200 and a proposed new policy, APM 205, on the recall of retired academic employees, I sent the proposed changes to all Senate divisions and systemwide committees for comment. All ten divisions and UCAP responded.

Several respondents (UCD, UCI, UCR, UCSB, UCSD, UCAP) strongly opposed the exemption of deans in APM 200 from the mandatory five year academic review, since deans are defined in APM 240-4 as academic employees and many continue to teach and do research. Peer review of academic performance is distinct from review of administrative duties. While it was reported to the Senate that this language was mistakenly included in the draft, divisions wish to register their opposition to ensure that it is struck from the final version.

Divisions generally supported the proposed new APM 205 as an improvement to and clarification of current policy. However, five divisions (UCB, UCLA, UCR, UCSB, UCSD) objected to the language in 20(e) allowing termination without cause. Emeriti are members of the Academic Senate and are entitled to the associated protections and due process prescribed in [Senate Bylaw 337](#). Provision for early termination under specified circumstances should be outlined in the contract between the recalled employee and the University rather than adopting language that would make the recalled employee an at-will employee. In addition, UCR recommends the inclusion of guidelines on recall rates for teaching (previously included in Appendix A of APM 200), and UCSD suggests restoring the language on space assignments for recalled faculty. UCSD expressed concern that 18(b)(1) and 18(b)(2) place arbitrary restrictions on clinic income depending on a faculty member's APU level. UCB suggests modifying sections 16(a) and 20(f) to state that UC policy follows federal and state benefit policies, rather than codifying the current 43% cap into the APM. UCB also raises concerns that the cap could have unintended consequences for decisions whether or not to retire. Finally, UCSF points out that any changes made to APM 200 and 205 should be consistent with revisions made to APM 670.

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

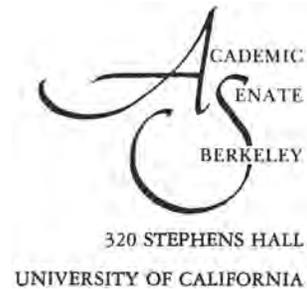
Sincerely,

A handwritten signature in black ink that reads "Robert M. Anderson". The signature is written in a cursive style with a prominent horizontal line above the first name.

Robert M. Anderson, Chair  
Academic Council

Copy: Nancy Tanaka, Executive Director, Academic Personnel  
Sharon Thomas, Analyst, Academic Personnel  
Academic Council  
Martha Winnacker, Academic Senate Executive Director

Encl.



November 23, 2011

ROBERT ANDERSON  
Chair, Academic Council

*Subject: Proposed revision of APM 200 and proposed new policy, APM 205 (recall for academic appointees)*

Dear Bob,

On October 24, 2011, the Divisional Council (DIVCO) of the Berkeley Division discussed the proposals cited in the subject line, informed by the comments of the divisional committees on Budget and Interdepartmental Relations (BIR), Faculty Welfare (FWEL), and University-Emeriti Relations (UER).

Most of the discussion in DIVCO focused on concerns raised by UER, and seconded by FWEL, about the proposed new policy regarding recall for academic appointees. Specifically, we are concerned about the provision in section 205-20 e regarding early termination, which currently reads: "At the discretion of the University, with a minimum of 30 days notice or pay-in-lieu of notice, the University may terminate a recall appointment with or without cause, prior to the specified original end date." While we recognize that some provision must be made for early termination, we agree with UER that the proposed language is "unacceptably broad and contravenes normal provisions for due process."

DIVCO acknowledged that circumstances might necessitate terminating a recall appointee, such as the loss of grant funding or low course enrollment. We believe that contingencies can be written into the recall appointment letter to address these. In sum, we are persuaded, that "[a] recall appointment is after all an employment contract between the individual faculty member and the University, and it is not acceptable to have the University be able to void such a contract without cause or any kind of due process."

We also noted that having recall appointees serve essentially "at will" would deny them due process rights and the opportunity for redress as prescribed in Senate Bylaw 337 (Privilege and Tenure: Divisional Committees – Early Termination).

Our discussion touched on two additional issues raised by BIR:

The materials do not provide any estimates from recent years about how many currently recalled retirees the current reform (and particularly the 43% rule) would affect. We suspect this number could be substantial (or at least nontrivial), depending on the benefits of University plan coverage relative to Medicare. In any event, for current retirees that are routinely recalled into part-time service, this policy change may well produce a cost savings to the University. At the same time, it is unclear how many recalled retirees would return to part-time service *because of* the prospect of University health benefits. If that fraction is substantial, then the new policy may force campuses either to do without their services, to offer other (less tax-favored) incentives to attract them, or to grant a large number of exceptions to the policy. Similarly, for prospective retirees who anticipate being recalled, the practical unavailability of the University health plan may push them into remaining on active duty. In developing their protocols for granting exceptions to the cap, Chancellors may wish to keep these dynamics in mind.

We had a more minor concern about whether codifying the 43% cap into the APM is the most prudent course of action, given the growing likelihood that Medicare policies might themselves be subject to change over the next few years ... If the University wished to move with this threshold, then it would have to amend the APM once again (a somewhat cumbersome process). It may make more sense to draft sections 205-16-a and 205-20-f in a manner that incorporates current federal /state benefit policies by reference, so as to “tag along” with any future changes in such federal/state policies.

