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Vice 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

September 29, 2011

SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL
UNIVERSITY OF CALIFORNIA

Re: Proposed revisions to APM 530 and 710-11

Dear Susan:

In response to your letter of June 14, 2011, we solicited comment on the proposed revisions to APM 530 and 710-11. Five divisions (UCI, UCLA, UCR, UCSB, UCSD) and UCFW commented. Academic Council discussed the responses at its meeting on September 28. We have no comment on APM 710-11, which merely makes a typographical correction. However, synthesizing the views of Senate respondents, Council found some of the proposed revisions to APM 530, which were labeled as technical, to be substantive and objects to having such changes designated as merely technical.

The concerns of Senate agencies focus on two issues. First, the proposed language changes the criteria for University sponsorship of foreign faculty members. While the current language requires “distinguished merit and superior ability,” the revision stipulates that the individual shall be “critical to the University’s academic and research mission.” Senate divisions and committees fear that this sets an extraordinarily high bar that may limit or discourage international recruiting. This, in turn, would harm the University’s excellence in research and teaching and ultimately its international reputation (UCI, UCLA, UCSB, UCFW). Moreover, it would be difficult to defend any determination that an individual is “critical” to the University’s mission, so that the University’s hiring decisions would be opened to challenge (UCLA, UCSB). The language also removes the possibility of exceptions. UCSB notes, “the proposed policy appears stricter than the federal guidelines that outline the path for permanent residency.”

Second, Senate respondents took issue with making Chancellors responsible for authorizing sponsorship because it could cause delays in approval (UCR) and may prove to be a burden on the Chancellors (UCFW), and could possibly jeopardize tenure decisions on non-citizen Assistant Professors (UCI).

Finally, UCI raises the question of whether the phrase “work authorization” applies to a broader category of employees, including those on short-term appointments that require individuals to be placed on the University payroll such as international speakers and lecturers, short-term postdoctoral researchers, visiting scholars and creative artists.

The proposed changes to APM 530 are not acceptable to the Senate. The current standards of distinguished merit and superior ability are appropriate and should not be replaced with more restrictive standards. We request a further revision of the proposed changes and that the new proposed language be submitted to my office for review by UCFW and UCAP. We look forward to working with you further on APM 530.

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

Sincerely,

A handwritten signature in cursive script that reads "Robert Anderson".

Robert M. Anderson, Chair
Academic Council

Copy: Gina Durrin, Administrative Analyst
Academic Council
Martha Winnacker, Academic Senate Executive Director

Encl. (6)



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

August 26, 2011

Daniel Simmons, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Senate Review of the Proposed Technical Changes to APM 530 and 710-11(a&b)

At its meeting of July 19, 2011, the Irvine Division reviewed and endorsed the proposed revisions to the Academic Personnel Manual (APM) 530 and 710-11(a&b). Senate Chair-Elect Craig Martens presided over the meeting on behalf of Senate Chair Barbour. The Council on Faculty Welfare, Diversity and Academic Freedom (CFW) and the Council on Academic Personnel (CAP) reviewed the proposed revisions and submitted the following comments:

APM 530, Recruitment of Noncitizens

COUNCIL ON ACADEMIC PERSONNEL

CAP found the proposed changes to be more substantive than “technical changes,” yet the UC Office of Academic Personnel and the UC Senate Office did not provide the usual background information on the reasons for the changes and an analysis of their impact. The substitution of “Nonresident” for “Noncitizen” throughout the policy appears to limit the policy to individuals who are not citizens and not permanent residents of the U.S. CAP found this change and the substitution of more general references to federal legislation/regulations and which university staff/offices are responsible for managing immigration and visa issues to be non-problematic.

CAP identified two concerns in need of clarification:

- In paragraph 2, there is a proposed change in the criteria for sponsorship from “individuals whose distinguished merit and superior ability can be adequately established” to “individuals who are critical to the University’s academic and research mission.” This appears to be a stricter standard that is prone to interpretation by agencies outside the University. Without the context for the reasons for this change or impact, CAP is concerned this proposed wording could have unintended consequences.
- In paragraph 3, the more general phrase “work authorization” is substituted for “permanent immigration procedures.” This is later emphasized by the new phrase

“temporary work authorization.” It is unclear if this policy is now intended to cover all short-term employment of non-residents or only certain kinds of positions. What academic positions will be affected? Is it relevant for all academic employees who go on payroll, such as international speakers and lecturers, short-term postdoctoral researchers, visiting scholars and creative artists, etc.? CAP members hoped that these new procedures would not result in more paperwork.

COUNCIL ON FACULTY WELFARE, DIVERSITY AND ACADEMIC FREEDOM

CFW found several concerns as follows:

- Since the maximum allowed time period to be on a temporary visa matches with the time taken for untenured faculty to come up for tenure, would giving complete authority to the Chancellor on permanent residency application affect/cloud the tenure decisions taken on non-citizen Assistant Professors? CFW members were concerned about this and would prefer to have more Senate authority.
- For the fourth paragraph, CFW suggests changing the wording to: “The Chancellor may use his judgment to authorize permanent residency procedures in cases where the purposes of the University may be served equally well by temporary work authorization procedures.”
- Regarding APM 530-20, several questions were raised that CFW does not have the expertise to answer: Does UC have an obligation to pay benefits/health benefits for appointments without salary? It was noted that some noncitizen appointments are funded by the countries that they come from, but that may not include health insurance. What are the implications of these changes and why were they required?

