UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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Mary Gauvain
Telephone: (510) 987-0887
Email:mary.gauvain@ucop.edu

Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

December 18, 2020

MICHAEL DRAKE, PRESIDENT
UNIVERSITY OF CALIFORNIA

Re: UCRP 2016 Tier "Second Choice" Window

Dear President Drake,

At its December 2020 meeting, the Academic Council endorsed the attached letter from the University Committee on Faculty Welfare (UCFW) and its Task Force on Investment and Retirement (TFIR) expressing support for a new option in the UC Retirement Savings Program 2016 tier that will allow certain faculty UCRP Savings Choice participants a chance to switch to the Pension Choice plan. We also suggest a change to the design of the 2016 tier related to vesting after a switch to Pension Choice. The current proposal under consideration by the UC Office of Human Resources would require a traditional new enrollee five-year vesting period for those who switch into Pension Choice; however, the Senate recommends immediate vesting after a switch, given that participants will have already devoted five years of service to the University.

Thank you for the opportunity to opine. Please do not hesitate to contact me if you have additional questions.

Sincerely,

Mary Gauvain

Mary Gauvain, Chair
Academic Council

Cc: Academic Council
TFIR Chair Brownstone
Interim Human Resources Vice President Lloyd
Chief of Staff Kao
Senate Directors
Senate Executive Director Baxter

Encl.

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UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Shelley Halpain, Chair
Shalpain@ucsd.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

December 8, 2020

MARY GAUVAIN, CHAIR
ACADEMIC COUNCIL

RE: UCRP 2016 Tier "Second Choice" Window

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has discussed with its Task Force on Investment and Retirement (TFIR) the proposed UCRP plan modification to enact 2016 Tier "Second Choice" Window. As you recall, and as TFIR explains in detail (enclosure), new faculty hires in the 2016 UCRP Tier are offered a choice of retirement plans in which to enroll. One is the traditional defined benefit plan (Pension Choice) and one is a 401-k style retirement account (Savings Choice). At the time of drafting, the plan design was to offer faculty employees who initially elected the Savings Choice to switch to the Pension Choice after 5-years and certain requirements had been met. When the Regents adopted the 2016 Tier, the University was unable to enact this "second choice" provision due to federal regulations. The University has recently heard from the IRS that it may proceed with enacting this provision.

TFIR and UCFW support enacting the "Second Choice" Window. TFIR and UCFW also agree that one change to the current proposal should be made: Although it is customary for new enrollees in a DB plan to undergo a period of vesting, usually 5 years, we feel that individuals who are eligible to switch their election have already demonstrated their commitment to the University, and so this vesting period should be voided under these circumstances. We note that doing so should encourage more faculty toward careers at UC, not just short-term employment.

We ask the Academic Council to endorse the amended proposal and transmit that support to the President.

Thank you for advancing our shared goals.

Sincerely,

Shelley Halpain, UCFW Chair

Copy: UCFW

TFIR
Hilary Baxter, Executive Director, Academic Senate
Robert Horwitz, Academic Council Vice Chair

UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Task Force on Investment and Retirement (TFIR)
David Brownstone, Chair
dbrownst@uci.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

November 2, 2020

SHELLEY HALPAIN, CHAIR
UNIVERSITY COMMITTEE ON FACULTY WELFARE

RE: UCRP 2016 Tier "Second Choice Window"

Dear Shelley,

This letter conveys the Task Force on Investment and Retirement's (TFIR) comments on the "Second Choice Window" that is to be provided to employees who were hired since July 1, 2016 and elected the Savings Choice retirement benefit. As originally designed, but subject to IRS approval, the expectation for the 2016 tier in UCRP has been that Savings Choice participants would be offered a chance to switch from this defined-contribution plan to the alternative, Pension Choice, a defined-benefit plan with supplemental defined-contribution provisions. TFIR recommends that UCFW reiterate the Academic Senate's past support for offering a second choice, indicate general support for the implementation proposed now that IRS approval has been received, and finally, recommend one change in the proposed implementation. Committee members new to this topic may want to read the overview below, but those interested only in TFIR's new recommendation can safely skip to the subsequent section.

Overview for the 2016 Tier and "Second Choice"

There are a number of reasons why a new employee might prefer the Savings Choice alternative. Not all new hires expect to remain at UC with certainty; the greater portability of a defined-contribution plan makes it a more attractive option for many such individuals. The pros and cons of defined-contribution plans are well understood, and the portability comes with greater investment risk borne by the individual. As is well known to UCFW members, no doubt, it is the contributions from the employer that are guaranteed, not the returns that ultimately determine how much income-replacement such a plan can provide after retirement.