Sincerely,



Bob Jacobsen  
Chair, Berkeley Division of the Academic Senate  
Professor of Physics

Cc: Benjamin Hermalin, Chair, Committee on Budget and Interdepartmental Relations  
Yale Braunstein, Chair, Committee on Faculty Welfare  
Calvin Moore, Chair, Committee on University Relations  
Aimee Larsen, Manager, Committee on Budget and Interdepartmental Relations



OFFICE OF THE ACADEMIC SENATE  
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TELEPHONE: (530) 752-2231

November 17, 2011

**ROBERT ANDERSON, CHAIR**

University of California  
Academic Council  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, CA 94607

**Re: Systemwide Review of Proposed Revised APM 200, General and Proposed New Policy and APM 205,  
Recall for Academic Appointees**

The proposal was forwarded to all Academic Senate standing committees and Faculty Executive Committees within the schools and colleges for comment. Detailed responses were received from the Committees on Academic Personnel-Oversight and Emeriti as well as Letter and Science Faculty Executive Committee.

Given its authority, the Committee on Academic Personnel-Oversight's response forms the basis for the Division's position on the proposals. The relevant changes to appointee recall procedures as necessary in light of federal regulations combined with benefit constraints. It supports the wording specifically relevant to this issue.

We are strongly opposed the alteration and addition of the wording in the proposed APM 200-0 stating (*italics added to highlight the section opposed*), "Every faculty member shall be reviewed at least every five years, *except for those serving as Deans, who are exempt from the five year mandatory review of their academic appointment.*" A basic tenet is that all academic appointees should be subject to the review procedures appropriate to their academic appointments, even if they also hold an appointment as an academic dean. Further, it is noted that APM 200 references APM 240, which in turn refers to the review of the academic portion of a Dean's appointment in APM 210 and APM 220, neither of which refers to any differences between the review of Deans and the review of other academic appointees.

We recognize that Deans undergo periodic administrative review, but this is separate in nature and form from peer-driven Senate review of academic performance. There was also discussion on whether Deans were considered part of the 'Senior Management Group,' (SMG) who may be exempt from academic review under the policies stated for SMG; if so, the membership of Deans in the SMG should be clearly stated in the APM, and this would necessitate changes to some of the aforementioned APMs by deleting any special references to Deans and replacing them with references as SMG members.

Additionally we are very disappointed that this proposed change was not clearly identified in the title of the proposal, which indicated that the changes would be only pertinent to the recall of academic appointees.

Sincerely,

A handwritten signature in cursive script that reads "Linda F. Bisson".

Linda F. Bisson, Chair  
Davis Division of the Academic Senate  
Professor: Viticulture and Enology



Office of the Academic Senate  
307 Aldrich Hall  
Irvine, CA 92697-1325  
(949) 824-2215 FAX

November 17, 2011

Robert Anderson, Chair, Academic Council  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, CA 94607-5200

**RE: UCI Senate Review of APM 200 – General (Proposed Revision) and APM 205 – Recall for Academic Appointees (Proposed New Policy)**

At its meeting of November 15, 2011, the Irvine Division Academic Senate reviewed the proposed changes to APM 200 – General (Proposed Revision) and APM 205 – Recall for Academic Appointees (Proposed new Policy). The following comments were presented by the Council on Academic Personnel (CAP) and the Council on Faculty Welfare, Diversity and Academic Freedom (CFW).

Council on Academic Personnel (CAP)

The Council on Academic Personnel was very concerned with the proposed revision to APM-200 – General (Proposed Revision) that would exempt academic Deans from the requirement that all faculty be reviewed at least every five years. It was later reported from the U-wide Committee on Academic Personnel that there was an error in the proposed revisions of APM-200 and that the following phrase should not have been included: "except for those serving as Deans, who are exempt from the five year mandatory review of their academic appointment."

We were told by the Systemwide Senate Office, that the proposal to revise APM-200 would not be corrected and redistributed for the review.

APM-205, Recall of Academic Appointees, takes text pertaining to Recall Appointments from APM-200, which has then been revised and language added to clarify various aspects of the program. The Council found these clarifications, particularly those concerning compensation and percentage of effort, to represent improvements to the current policy and endorsed the proposed new APM-205.

Council on Faculty Welfare, Diversity and Academic Freedom (CFW)

APM – 200, General: CFW members approved the proposed revision with one abstention.

APM - 205, Recall for Academic Appointees: CFW members unanimously approved the proposed new policy. On an editorial note, APM-200-0 has one extra comma in the first sentence of the second paragraph.

The Senate Cabinet agreed with the comments by CAP and CFW. However, the UCI Senate opposes the revision to APM-200 unless the phrase, “except for those serving as Deans, who are exempt from the five year mandatory review of their academic appointment...” is omitted from the final revision.

The Irvine Division appreciates the opportunity to comment.