APM 710-11, Paid Medical Leave for Academic Appointees Who Do Not Accrue Sick Leave

The proposed changes correct a typographical error, replacing the reference to APM 110-14 with APM 110-4. CAP and CFW approved this technical change.

The Cabinet concurred with CAP and CFW’s review of APM-530 and APM 710-11. The Irvine Division appreciates the opportunity to comment.

On behalf of the UCI Senate Cabinet,



Craig Martens, Senate Chair-Elect

C: Martha Kendall Winnacker, Executive Director, Academic Senate

August 11, 2011

Daniel Simmons
Chair, Academic Council

In Re: Proposed Technical Changes to APM 530 & 710 - 11(a & b)

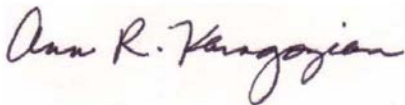
Dear Dan,

Thank you for the opportunity to review and opine upon the proposed technical changes to APM 530 & 710 -11 (a & b). Upon receipt of the request, I requested review by the Faculty Welfare Committee (see attached) and the Council on Academic Personnel (which declined to opine). The Executive Board, which speaks for the Division on such matters, also reviewed the proposal, and has endorsed the position of the Faculty Welfare Committee (FWC).

Although the proposed changes to APM 710 -11 (a & b) are of a technical nature and raised no concerns, the proposed modifications of APM 530 are indeed substantive in nature, not technical, and should not be viewed as a simple technical revision. The proposal for APM 530 would limit sponsorship of applications for permanent residency for faculty to those "who are critical to the University's academic and research mission". The Executive Board, together with the FWC, oppose this proposed revision. As the FWC points out, the wording in this requirement "sets an unnecessary burden on the scholar and their sponsor which is impractical and difficult to measure". A possible alternative wording could be that in the current APM 530, "distinguished merit and superior ability".

Again, thank you for the opportunity to review and opine upon this matter. Please do not hesitate to contact me if I can be of further service.

Sincerely,



Ann Karagozian
Chair, UCLA Academic Senate

CC: Andrew Leuchter, Vice Chair and Chair Elect, UCLA Academic Senate
Carole Goldberg, UCLA Vice Chancellor of Academic Personnel
Martha Kendall Winnacker, Executive Director, Academic Senate
Jaime R. Balboa, Chief Administrative Officer, UCLA Academic Senate
Vivian Rupert, Sr. Administrative Analyst, Academic Personnel Office

UCLA *Academic Senate*

July 29, 2011

To: Ann Karagozian
Academic Senate, Chair

From: Shane White
Faculty Welfare Committee, Chair

Re: Senate Item for Review: Proposed Technical Changes to APM - 530 and 710 - 11(a&b) for Systemwide Review

The Faculty Welfare Committee reviewed the Senate Item for Review: Proposed APM - 530 and 710 - 11(a&b) via email. The Faculty Welfare Committee's concerns are parallel to those of the UCFW; the committee has serious reservations about the proposed changes to APM 530.

1. The word "critical" as it refers to the international scholars and the UC mission sets an unnecessary burden on the scholar and their sponsor, which is impractical and difficult to measure.
2. The language used suggests that the recruitment and hiring practices for non-residents will be more demanding and laborious than those used for residents

In addition, the committee would like to point out that while the proposed changes to APM 710-11(a&b) are technical changes, the changes to APM 530 are largely not technical and should not be denoted as such. In practice, APM 530 has been broadly ignored; it is important that its revised form will be workable in practice and that it will facilitate the recruitment and retention of faculty members who are not citizens or permanent residents of the USA.

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

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

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August 23, 2011

Daniel Simmons
Professor of Law Chair,
UC Systemwide Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607

Dear Dan:

RE: SYSTEMWIDE REVIEW OF TECHNICAL CHANGES TO APM

The above request was distributed to the Committees on Personnel, Faculty Welfare and Diversity and Equal Opportunity for review and comments. Some members of the Faculty Welfare Committee were concerned that the proposed changes to APM 530 would introduce additional delays in the process of obtaining proper work authorization. Members asked if the new APM 530 might lead to more cumbersome implementations of necessary procedures, and if requiring that the Chancellors play a greater role in the process may also result in processing delays.

There were no comments with regards to APM 710.

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

September 19, 2011

Robert Anderson, Chair
Academic Senate

RE: Proposed Technical Changes to APM 530 & 710

Dear Robert,

Due to the timing of the request, the UCSB Division has conducted a limited review of the proposed technical changes to APMs 530 and 710 through consultation with members of the Committee on Academic Personnel (CAP) and the Committee on International Education (CIE).

