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Assembly of the Academic Senate, Academic Council
University of California
1111 Franklin Street, 12th Floor
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August 3, 2005

**ELLEN SWITKES, ASSISTANT VICE PRESIDENT
ACADEMIC ADVANCEMENT**

**Re: Informal Review of Proposed Revisions to Systemwide Academic Personnel Policies
Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General
APMs 710, 080, and 700**

Dear Ellen:

The Academic Council considered the proposed APM revisions governing sick leave, medical separation and general leaves of absence in the context of an informal review during its July 27, 2005 meeting, and concurred with the comments and recommendations that were submitted by the Senate reviewers. The highlights of those are listed below and the reviewers' response letters are enclosed to give you the full benefit of their deliberations. In addition, I wish to point out that during my own review of these policies, I noted that the proposed revision of APM 700-16, suggesting that the chancellor may make a final decision on a separation, contradicts the Standing Orders of the Regents and Senate Bylaws governing early termination, which require that the Divisional Privilege and Tenure Committee be notified prior to the intended action, and that the affected faculty member be given the opportunity for a hearing before the Privilege and Tenure Committee. This represents a major oversight in the draft policy that will need to be rectified.

Other Comments on APM 700-16: Presumptive Resignation

- There should be a specific minimum cutoff point designated for an absence without leave, beyond which continued absence would prompt separation proceedings.
- The thirty-day response limit is too short for an action as serious as termination.
- The policy should include a statement that the administration has made a good faith effort to notify the affected faculty member.

APM 710: Sick Leave

- The maximum amount of paid sick leave for academic appointees with more than 10 years of service would be one year of paid sick leave in a 10-year period. This seems unfair since faculty who have worked 22 years would be granted less sick leave than staff that have accrued sick leave for the same period of time.

APM 080: Medical Separation

- What is meant by “essential duties” and who makes the determination that a faculty member is unable to perform them?
- In 080-1, a statement should be included that faculty be represented in the separation process.

Long-Term Disability Leaves

- For untenured ladder faculty, there should be a statement clarifying that the tenure clock will stop while they are on a long-term disability leave.

In addition to the above comments, UCFW reported that you and your staff have agreed to the following modifications, which Council will expect to see included in the revised drafts:

- These policies will be faculty entitlements rather than recommendations to chancellors.
- The right to sick leave and the amount that is provided *shall* be granted, as opposed to *may* be granted.
- Protections will be included to safeguard against medical separations being initiated too early.
- A statement will be included in the sick leave policy to the effect that paid sick leave for the care of a family member or domestic partner is not prohibited. The faculty member will then be referred to the policy on leave of absence with pay.

As you know, the usual process that the Senate follows for considering APM policy changes was not followed in this review, which leaves us with the question of whether a second informal review should be undertaken in the fall. In considering the number of substantive changes that will be required to make these acceptable APM policies, the Academic Council has concluded that it would be irresponsible not to commence a second informal review once these drafts are revised. Moreover, these are important policy changes with significant implications for the welfare of UC faculty, and since there is no urgency associated with their implementation it is Council’s view that both the faculty and administration would be best served by giving these policies the careful and close consideration they deserve.

Please let me know your timeline for when the Academic Council will have the opportunity to review and comment on the revised draft policies in a second round of informal review.

Best regards,



George Blumenthal, Chair
Academic Council

Encl.: Comment Letters from UCFW, UCEP, UCI, UCSD, UCB, UCD, and UCR

Copy: Academic Council
María Bertero-Barceló, Executive Director



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
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July 15, 2005

**GEORGE BLUMENTHAL, CHAIR
ACADEMIC COUNCIL**

**Re: Update on UCFW Subcommittee's Review of the Proposed Revisions to APM 700,
710 and Proposed New APM 080**

Dear George:

On behalf of the UCFW subcommittee charged with working with the administration on revising the draft APM policies on medical leaves/sick leaves, I have nothing new to report since my June 10 update. Although the subcommittee reports that it has made significant progress in a number of areas, it has not seen a new draft that reflects the changes that were negotiated with Academic Advancement Assistant Vice President Ellen Switkes and her staff. The chief among those were:

- These policies will be faculty entitlements rather than recommendations to chancellors.
- The right to sick leave and the amount that is provided *shall* be granted, as opposed to *may* be granted.
- Protections were included to safeguard against medical separations being initiated too early.
- A statement will be included in the sick leave policy to the effect that paid sick leave for the care of a family member or domestic partner is not prohibited. The faculty member will then be referred to the policy on leave of absence with pay.

At UCFW's June 20 meeting, AVP Switkes reported that her staff had consulted closely with the UCFW subcommittee and was also continuing to receive comments from other reviewers, and that in another month she would assess whether a second informal review was warranted or if Academic Advancement could proceed with a formal review of the proposed policies in the fall, as planned. It was the preference of UCFW members that there be a second round of informal review, but the committee agreed to leave the question open for now.