Craig Martens, Senate Chair



Mary C. Gilly, Senate Chair-Elect

C: Martha Kendall Winnacker, Executive Director, Academic Senate

November 23, 2011

Robert Anderson  
Chair, Academic Council

**RE: Systemwide Review of APM 200 and APM 205**

Dear Bob,

Thank you for the opportunity to review and opine upon the proposed revision to APM 200, and the proposed new APM 205. Upon receipt of the proposals, I circulated them to all standing committees of the Divisional Senate, including the various Faculty Executive Committees. Although all committees were welcome to opine, I specifically requested that the Faculty Welfare Committee (FWC) and the University Emeriti and Pre-Retirement Relations Committee (UEPRRC) to opine.

Regarding APM 205, we are greatly concerned with the language that would allow a faculty member on recall to be terminated without cause prior to the negotiated end date of their recall. Emeriti, whether on recall or not, are members of the Academic Senate and should still be afforded the correlative protections and due process. Moreover, the proposal offered no rationale for such a clause. The Board would view favorably language that limited the early termination of appointments without cause only to circumstances of severe and demonstrable financial necessity. We therefore approve of the proposed APM 205, contingent upon revision.

With regard to the proposed changes to APM 200, the Board raised no objections to the proposal as written.

As is our custom at UCLA, I have attached the responses we have received, for your information. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,



Andrew Leuchter  
Chair, UCLA Academic Senate

CC: Martha Kendall Winnacker, J.D., Academic Executive Director  
Jaime R. Balboa, Ph.D., UCLA Academic Senate CAO

## UCLA *Academic Senate*

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October 25, 2011

To: Andrew Leuchter  
Academic Senate, Chair

From: Joel D. Aberbach, Faculty Welfare Committee Chair  
Daniel Mitchell, University Emeriti and Pre-Retirement Relations Chair

Re: Systemwide Review of APM 200 and APM 205

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The Faculty Welfare Committee reviewed the Systemwide Review of APM 200 and APM 205 at its meeting on Tuesday, October 11, 2011. The committee had no objections to the proposed changes to APM 200, but had the following concerns about APM 205:

1. APM 205. 20E – The committees found the University's ability to terminate a recall appointment without cause prior to the specified original end date unacceptable. The University has a clear and obvious obligation to abide by the agreements it makes.
2. APM 205. 24b – the Faculty Welfare Committee would like clarification to why recalled appointments in excess of 43 percent time in each fiscal year need the Chancellor's approval.

We thank you for the opportunity to participate in this process.

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

**UCLA** *Academic Senate*

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October 18, 2011

To: Andrew Leuchter, Chair  
Academic Senate

From: Council on Academic Personnel

RE: Proposed Change to APM 200, 205

CAP has reviewed the proposed changes to APM 200 and 205 and does not see a need to comment at this time.

# UCLA MEMORANDUM

College Faculty Executive Committee  
A265 Murphy Hall

November 3, 2011

To: Andrew Leuchter, Chair  
Academic Senate

From: Michael Meranze, Chair 1707  
UCLA College Faculty Executive Committee

**Re: College FEC response to the proposed revision of APM 200 and 205 (Recall of Academic Appointees)**

Thank you on behalf of the College Faculty Executive Committee for the opportunity to review and opine on UC Office of the President's proposal to revise Academic Personnel Manual 200 and 205 (Recall of Academic Appointees). We discussed the proposal over email and at our October 28, 2011 meeting. On October 31, 2011, a formal faculty vote to endorse the revisions to the policy was conducted electronically (12 approve, 0 oppose, 1 abstain).

The only concern mentioned during our discussion was APM 205-20 (Terms and Conditions of Employment). One member questioned the early termination clause and why the University was now insisting on a right to early termination "with or without" cause. This addition is, he thought, deeply troubling.

Our membership appreciates the consultative process. If you have any questions or concerns, please contact me at [meranze@history.ucla.edu](mailto: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](mailto:kmcjunkin@college.ucla.edu).

cc: Jaime Balboa, Chief Administrative Officer, Academic Senate  
Lucy Blackmar, Assistant Vice Provost, Undergraduate Education Initiatives

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**UCLA** Engineering

HENRY SAMUELI SCHOOL OF  
ENGINEERING AND APPLIED SCIENCE

## M E M O R A N D U M

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Faculty Executive Committee

TO: Jaime Balboa, CAO  
Academic Senate  
3125 Murphy Hall

FROM: Alan J. Laub, Professor  
Chair, HSSEAS FEC



DATE: November 3, 2011

RE: RESPONSE TO ACADEMIC SENATE - SYSTEMWIDE REVIEW OF APM 200 &  
APM 205

We have read the proposed revisions to APM-200 and the new proposed policy APM-205 and have the following comments:

1. The changes to APM-200 are minor, except for the deletion of 200-22 Recall Appointments for Academic Appointees and the deletions of the associated Appendices A and B. The new APM-205 is intended to provide a revision and clarification of the existing policy for recalling retired academic appointees and thus replaces the deleted sections of APM-200.

