



Robert Horwitz
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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

January 31, 2022

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Proposed Revisions to APM 025 and 671, Conflict of Commitment and Outside Activities of Faculty Members

Dear Susan:

As requested, I distributed for systemwide Senate review the proposed revisions to APM Sections 025 and 671, Conflict of Commitment and Outside Activities of Faculty Members. All ten Academic Senate divisions and five systemwide committee (UCAF, UCAP, UCORP, UCFW, and UCPB) submitted comments. These comments were discussed at Academic Council's January 26 meeting and are attached for your reference.

We understand that the revisions respond to recommendations from the UC Office of Ethics, Compliance, and Audit Services (ECAS) following its systemwide audit of foreign influence, which noted increased concern from the federal government about foreign influence in academia, including efforts by foreign governments to influence and capitalize on U.S. research.

The revisions would expand approval and reporting responsibilities for conflicts of commitment to all academic appointees, regardless of job series or appointment percentage, and would require all appointees to seek prior approval for any foreign activity. The revisions establish subcategories I.A and II.A for domestic activities and I.B and II.B for foreign activities. Faculty would be responsible for securing prior approval for Category I.A, I.B, and II.B activities, and for annual reporting on all Category I and II activities. Other academic appointees would be responsible for securing prior approval for and annual reporting on Category I.B and II.B activities.

The Senate is unable to support the policy revisions as presented, given widespread faculty concerns about 1) the rationale for the policy; 2) the additional administrative burdens the new requirements would impose on faculty, other academic appointees, and staff; and 3) the harm the requirements would cause to University research and academic freedom.

The Senate understands the University's need to track faculty affiliations with, or compensation received from, external domestic or foreign organizations, in order to monitor for conflicts of commitment and protect the University from potential liability. However, the proposed policy

does not articulate a clear rationale for the new requirements. It does not describe the foreign influence risks at UC of greatest concern, provide evidence of widespread problems involving foreign influence that would justify the requirements, provide clear metrics on which to judge risks, or explain the University's obligations under federal law in these matters. Instead, the policy appears to exceed the University's compliance obligations and responsibilities to an unnecessary degree.

The new prior-approval and reporting process for scholarly activities outlined in the policy would impose substantial new burdens on faculty and research staff. These reporting requirements affect what are currently routine faculty activities. They would delay research activity, harm research productivity, and impede and discourage international research collaborations, global health activities, and the international exchange of ideas, which are central to the UC mission. As written, they are onerous and unnecessary. We are concerned that prior approval of faculty activity such as giving expert testimony could compromise academic freedom, as was the case recently in the politically-motivated Florida State University debacle. Faculty should not be required to obtain prior approval to present to entities such as the World Health Organization, for example, or consult with environmental protection and human rights organizations that may be "foreign-owned."

The policy employs vaguely-defined terms, including "foreign-owned entities," "outside activities," and "foreign influence risks." The Senate emphasizes that assessing foreign ownership can be difficult. Companies may be owned by many different entities using various legal structures, and many corporations with domestic headquarters also have substantial foreign ownership. Most faculty will not know whether a given entity is foreign-owned. Moreover, it is difficult to define an "outside activity" given the prevalence of online business and remote meetings in which the question of physical location is less relevant.

The Senate questions the inclusion of postdoctoral scholars in the annual reporting requirements. Postdocs are not permanent University employees or faculty, but limited-term appointees working under the supervision of Senate or other full-time faculty. As such, they are not appropriate for inclusion in the list of academic appointees with approval and reporting responsibilities.

The policy is unclear about the consequences for non-compliance, and gives too much discretion to administrators to approve activities and monitor compliance. The materials accompanying the policy did not include an analysis of implementation costs, including staffing and training needs and changes to UC's Outside Activity Tracking System (OATS). We note that many faculty find OATS an unfriendly interface; they have difficulty completing the conflict of interest, conflict of commitment, and financial reporting questions. Processing times for OATS are already unnecessarily long; the APM 025/671 revisions are likely to worsen wait times.