Reviewing groups were concerned that the revisions to APM 530 which were labeled technical, are in fact, substantive. Of particular concern is that the new language, while appearing more permissive by substituting “nonresident” for “noncitizen” is actually more restrictive. Two particular areas of concern for us are:

- a) Change in University policy regarding sponsorship criteria. The original language specified “distinguished merit and superior ability” while the new language stipulates that the individual shall be “critical to the University’s academic and research mission”.

The latter is clearly more restrictive in that it appears to raise the bar for employment of foreigners to a standard that even our exceptionally high standards of hiring for faculty could not literally meet. There are at least two lines of argument in favor of keeping the original language. First, there may be situations where it would be appropriate to hire a distinguished nonresident who is not “critical” to UC mission. To use a hyperbole, under this policy UC would not be able to grant work authorization to Dalai Lama, if he were to apply to a lecturer position in the Department of Religious Studies because we already have excellent faculty in this field and there is no critical need for the academic mission. Second, the criterion of criticality is easy to challenge in the public medium, which may discourage international recruiting. Limitations on international recruiting are likely to hurt the University’s excellence in research and teaching and its international standing.

- b) Deletion of all the exceptions. Because of the broad scope of exceptions, the original language was in fact more permissive than the proposed one. For example, nonresidents who are already faculty members (or researchers) are treated as citizens in the existing language. If

such a person needs to be rehired (e.g. due to a change in visa status from J2 to J1 or H1B) according to the proposed language, they will be treated as nonresidents and thus subject to more strict criteria upon hiring. This could be disruptive to the university mission, and clearly against the spirit of the intended changes. We propose that the current exception (or shall it be called exemption?) 530-12-a be retained.

We note that the proposed University policy appears stricter than the federal guidelines that outline the path for permanent residency. In the federal code, there are three main criteria for scholars to obtain permanent residency:

- 1) Extraordinary Ability (Nobel Prize winners etc.)
- 2) Outstanding Professor or Researcher (Commercial successes in the performing arts ... Original scientific, scholarly, or artistic contributions of major significance in the field of endeavor)
- 3) National Interest Waiver (working in a field that is inherently in the national interest AND possesses qualifications and experience that are superior to available US workers)

The proposed guidelines would put UC in a disadvantaged position when recruiting foreign talent because highly qualified nonresidents would prefer universities where the work authorization policy is more in line with the federal guidelines. Is it in the university's best interest to create more obstacles to recruiting faculty from international institutions? It is our view that UC should minimize the hurdles involved in recruiting faculty from foreign institutions; the proposed revisions do not achieve that goal.

We have no comment on the proposed revisions to APM 710.

Thank you for the opportunity to comment.

Sincerely,

Henning Bohn, Chair
UCSB Division



OFFICE OF THE ACADEMIC SENATE

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LA JOLLA, CALIFORNIA 92093-0002
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FAX: (858) 534-4528

September 13, 2011

Professor Robert Anderson
Chair, Academic Council
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

Subject: Proposed Technical Revisions to Academic Personnel Policies (APM) 530 – Non-Citizens and 710-11(a & b) – Leaves of Absence/Sick Leave/Medical Leave, Paid Medical Leave for Academic Appointees Who Do Not Accrue Sick Leave

Dear Bob,

The San Diego Division has no comment on the proposed technical revisions to APMs 530 and &10-11 (a & b).

Sincerely,

A handwritten signature in cursive script that reads "Joel Sobel".

Joel Sobel, Chair
Academic Senate, San Diego Division

cc: Divisional Vice Chair Masters
Executive Director Winnacker



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Joel Dimsdale, Chair
jdimsdale@ucsd.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200
Phone: (510) 987-9466
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August 2, 2011

**DANIEL SIMMONS, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Technical Revisions to Academic Personnel Policies - 530, Noncitizens and 710 - 11(a &b), Paid Medical Leave for Academic Appointees Who Do Not Accrue Sick Leave

Dear Dan,

The University Committee on Faculty Welfare (UCFW) has met and discussed the proposed revisions to APMs 530 and 710-11 (a&b). The committee finds no objection to the proposed changes to APM 710-11 (a&b).

The committee cannot, however, support the proposed changes to APM 530. The committee believes that limiting permissions to those deemed "critical" to UC's mission will unnecessarily burden international scholars and their sponsors by setting a threshold that is unworkable in practice. Indeed, the superlative language suggests a higher standard will be used to vet and hire non-residents than will be used for residents. Moreover, elevating the level of the authorizing agent to the chancellors may prove onerous to them as this is a significant change from current practices. Finally, we note that these major concerns, as well as several minor questions, were related verbally to Vice Provost Carlson during our July 8 meeting.

We recognize the need to update policies to reflect current realities, but feel that the proposed revisions to APM 530 need further analysis and work.

Sincerely,

A handwritten signature in cursive script that reads "Joel E. Dimsdale".

Joel E. Dimsdale, UCFW Chair

Copy: UCFW
Susan Carlson, Vice Provost, Academic Personnel
Martha Winnacker, Executive Director, Academic Senate