2. The clarification of the Maximum 43 Percent Appointment Requirement on first read seems clear enough. It is tied to the current Medicare's rules on health and welfare benefits and who (Medicare or UC) has primary responsibility for paying the bills. But section 205-20-f Terms and Conditions of Employment - Percentage of Effort is less clear. It says:

All concurrent recall appointments must be included when calculating the appointment percentage, not to exceed the maximum total of 43 percent time for each fiscal year.

Does this include any involvement in present and future on-line teaching, as in our MSOL program, for example? Currently, this is considered "consulting," but since the payments are made through UCLA Payroll, and Social Security and Medicare taxes are deducted, it would seem that the Medicare rules still apply (?).

3. The new APM-205 policy is vague on just how the Percent Appointment is calculated from an "effort" standpoint. In fact, it does not say, suggesting that the effort corresponding to the 43 percent maximum compensation is negotiated on an individual basis. This is in contrast to the deleted Appendix A of APM-200, which (in general) sets the recall rate for academic year appointees at 1/9th of the base salary at retirement, per quarter course, or 1/6th per semester course. In other words, teaching one course per quarter for a total of 3 courses over 3 quarters would result in a percent appointment of 33.33%. If the appointee were to add one more course, for a total of 4, the appointment would be 4/9 or 44.44%, which is slightly above the Medicare limit.

Dear Jaime -

The DGSOM FEC discussed these APM revisions at our meeting last night, November 2nd, and the Committee asked that the following feedback be communicated to you and the Senate leadership.

**With regard to APM 670**, it became apparent that many of the good qualities of the original version were being clarified, and the FEC was supportive of these improvements, and especially appreciated the table comparing the old and proposed texts. Further, it was reassuring to see that the feedback from the stakeholders had led to many of these modifications.

One potentially-concerning issue dealt with an apparent cap on the Outside Professional Earnings with an approval threshold of \$40,000 or 20% of the HPCP salary (page 29 and 30 of the clean copy of the APM). The FEC would benefit from clarification on which component of the salary this cap applies to: X, X', or Y, or some combination thereof. Additionally, concern was expressed regarding the limited earnings potential for faculty who work within the 21 day maximum but who might be compensated generously for highly-specific activities during that time. One example included a potential Nobel laureate who might command relatively large honoraria for a speaking engagement and whose activities might reach the threshold with one or two talks, well within the 21 day limit and without presenting a worrisome conflict of commitment or interest issue. The Committee noted that such lectures are of great benefit to the visibility and stature of the Institution, and as such, a threshold would seem to be counterproductive.

In fact, the University has recognized that recruitment and retention of outstanding faculty requires appropriate financial recompense, including innovative approaches to such funding as have been recommended in the new APM 668, discussed below.

Our recommendation would be to focus on the conflict of commitment issues, as addressed with the 21 day limitation, and allow flexibility as to the amounts of compensation that may be linked to activities pursued within that time frame.

**With regard to APM 668**, as mentioned above, the Committee was supportive of permitting multiple sources of salary support, including through non-state funded mechanisms. As is clear, the UC system Medical Centers have used this approach successfully for many years. However, the Committee noted that care must be taken to avoid a "slippery slope" condition with eventual lack of funding from state sources, as non-state monies might be substituted for state support.

This could change the character of the University from one with a public mission to more of a private university model.

**With regard to APMs 200 and 205**, the Committee was supportive of these proposed changes, as many members reflected on the great value of recalled faculty for teaching, research, clinical, and administrative help for departments, enabling active faculty to pursue forward-looking

activities to build the future of the University. The Committee noted the 43% cap, with the understanding that this was for health insurance reasons.

The Committee, Chair, and Vice-Chair of the DGSOM FEC appreciate the opportunity to vet and comment upon these important changes in UC policy.

Sincerely,

Ian A. Cook, M.D.  
Chair, DGSOM FEC

Jonathan S. Jahr, M.D.  
Vice-Chair, DGSOM FEC

UNIVERSITY OF CALIFORNIA, LOS ANGELES

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SANTA BARBARA • SANTA CRUZ

FACULTY EXECUTIVE COMMITTEE  
UCLA SCHOOL OF PUBLIC HEALTH  
10960 WILSHIRE BLVD #1550  
LOS ANGELES, CA 90024  
TELEPHONE: (310) 794-0910  
EMAIL: SWallace@UCLA.EDU

October 14, 2011

TO: Executive Committee, UCLA Academic Senate

FROM: Steven P. Wallace, PhD  
Chair, UCLA School of Public Health  
Faculty Executive Committee

A handwritten signature in blue ink that reads 'Steven P. Wallace'.

RE: Various APM Revisions (September 19, 2011 email)

Thank you for soliciting our input on the proposed revisions to APM sections 200, 205, 668, and 670. Given the work that the School of Public Health has done in the past on trying to develop its own compensation plan based loosely on the School of Medicine plan, we were especially interested in APM 668 which would formalize a compensation plan for all units.

We considered each of the three sets of proposals and unanimously (7-0-0) voted to endorse each of the sets of proposed changes.

# UNIVERSITY OF CALIFORNIA, MERCED

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE ACADEMIC SENATE  
SUSAN AMUSSEN, CHAIR  
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November 18, 2011

TO: SYSTEMWIDE ACADEMIC CHAIR ROBERT ANDERSON

RE: APM 205

Only one committee, CAP, opined on APM 205, and they recommended that the policy be implemented as proposed.