A defined-benefit plan such as Pension Choice brings benefits to the employer—it helps retain employees and also helps to target retirement at a date influenced by the parameters of the plan (the age at which the "age factor" reaches a maximum, which for the 2013 and 2016 tiers is age 65), and employees gain certainty about at least a portion of retirement income, in exchange for long service. It was expected when the two choices were created that an individual would be more likely to elect Pension Choice, the more confidence he or she placed in the probability of remaining at UC. Put differently, the employee who does not expect to remain at UC would consider Savings Choice the wiser choice, even if that employee would otherwise value Pension Choice and greater certainty. Common sense suggests that after a few years, many will become more confident about remaining at

UC, and more likely to prefer Pension Choice; they might come to wish they had made that alternative choice initially. This applies to staff, certainly, but is especially likely for faculty on the tenure track. Even a faculty member who would like to remain at UC must await a tenure decision, if hired as an assistant professor, before being completely settled.

It makes great sense, therefore, to offer a second choice around the time of tenure (and at the same time for staff) or the granting of a continuing appointment, for Unit 18 lecturers, who might come to prefer the Pension Choice alternative. The Savings Choice option that worked best at hire might be less attractive after becoming more settled at UC, and especially after tenure. (To anticipate one question that might be asked by someone new to these options, it was not considered beneficial for UC to offer the option of leaving Pension Choice for Savings Choice, so no such second choice in the other direction was contemplated at the time of original approval, nor presently.)

Proposed Second Choice Implementation

The proposed implementation of Second Choice involves a five-year "window" during which individuals may elect to move from Savings Choice to Pension Choice. Various models could work here: choice could commence based on years of service or simply elapsed calendar time, for instance. The difference matters only for individuals who are not employed continuously on a full-time basis, and TFIR recommends in favor of a calendar time model for eligibility mainly for that reason. Allowing as many as five years of eligibility for making the second choice is a longer window than TFIR members expected, and accommodates many circumstances, such as a delayed tenure decision due to family or medical leave, delays due to COVID-19, and more. Not every participant in Savings Choice will or should switch to Pension Choice, but some will find this to be an attractive option. TFIR recommends that UCFW and the Academic Senate voice ongoing support for this new option, and also that the Senate review the extensive communications effort that will be required to explain the options to participants in the Savings Choice plan.

TFIR's Recommendation Concerning Vesting of Employer Supplemental Contributions

Along with providing support for implementing Second Choice, TFIR recommends that one plan-design change be implemented. This change would cost little compared to the benefits to the institution and to employees it would bring. It pertains to two forms of supplemental employer contributions that are made on behalf of some participants in Pension Choice. Pension benefits for employees who elected Pension Choice are constrained by the so-called "PEPRA cap", the maximum value for covered compensation that may be used in pension calculations. The PEPRA cap is set to equal the Social Security Wage Base in a given year, currently $126,261. For incomes above the PEPRA cap and below the IRC 401A limit (currently $285,000), employees receive an employer contribution comparable to the Savings Choice alternative. (Employee contributions based on income above the cap are similarly redirected.) A significant number of employees will find their pension benefits "capped" under Pension Choice because their highest income years did put them above the cap, but if that were to occur only late in the career, the supplemental benefit would be of little value in retirement. Defined-contribution plans count on the benefits from compounding, and earnings late in the career matter less in retirement than contributions that earn a return over many years. Employees who exceed the cap late in their careers will not be able to replace as much of their final working income in retirement as would be the case without a cap, or with contributions made earlier in the career. Hence, a second supplemental benefit was created, beginning with the first dollar of income, and provided for faculty and some other employee groups whose job titles were deemed "close" to faculty titles.

These supplemental benefits allow Pension Choice to come closer to replicating the value of the pension benefit in the 1976 and 2013 tiers, though the PEPRA cap is a serious, binding constraint. However, the proposal for implementing Second Choice suggests that the supplemental benefits will not vest for five years after a second choice is made. This stands in stark contrast to the one-year required for Savings Choice, for otherwise identical contributions *to the very same DC plan*, and seems to have been adopted for no reason other than the pre-existing five-year vesting requirement for new UCRP participants.

TFIR notes that an individual who could have spent as many as ten years covered by Savings Choice before switching to Pension Choice is hardly a new employee for whom a vesting requirement might be appropriate. As currently described, UC could be telling such an individual that after one year, up to ten years of employer contributions were vested, but for years 11 to 15 (or any five-year period immediately following the switch to Pension Choice), the employer contributions would no longer be vested until the five-year period had ended. An employee who separated in year 14 (or that employee's survivors) could potentially lose close to five years of employer contributions. This seems harmful for no good reason. It might let the University recoup some contributions in a small number of cases, but it does greater harm than good when perceptions and effects on employee choices are considered. Employees will perceive it to be punitive and pointless, as it solves no problem that we can identify. It will discourage employees from converting to Pension Choice, thereby missing out on the longer-term retention benefits the option brings to the university.

Thus, TFIR recommends that the Senate advocate for immediate vesting of these supplemental employer contributions, for any individual taking advantage of the Second Choice option to elect Pension Choice, and considers it to be a minor plan-design change that could easily be made as part of implementation.

Thank you for helping advance our shared goals.

Sincerely,

David Brownstone, TFIR Chair

Copy: TFIR
Hilary Baxter, Executive Director, Academic Senate
Mary Gauvain, Academic Council Chair