Cordially,

/s/

John Oakley, Chair

University Committee on Faculty Welfare

Copy: UCFW



UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY (UCEP)
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April 25, 2005

GEORGE BLUMENTHAL, CHAIR
ACADEMIC COUNCIL

Re: Proposed Revisions to APM 710 and 700 and Proposed New APM 080

Dear George,

At its April 11, 2005 teleconference meeting, UCEP reviewed proposed revisions to APM 710 and 700, concerning Leaves of Absences and Sick Leave, and the proposed new APM 080, related to Medical Separation.

While many provisions of these proposals are not closely related to our charge and we are not commenting on them, we agreed that the APMs should include explicit language outlining appropriate Senate involvement in the separation procedures for faculty falling under these provisions.

Specifically, we are concerned with the proposed revision on page 2 of APM-700, Benefits and Privileges, Leaves of Absence/General, entitled "700-16, Restrictions". This amendment is also summarized in the third bullet point of the cover letter as a revision that "...adds the concept of constructive resignation for faculty who are absent without approval or who do not return to assigned duties after an approved leave of absence".

In the current version of the revision, it is unclear who constitutes "The University" in the provision for University review of a faculty member's response to a forced resignation decision. The decision to separate and the review of faculty appeals seems to be entirely at the discretion of the administration. Instead, the APM language should explicitly state that the right to grieve such an action should *automatically* trigger Senate review through Senate Privilege and Tenure committees.

In addition, we believe it would be useful for the APM language to designate a specific, minimum cutoff point for an absence without leave, beyond which continued absence would prompt separation proceedings. This would help prevent proceedings from being triggered if an individual forgot to deliver official notification about a conference trip. Members made suggestions of both 30 days and 3 months for a cutoff period.

In sum, we agree that faculty should not be making excessive or inappropriate use of Leave, but we fear that without proper safeguards, including appropriate Senate review, the proposed disciplinary provisions could be perceived as unfair.

The committee looks forward to reviewing the comments of the University Committee on Faculty Welfare and other Senate committees who we expect will evaluate this and other aspects of the proposed policy in greater detail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe Kiskis".

Joe Kiskis
Chair, UCEP

JK/ml

cc: UCEP members
Executive Director Bertero-Barceló



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June 3, 2005

George Blumenthal, Chair, Academic Council
1111 Franklin Street, 12th Floor
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RE: Informal Review of Proposed Revision to System-wide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General (APM 710, 080, and 700)

The Irvine Division concludes that these three proposed APM revisions do not appear to subordinate faculty rights. Irvine agreed with the general principle that faculty members can be terminated and, if needed, the Committee on Privilege and Tenure would be available to address faculty complaints related to leaves and separations.

It is unclear, however, why a new policy and revisions to two existing policies are needed. It would have been helpful to our deliberations to know the rationale behind the proposed new and revised policies. These are some questions that arose in our discussions.

- In what ways are the current policies not working?
- How do other universities handle medical and general separation of faculty?
- What happens to a faculty member who has a chronic health or mental health problem when he or she is in remission?
- Is the related policy on salary continuance for faculty being reviewed at this time?

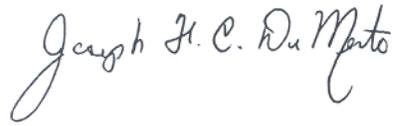
We have no comments on APM 710.

Regarding APM 080, the notable benefit to this policy is that it will provide departments with a clear policy for dealing with faculty members who are unavailable for long periods of time due to medical separations. APM 080-0 uses the wording "essential duties" and "essential assigned functions." It would also be helpful to have a clear and consistent standard laid out when a faculty member is hired to define the person's duties so that a medical separation can be assessed and documented relative to the expected standards. In APM 080-1, Basis for Medical Separation Review, we recommend that the faculty should have representation or advocacy in the separation process and a statement to that effect should be added.

In APM 700, because termination is a serious action, a thirty day response limit seems an unreasonably short deadline. We recommend the addition of a statement that all good faith efforts possible need to be made by the administration to notify the affected faculty member. These could include the use of temporary addresses, emergency addresses, and next of kin

addresses. Also, when a faculty member is on leave, the faculty member should provide the department with multiple persons or places for contact.

We appreciate the opportunity to comment on this important matter.

A handwritten signature in black ink that reads "Joseph F.C. DiMento". The signature is written in a cursive style with a large initial 'J' and a stylized 'M'.