The Divisional Council concurs, and believes that the policy should go forward as proposed.

Sincerely,

A handwritten signature in cursive script that reads "Susan Amussen".

Susan Amussen  
Chair

cc: Divisional Council  
Senate Executive Director Susan Sims



CHAIR, ACADEMIC SENATE  
RIVERSIDE DIVISION  
UNIVERSITY OFFICE BUILDING, RM 225

MARY GAUVAIN  
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SENATE@UCR.EDU

November 18, 2011

Robert Anderson  
Professor of Economics and Mathematics  
UC Systemwide Academic Senate  
1111 Franklin Street, 12th Floor  
Oakland, CA 94607

Dear Bob:

**RE: SYSTEMWIDE REVIEW OF PROPOSED REVISED APM 200 GENERAL, AND PROPOSED POLICY APM 205 – RECALL OF ACADEMIC APPOINTEES**

In response to your request, the UCR Senate Committees on Academic Personnel (CAP), Faculty Welfare (FW), and the Division of Biomedical Sciences (BIOMED) reviewed and commented on the proposed policy issues noted in the header above. The individual responses from the committees are attached and a summary of their comments follows.

**APM-200:** There is strong opposition to the elimination of the mandatory 5-year academic review of Deans and faculty in the Senior Management Group (SMG). This issue is especially problematic regarding Deans in that it conflicts with the definition of Deans as academic employees (APM 240-4). Moreover, many Deans and faculty members in the SMG continue to have research programs and teach. These individuals are eligible for merits, so it is not consistent to exempt them from a 5-year academic review. Such a review is especially important for Deans or faculty in the SMG who receive research funds either from the campus or an ORU.

**APM-205:** Two concerns were raised.

1. FW objects to a clause in section 20e, finding the language unnecessarily harsh and too legalistic in tone. Although the committee is not proposing modification to the policy, it does feel that all University employees are entitled to know why they are being terminated even though an individual may have no right of appeal.
2. BIOMED wonders why, in Appendix A, there are no specific guidelines regarding recall rates for teaching, as was the case in the previous version of APM-200.

Sincerely yours,

Mary Gauvain  
Professor of Psychology and Chair of the Riverside Division

CC: Martha Kendall Winnacker, Executive Director of the Academic Senate  
Sellyna Ehlers, Director of UCR Academic Senate office

November 3, 2011

To: Mary Gauvain  
Chair, Riverside Division Academic Senate

From:   
Marylynn V. Yates  
Co-Chair, Committee on Academic Personnel

Re: Comments on proposed revised APM-200, General and proposed new policy, APM 205

CAP discussed the proposed revisions to APM 200 and the proposed new policy APM 205 on October 12, 2011. The background information and rationale provided regarding APM 205 was very clear, and CAP has no concerns about the proposed policy.

With respect to the proposed changes in APM 200-0, CAP has a number of concerns. No background information or rationale was provided to explain the reason for the proposed change to the requirement for the 5-year mandatory review of the academic appointment of Deans and faculty who are members of the Senior Management Group. Indeed, the elimination of the 5-year mandatory review of the academic appointment of Deans is in direct contrast to the definition of academic Deans as described in APM 240-4:

#### 240-4 Definitions

- a. An academic Dean is head of a Division, College, School, or other similar academic unit and has administrative responsibility for that unit. This assignment includes fiscal responsibility for the unit; responsibility for ensuring diversity of the faculty, students and staff, including maintaining an affirmative action recruitment and retention program consistent with University affirmative action policies, Regental policy and applicable law; and responsibility for ensuring that systemwide and local policies, including Academic Senate regulations, are observed.
- b. As academic heads of their units, Deans are persons of scholarly and professional accomplishment. The University encourages their continued engagement as academicians in scholarly, professional, teaching, and University service activities, consistent with, but distinct from, their decanal responsibilities. Therefore, it is appropriate for time to be allotted to them to engage in these activities.

As the academic heads of their units, it is imperative that Deans maintain scholarly and professional accomplishments. Many, if not all, Deans receive support to allow them to continue their scholarly activities. CAP is unanimous in its opposition to the proposed changes to APM 200-0.

November 1, 2011

To: Mary Gauvain, Chair  
Academic Senate  
Riverside Division

From: Daniel S. Straus, Chair  
Biomedical Sciences Executive Committee

Re: Systemwide Review of Proposed APM-200, General and Proposed New Policy, APM-205, Recall for Academic Employees

The Biomedical Sciences Executive Committee reviewed the documents. It looks like we are being asked to comment specifically on APM 205-18b, entitled "Rate of Salary for Faculty Retired from a Health Sciences School". This section seems reasonable to us. However, we offer the following comments on other sections of the documents:

**APM -200 Draft: page 1:** It is stated that Deans are exempt from five year review and that faculty who are in the Senior Management Group may also be exempt. This seems to suppose that Deans and faculty in the Senior Management Group should be exempt from normal review because they do not have research programs or teaching responsibilities. In fact, many Deans and faculty in SMG do teach, and some are given support for their research from the campus or from an ORU. To our knowledge, senior administrators who teach and do research are eligible for merits, so it does not seem logical to exempt them from a five-year review. Furthermore, anyone who receives funds for their research either from the campus or from an ORU like the Agricultural Experiment Station should not be exempted from a five year review under any circumstances.