The Senate requests close consideration of these issues as you further revise the policy. We are gravely concerned about the policy's potential chilling effect on academic freedom and the pursuit of research, and its potential to foster xenophobia and harm international relationships. We encourage UCOP to provide an analysis of administrative costs and to explore alternative compliance mechanisms that meet minimal federal requirements. We look forward to reviewing a new revision that does not burden faculty or harm the University's research mission, and that maintains a better balance between the reporting of conflicts of commitment and protection of academic freedom.

We appreciate the opportunity to comment. Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Horwitz".

Robert Horwitz, Chair
Academic Council

Cc: Academic Council
Campus Senate Directors
Executive Director Baxter

Encl.



January 24, 2022

ROBERT HORWITZ
Chair, Academic Council

Subject: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671)

Dear Chair Horwitz:

On January 24, 2022, the Council of the Berkeley Division (DIVCO) discussed the proposed revisions to the Academic Personnel Manual (APM) Section 025, *Conflict of Commitment and Outside Activities of Faculty Members (APM - 025)* and Section 671, *Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671)*, informed by written comments from the Committees on Academic Planning and Resource Allocation (CAPRA); Budget and Interdepartmental Relations (BIR); Faculty Welfare (FWEL); and Research (COR).

DIVCO recommends that Academic Council oppose these changes and that we ask University of California, Office of the President (UCOP) for revisions that are the absolute minimum to meet legal requirements. The documents provide little description of the rationale for these changes, making it difficult for us to propose specific alternatives that would meet the stated need. For this proposal, DIVCO finds that the high additional administrative burden, the unclear definitions, specifically of “outside activities” and “foreign-owned entities,” and the application to research partners outside the university and other academic appointees all contribute to a policy that is unworkable and would be damaging to the University’s research enterprise. I offer details on each of these issues below.

Additional administrative burden

The proposed revisions suggest additional pre-approval and additional reporting that would add to the workload of faculty and research administrative staff who are already stretched thin. DIVCO discussed how the undue burdens on research colleagues who are not full-time UC employees, additional approvals for conference and research trips, and multiple sets of reviews could lead to delays or cancellation of activities that strengthen our research programs. Given that the U.S. Department of State and Department of Commerce already require specific documentation, the requirement for prior approval under Category I.B. and II.B. is not necessary.

Under Category II.B., DIVCO recommends that this requirement be limited to countries and technology covered by the State Department. We believe the proposed revisions will discourage international collaborations.

Scope of revisions is unclear

Regarding the phrase, “activities that occur outside the U.S.”, we note that in a computer-mediated world, where research and activities are conducted over email and video conferencing, how one defines outside the U.S. has ambiguity. For example, would an “outside activity” include a video conference with one or more participants outside the U.S.?

Another area that is unclear are the sections that include activities that “involve foreign-owned entities”. The words and phrases, “involve” and “foreign-owned entities” are not defined. We note that many corporations listed on the U.S. stock exchange and with headquarters in the U.S. have substantial foreign ownership. It seems unworkable to ask faculty to make an assessment on their own in this matter and the policy as written seems unworkable. Does this mean 51% or more owned by other countries? Will prior approval be required to provide consulting services within the U.S. to a wholly owned subsidiary of a company with international ownership?

Other academic appointees

There was no support from DIVCO for the idea that other academic appointees, such as postdoctoral scholars, be included in these policy revisions. Postdocs and other academic appointees would be better covered by contractual language at the time of the appointment.

Please see attached committee letters for more information.

Sincerely,



Ronald C. Cohen
Professor of Chemistry
Professor of Earth and Planetary Science
Chair, Berkeley Division of the Academic Senate

Enclosures

cc: Mary Ann Smart, Vice Chair, Berkeley Division of the Academic Senate
Jocelyn Surla Banaria, Executive Director
Holly Doremus, Chair, Committee on Academic Planning and Resource Allocation
Victoria Plaut, Chair, Committee on Budget and Interdepartmental Relations
Laura Nelson, Co-Chair, Committee on Faculty Welfare
Thomas Leonard, Co-Chair, Committee on Faculty Welfare
Lia Fernald, Chair, Committee on Research
Deborah Dobin, Senate Analyst, Committees on Academic Planning and Resource Allocation and Research
Courtney McIntyre, Senate Analyst, Committee on Budget and Interdepartmental Relations
Patrick Allen, Senate Analyst, Committees on Privilege & Tenure; and Faculty Welfare



January 18, 2022

PROFESSOR RONALD COHEN
Chair, Berkeley Division of the Academic Senate

Re: CAPRA comments on proposed revisions to APM Sections 025 and 671, Conflict of Commitment and Outside Activities

At its December 1, 2021, meeting, CAPRA discussed proposed revisions to the APM sections 025 and 671 on Conflict of Commitment and Outside Activities.