Joseph F.C. DiMento, Senate Chair



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May 9, 2005

PROFESSOR GEORGE BLUMENTHAL, Chair
Academic Senate
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1111 Franklin Street, 12th Floor
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SUBJECT: Informal Review of Systemwide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation, Leaves of Absence/General:
APM 700, Leaves of Absence/General
APM 080, Medical Separation
APM 710, Leaves of Absence/Sick Leave/Reasonable Accommodation for Academic Appointees with Disabilities

Dear George:

The Senate Council of the San Diego Division received comment from the cognizant committees and considered the Academic Personnel Policy proposals at its May 2, 2005 meeting. The Council endorsed the proposals and made the following comments:

- 700-16, Restrictions. The concept of presumed resignation represents a major policy change. The Committee wondered if this portion of the policy was the most appropriate place to introduce this concept. Also, there is no indication of how long an academic appointee could be absent before the presumption would be made that he or she had resigned. Concern was expressed that without such a safeguard, a presumed resignation could be precipitated even when there was no intent by the faculty member to do so.
- 080-3.a, Notice. Separating the last sentence in the paragraph into two sentences would make this portion more understandable.
- 710-0, Policy. Why was the word “personal” inserted? Is the intent to exclude sick leave for a faculty member when another member of their family is ill?
- 710-22, Paid Sick Leave for Academic Appointees Who Do Not Accrue Sick Leave. Why are faculty covered by the Health Sciences Compensation Plan excluded?
- 710-22(d). The phrase “is not carried over if unused” seems redundant and unnecessary.

Sincerely,

Donald F. Tuzin, Chair
Academic Senate, San Diego Divisioncc: J.B. Minster
ChronFile



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

May 23, 2005

GEORGE BLUMENTHAL
Chair, Academic Senate

Subject: Proposed Revisions to Systemwide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General—APM 710, 080, and 700

At its meeting on May 9, 2005, the Divisional Council (DIVCO) of the Berkeley Division discussed the *Proposed Revisions to Systemwide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General—APM 710, 080, and 700*, and the comments of the Committee on University Welfare (UWEL).

There was broad agreement that the proposed revisions provide needed clarification of existing policies. However, both DIVCO and UWEL raised a number of issues and concerns that require additional clarification.

Current policies for managing faculty absences due to illness afford considerable departmental discretion. DIVCO acknowledged that some latitude would still be possible under the proposed policies, and felt that this is appropriate. DIVCO recommends that the policies make clear the point at which these informal, discretionary arrangements transition into the more formal approaches.

In addition, it is not clear how “essential duties” are defined, and who makes the determination that a faculty member is unable to perform them. DIVCO recommends that the process for medical separation parallel APM 075, regarding Termination for Incompetent Performance, in which the Committee on Privilege and Tenure presides over the appeal process. Council members also felt strongly that the committee should be involved early in the process, and should play a role in determining the essential duties of academic positions.

In its comments, UWEL noted that the language in the proposed policies is vague. The policies should define terms such as “updated medical information” and “appropriate medical documentation.” In addition, the policies would be strengthened by a clear and explicit statement about the relationship between the various categories of leaves.

Finally, UWEL noted that there should be a statement relating to long-term disability leaves for untenured ladder faculty making it clear that being granted such a leave stops the tenure clock.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Knapp". The signature is written in a cursive style with a large initial "R".

Robert C. Knapp
Chair, Berkeley Division of the Academic Senate

Cc: Yale Braunstein, Committee on Faculty Welfare
Dmitry Gudkov, Senate staff, Committee on Faculty Welfare



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May 6, 2005

George Blumenthal, Chair
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Dear George,

In response to the March 18, 2005, request for review, the only substantive response received from committee review is a question of who is going to pay for implementation of this policy. I quote the question of a highly respected female faculty member: "Who pays for this? I am assuming that individual departments and units are NOT responsible for the costs but that it is a university-wide responsibility. Other wise I could anticipate some discrimination in hiring women of reproductive age."

Sincerely,



Daniel L. Simmons
Professor of Law and
Chair of the Davis Division
of the Academic Senate



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June 9, 2005

George R. Blumenthal
Professor of Astronomy & Astrophysics
Chair, UC System wide Academic Senate
1111 Franklin St., 12th Floor
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RE: Informal Review of Proposed Revisions to System wide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General--- APMs 710, 080, and 700
<http://www.universityofcalifornia.edu/senate/underreview/apm.700.080.710.pdf>

Dear George:

The above policy was reviewed by the appropriate committee of our Division and below is a summary of their discussion:

- With regard to the proposed changes to APM 700, we found the institution of a constructive resignation policy for faculty generally reasonable. However, it was concerned that such a policy not create an inflexible situation in which faculty who are on extended leaves of absence for reasons beneficial to their home departments and/or campus would be forced to forego them.
- With regard to the proposed APM 080 and the proposed revisions to 710, we found these changes also to be in general reasonable. However, with respect to 710 and the limit of twelve months of sick leave proposed in it for faculty who have worked more than 10 years, we were concerned about this upper limit. This limit would create a situation where faculty who have worked more than 22 years would be granted less sick leave than staff that have accrued sick leave for the same period of time. This seems unfair to faculty.

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

Sincerely,

A handwritten signature in cursive script that reads "Manuela".

Manuela Martins-Green
Chair, Riverside Division