**APM-205 New Policy Draft:** The previous version APM-200 Appendix A had specific guidelines regarding recall rates for teaching:

**Compensation:** In general, the recall rate for academic-year appointees will be 1/9<sup>th</sup> of the base salary at the time of retirement per quarter course or 1/6<sup>th</sup> of the base salary per semester course, not to exceed the current salary rate for Professor, Step VII. Fiscal-year salaries should be converted to the academic-year equivalent salary. Campus administrators and faculty may negotiate a higher or lower salary rate, as appropriate to the nature of the course, to reflect specific needs.

Shouldn't APM-205 also have specific guidelines?

 UNIVERSITY OF CALIFORNIA  
**UCRIVERSIDE** | *Academic  
Senate*  
**COMMITTEE ON FACULTY WELFARE**

November 4, 2011

To: Mary Gauvain, Chair  
Riverside Division of the Academic Senate

From: Irving Hendrick, Chair  
Committee on Faculty Welfare

**Re: Proposed Revisions to APM 200 and 205, Recall of Academic  
Appointees**

The Committee understands that the proposed policy revisions have already been considered several times and that there is very little left for us to say.

We would, however, like to make two suggestions:

First, with regard to the proposed APM 205-20e, we object to the clause, “the University may terminate a recall appointee with or without cause, prior to the specified original end date.” That language, while possibly customary in legal circles, seems unnecessarily harsh in the setting of a University of California campus. All University employees, faculty and staff, active or recalled, are entitled to know why they are being terminated. We are not proposing any new limits on the University’s flexibility with regard to recall appointments, only that recall employees receive the courtesy of being told why their services are no longer desired. We imagine that budgetary or space constraints might be the most common reasons, but other issues might also arise. In a word, there is always a reason for a termination, and it is not asking too much for the appointee to be told what that is, even though s/he has no right of appeal.

Second, with regard to the proposed APM 200, we recommend that deans not be exempted from the five year academic review. The principle of a five year academic review is important and is consistent with the career origin of deans. This reality was reinforced by the removal of deans, first from the Executive Program and later from the Senior Management Group. Deans are also faculty.

November 16, 2011

Robert Anderson, Chair  
Academic Senate

RE: Proposed Revised APM 200, General and Proposed New Policy APM 205, Recall for Academic Appointees

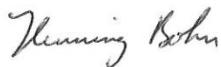
Dear Robert,

The Committee on Academic Personnel (CAP) and the Council on Faculty Issues and Awards (CFIA) in the UCSB Division have reviewed the proposed Revision to APM 200 and the proposed new APM 205. Both groups take strong issue with the language exempting Deans from the five-year mandatory review as they believe that Deans continue to be involved in scholarship while serving in administrative roles and the mandatory review should continue. It has been communicated that this language should not have been included in the proposed revisions however it has not been stricken from any of the proposals thus far.

CFIA has an additional concern about the section in proposed APM 205 on Terms of Employment (205-20) dealing with Early Termination (paragraph e). This section allows for the University to terminate a recalled appointee "without cause" prior to the end of the specified contract date. Such a policy would be inconsistent with current practice and would violate faculty rights of due process. CFIA does not support the proposed language in Section 205-20,e.

Thank you for the opportunity to comment.

Sincerely,



Henning Bohn, Chair  
UCSB Division



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Office of the Academic Senate  
SANTA CRUZ DIVISION  
125 CLARK KERR HALL  
(831) 459 - 2086

November 18, 2011

Bob Anderson, Chair  
Academic Council

**RE: UCSC Response to APM – 200 and proposed new policy AMP – 205, Recall for Academic Appointees**

Dear Bob,

The UC Santa Cruz Division reviewed and discussed proposed revisions to APM-200 and the proposed new policy APM-205, Recall for Academic Appointees,

Our Committees on Faculty Welfare (CFW), Planning and Budget (CPB), and Academic Personnel (CAP) are all supportive of the revisions and clarifications for recalling retired academic appointees to active service in academic titles, without incurring potential new costs in those recall appointments. In addition, the added clarity of the policies will help faculty and staff understand and operationalize these personnel actions to the benefit of their campuses.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Gillman".

Susan Gillman, Chair  
Academic Senate  
Santa Cruz Division



OFFICE OF THE ACADEMIC SENATE

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November 15, 2011

Professor Robert Anderson  
Chair, Academic Council  
University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, California 94607-5200Subject: Proposed Changes to APM 200 – Appointment and Promotion, General and Proposed  
New APM 205 – Recall for Academic Appointees

Dear Bob,

The proposed changes to APM 200 – Appointment and Promotion, General and the proposed new APM 205 – Recall for Academic Appointees were transmitted to the appropriate Divisional committees, and the Senate Council discussed the proposed changes at its meeting on November 7, 2011.