The proposed changes focus on international activities. They would make three primary changes. First, they would expand the categories of academic appointees subject to reporting requirements, adding Professional Scientists, Academic Coordinators, Postdoctoral Scholars, and others if they engage in activities occurring outside the U.S. or involving foreign entities (referred to here as “foreign activities”). Second, they would require that reporting faculty and other appointees divide their activities into two categories, foreign and U.S. activities. Third, they would expand the requirement for prior approval to include foreign activities falling into Category II, which generally encompasses short-term activities not thought to pose a conflict of commitment risk.

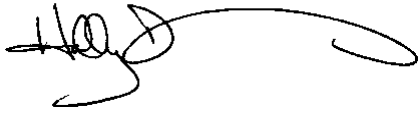
CAPRA understands that this proposal may be thought necessary to comply with federal law. We do not know the extent to which that is true, as no explanation of the University’s perceived legal obligations was provided with the proposal. Even if it is necessary that the University adopt the revisions in this precise form, we have concerns about them, and would urge the University to articulate those concerns to our federal partners.

Our overarching concern is that the new reporting and prior approval requirements could impede international research collaborations. We believe (and in the past the campus and University have articulated that they believe) that international collaborations are often quite valuable. The proposed revisions will inevitably discourage such collaborations to some degree, because they will require more attention and paperwork, and because prior approvals can take considerable time to obtain. We also are concerned that the scope of the revisions is unclear. It might seem easy to identify “activities that occur outside the U.S.,” but in today’s computer-mediated world that may not be true. Must the reporting appointee be physically outside the U.S., or would participation in Zoom or other computer-mediated meetings with one or more attendees outside the U.S. be included?

Without clarification, activities that “involve foreign-owned entities” are even more difficult to identify. Neither “involve” nor “foreign-owned entities” is defined in the proposed revisions, nor are reporting faculty provided with a clear “safe harbor” path to check on the ownership of any entities they work with. We worry that this uncertainty will impose a new time burden on reporting faculty, as well as making them potentially liable to sanctions for reporting incompletely or incorrectly. Finally, we question whether the new requirements for other academic appointees, such as postdocs, belong in a section on “conflict of commitment.” Grant-funded postdocs do not owe their energies to the campus or university so much as they owe them to the funding agency and principal investigator. Perhaps the rules for such grant-funded appointees should be articulated and implemented through the funding process rather than in the APM.

We appreciate the opportunity to comment.

With best regards,

A handwritten signature in black ink, appearing to read 'Holly Doremus', with a long, sweeping horizontal line extending to the right.

Holly Doremus, Chair
Committee on Academic Planning and Resource Allocation

January 11, 2022

CHAIR RONALD C. COHEN
BERKELEY DIVISION OF THE ACADEMIC SENATE

RE: Proposed Revisions of APM-025, Conflict of Commitment and Outside Activities of Faculty Members, and APM-671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

We thank you for inviting us to comment on the proposed revisions to APM-025, Conflict of Commitment and Outside Activities of Faculty Members, and APM-671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants. In our response we confine our comments to the proposed revisions of APM-025, which are most relevant to Berkeley campus faculty and other academic appointees. We note, however, that most of the proposed revisions mirror each other and that therefore our comments also apply to APM-671 proposed revisions. The proposed revisions entail two important changes:

- 1) a significant increase in the number of categories of employees who will be subject to annual reporting, and
- 2) a major new requirement, Category I.B and II.B, for prior authorization of all international commitments by appointees in all categories subject to annual reporting of outside activities.

As a preamble to our response, we would like to note that the information we received provides minimal detail on the motivation for these proposed changes. The cover letter describes the results of a “systemwide audit of foreign influence” and notes “increased concern regarding foreign influence in academia within the federal government and UC’s peer institutions, including concerns about efforts by foreign governments to unduly influence and capitalize on U.S.-conducted research.” While we are sympathetic to these concerns, we see both proposed elements as raising significant new administrative burdens on already overburdened system, with the principal burden falling on department chairs and deans and their staff.