In addition to specific comments (below), a broad concern surfaced in the Senate Council's discussion. From the University's perspective, the ability to recall faculty members is an important and practical tool for departments in managing instructional responsibilities, especially during periods of transition. There is always a risk that the public would see this practice as "double-dipping". Of more concern to reviewers, however, is the possibility that recall appointments could have long-term negative implications on the hiring of new (replacement) faculty, especially if it is easier to recall a retired faculty member than to hire a new faculty member.

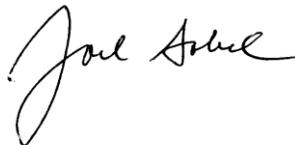
- APM 200-0: Reviewers noted that the revisions would automatically exempt academic deans from the review of their underlying faculty appointment. While recognizing that the nature of a dean's appointment can make it difficult to maintain an academic profile, the Committee on Academic Personnel thought deans should not be automatically exempt from the academic review of their faculty appointment. In keeping with the treatment of SMG members with an underlying faculty appointment, and to allow flexibility in certain individual cases that warrant exemption due to the nature of a dean's duties, CAP suggested that the language be changed to reflect that "Chancellors may exempt individual deans from a five-year review of the underlying faculty appointment."
- APM 200, Appendix A: The changes show Appendix A (Pre-Retirement Recall Guidelines for Faculty Recalled for Post-Retirement Teaching) as being deleted from APM 200. The Appendix contains a paragraph addressing space assignments for recalled faculty members. This topic does not appear in the proposed APM 205. Deleting language that provides clear guidance regarding space assignments for recalled faculty members may lead to assumptions and unrealistic expectations. The Committee on Privilege and Tenure recommended that the following two sentences from Appendix A be included in APM 205: "Assignment of office

space is subject to the agreement reached between campus administrators and the recalled faculty member. Recall for teaching appointments will not normally include any commitment of research space.”

- APM 205-18(b)(1) and 18(b)(2): Section 205-18 of APM 205 contains expanded language regarding rate of salary. Some reviewers expressed strong concern that 18(b)(1) and 18(b)(2) place apparently arbitrary and counter-productive restrictions on university clinic income for faculty at different APU levels. For example, if a retired doctor wants to work in the clinic one day per week, the proposed changes imply that his or her opportunity to receive reimbursement from university collections depends on his or her APU level (e.g., APU 0 vs. APU 3). Clarification on this point is requested.
- APM 205-20(e): Section 205-20(e), Early Termination, is new. Reviewers noted that the language in this section provides the University with more flexibility regarding recall appointments. Some reviewers disapproved of the proposal to allow termination without cause and requested justification of this proposal and an explanation of the conditions under which it might be used. Others assumed that the contract between the recalled faculty member and the sponsoring unit should spell out conditions under which the contract could be cancelled. The consensus of the Senate Council was that the new policy required contracts that clearly defined expectations and conditions under which termination was possible.
- APM 205-24(b): The last sentence of 205-24(b), a statement about the implications of an appointment at more than 50% time, seems out of place in a section outlining authority. Reviewers suggest that this sentence be moved to 205-20(f) – Percentage of Effort.

I hope that these comments are useful.

Sincerely,



Joel Sobel, Chair  
Academic Senate, San Diego Division

cc: Divisional Vice Chair Masters  
Executive Director Winnacker



**Academic Senate**  
senate.ucsf.edu

November 18, 2011

Robert Anderson, PhD  
Chair, Academic Council  
Academic Senate, University of California  
1111 Franklin St., 12th Floor  
Oakland, CA 94607-5200

Re: Proposed Changes to APM 200 and APM 205 (Recall for Academic Appointees)

Dear Chair Anderson:

The San Francisco Division has reviewed the proposed changes to APM 200 and APM 205 (Recall for Academic Appointees). The faculty had no comment beyond requesting that any changes made to APM 200 and APM 205 should be consistent with any revisions to APM 670, currently under UC Systemwide review.

Furthermore, I have reviewed the changes proposed by UCSF Academic Affairs and concur, finding them to be consistent with related discussions among the UCSF faculty. I have included their response as an attachment for your reference.

Sincerely,

A handwritten signature in black ink, reading "Robert Newcomer". The signature is written in a cursive, flowing style.

Robert Newcomer, PhD  
Chair, UCSF Academic Senate

Enclosure: UCSF Campus Response: Proposed New Academic Personnel Policy 205- Recall for Academic Appointees (November 18, 2011)

cc: Martha Winnacker, JD, Executive Director, UC Systemwide Academic Senate

## UCSF CAMPUS RESPONSE

## Proposed New Academic Personnel Policy 205 – Recall for Academic Appointees

The proposed policy listed above was sent via email to all academic appointees at UCSF for their review and comments. In addition, the Vice/Associate Deans-Academic Affairs from each of the Schools have extensively reviewed the proposed policy. We offer the following feedback:

**APM 205-16 a:**

**Prior** version: *“Academic recall appointments may not exceed a total of 43 percent time per month inclusive of all recall appointments”*

**Current** version: *“Compensation for recall appointments may not exceed a total of 43 percent time for each fiscal year, inclusive of all recall appointments.”*

This revision has significant impact to the intent and application of the policy. The change in text means that an academic appointee could be recalled greater than 43% (up to 100%) for part of the fiscal year and still be compliant with policy. While we appreciate and support the needs of the general campuses to recall academic appointees for short periods of time at a higher percentage effort (e.g. 100% for one quarter to teach a course), the fiscal liability of this scenario cannot be ignored.

From the document: “Clarification on Maximum 43 Percent Appointment Requirement Concerning Health and Welfare Benefits”:

1) *“According to the University’s group health insurance plan (“Plan”) and University policy, retirees recalled to an academic appointment at over 43.75 percent of a full time appointment receive Plan health and welfare care benefits. At the 43.75 percent juncture, according to Medicare rules, the Plan rather than Medicare becomes the primary payer for health care claims made by Medicare covered retirees. Understandably, the University wants to avoid this switch in status from happening and avoid the significant adverse financial impact the Plan appointments of more than 43.75 percent would trigger.”*

- It is our understanding that this rule applies to the retiree and to all of the retiree’s dependents. However, we do not believe that the campuses have access to information that would assist in determining whether a retiree is Medicare eligible and/or whether their spouse/dependents are Medicare eligible. Without such information, it would be impossible to track or proactively monitor whether the switch in status is applicable or imminent.

2) *“ avoid the significant adverse financial impact the Plan appointments of more than 43.75 percent would trigger” ... “the consequences of exceeding the percentage maximum for recall appointments may lead to federal funding consequences for the University”.*

- It is our understanding that even if one campus is compliant with the policy and/or limits all recall appointments to 43%, that campus could still face significant federal funding consequences if another campus is not diligent in ensuring compliance. For example, should a Medicare audit on Campus A result in the suspension of federal funding, the funding is withheld across the entire system – not just to Campus A. So federal funding for an NIH R01 grant on campus B could be withheld because campus A was non-compliant.

Because of the significant adverse financial impact to the Plan as well as the federal funding consequences to the University that would result from non-compliance, we strongly urge that the prior version of APM 205-16a be maintained. As noted in the Clarification document, “By limiting recall appointments to 43 percent or less, the University makes certain that appointments are well under this 43.75 percent threshold-- where primary health care claim responsibility shifts from Medicare to the Plan. “

**Assuming the prior versions of the language is maintained:**

**APM 205-16 a:** *“Academic recall appointments may not exceed a total of 43 percent time per month inclusive of all recall appointments.”*

We believe this language requires further clarification with respect to payments not associated with a % effort. For example, the following two situations have been identified on our campus and we are unsure whether the policy (as written) would permit or prohibit them:

- 1) stipends for administrative work not associated with a 43% recall appointment (e.g. 43% recall for research; also serves in a School leadership role)
- 2) faculty who are recalled back into the compensation plan and perform clinical activities would technically be eligible for clinical incentives per the terms of the compensation plan. As such, they may be earning additional compensation in the form of one-time payments which are not associated with a % effort and which may be in addition to a 43% recall appointment.

**APM 205-18 b. 2).** *“Remuneration for any clinical activities performed at any time must be remitted to the HSCP.”*

This language would suggest that faculty who are recalled back into the HSCP can engage in paid clinical activities outside UCSF as long as the remuneration is remitted to the Plan. This is not consistent with the new APM 670 language (670-19 a. “Patient care activities must be provided within the University setting, or as part of an approved affiliation agreement or professional service agreement. All clinical income is due to the Plan. In no case will Plan participants be allowed to retain income from patient care activities.”). We recommend that the language regarding clinical activities be consistent in both policies to prevent any confusion and ensure equal treatment of active and recalled faculty members.

**205-24 b.** *“Appointments in excess of 50 percent time in each fiscal year constitute a return to active University employment with a required suspension of retirement benefits.”*

According to the University's group health insurance plan (“Plan”) and University policy, retirees recalled to an academic appointment at over 43.75 percent of a full time appointment receive Plan health and welfare care benefits. We question whether APM 205-24b should read “in excess of 43 percent time” rather than “in excess of 50 percent time”.

**Consistency with APM 670:**

To ensure equal treatment of active and recalled faculty members vis-à-vis the HSCP, and to avoid any confusion or conflict between APM 205 and APM 670, we ask that any revisions made to APM 670 during system-wide review be coordinated as appropriate with APM 205 to ensure consistency.



UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL (UCAP)  
Katja Lindeberg, Chair  
klindenberg@ucsd.edu

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October 31, 2011

BOB ANDERSON, CHAIR  
ACADEMIC COUNCIL

**RE: PROPOSED CHANGES TO APMs 200 and 205**

Dear Bob,

UCAP discussed the proposed revisions to APMs 200 and 205 during its October 11<sup>th</sup> meeting. The committee had no concerns about the revisions except for the statement that deans are exempt from academic review. The committee believes that the concept of having two classes of faculty is problematic and that a separate category for deans who do not want to be faculty could be established. The committee objects to exempting deans from a normal review.

Sincerely,

A handwritten signature in cursive script that reads "Katja Lindeberg".

Katja Lindenberg, Chair  
UCAP