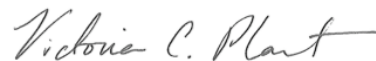
- 1) Turning now to the first item, the proposed revision significantly increases the number of categories of University employees who will be required to file annual reports on their activities.
 - a. While this revision may be a simple recognition of the fact that employees in a number of categories, covered by the new “Designated Other Academic Employee” classification, may have conflicts of commitment similar to those of

ladder-rank faculty, it would be desirable to understand how many employees would be covered and the extent of the increase in the administrative burden.

- b. We are concerned about the inclusion of postdoctoral scholars in the Designated Other Academic Employees category, subjecting them to the annual reporting requirements. The funding for postdoctoral scholars is highly variable, and many have funding from non-University sources through fellowships and grants, some of which are not even managed through the University. Often, individuals in these categories are also citizens of other countries with funding from their national governments, which we address in the next section. Herein, we simply point out that postdoctoral appointees are temporary employees who are hired or sponsored by individual faculty, and their obligations may be better covered by contractual language at the time of appointment.
- 2) The proposed revision creates two new reporting categories, Category I.B and II.B, covering “outside professional activities involving foreign entities that may pose foreign influence risks.” Activities in both categories would require prior approval.
- a. The proposed language refers to “foreign-owned entities.” However, we note that this definition is unclear in that a corporation formally operating in the US may in fact be 51% or more owned by entities in other countries or may have controlling interests based in other countries, without this being apparent to anyone without detailed knowledge of the corporate structure. Indeed, the US operations, or subsidiaries, of large international companies may be substantially or wholly owned by parents based in other countries. Does that mean that prior approval will be required to provide consulting services within the US to a wholly owned subsidiary of a company with international ownership? Some examples that immediately spring to mind include Exxon, Shell, Novartis, Roche, and Samsung. And could this also affect activities involving the International Monetary Fund, the World Bank, and the United Nations?
 - b. The requirement for prior approval presumes that the Chairs/Deans/Chancellors and their staff possess intimate knowledge of the faculty fields of expertise and of the legal constraints, if any, on the “foreign activities” of faculty in the specific fields in which they operate. This seems to be an impossible task and potentially puts the whole approval chain into legal jeopardy. Thus, although perhaps only a remote possibility, the University and its employees could be unnecessarily exposed to potential legal liability, consequences of which have not been fully assessed. Given that the US Department of State and the Department of Commerce already require specific documentation on the export and sharing of technology and have produced a list of proscribed entities and activities outside of the US with which the research faculty are required to comply (see e.g., <https://rac.berkeley.edu/ec/exportcontrollist2.html>), we are not convinced about the necessity of this step without a careful assessment of its ultimate legal implications for administrators, faculty, and other academic appointees.

- c. Also, we fail to see the rationale for a blanket, worldwide, requirement for a prior approval on all activities in the newly defined Category II.B, which include any activities that “involve foreign-owned entities or occur outside the U.S.” Given that UC faculty are involved in professional activities in many countries, we find this blanket requirement overly broad and unnecessarily burdensome. Given the high volume of international activity among Berkeley faculty, we are also concerned about the potential chilling effects on, or slowing down of, such activities for which Chancellor approval is required. It could also hurt revenue (e.g., certificate programs in other countries would need prior approval). We are certainly cognizant of the potential for “foreign influence” and access to critical or sensitive research. In that regard, the State Department and the Department of Commerce already maintain lists of countries with which contacts are restricted, and they also maintain and publish lists of products and technologies which are subject to export control or embargo. We suggest that the requirement for a prior approval on “foreign activities” under Category II.B be limited to the countries and technologies covered by the State Department and Department of Commerce regulations. We further suggest that UCOP create and maintain a website with a list of these restrictions and requirements, so that it can be easily consulted.
- d. In this context, we note that many postdoctoral scholars come from other countries and may have funding from their own country. They are thus legally allowed to pursue consulting and other activities within their own country. Consequently, it may not be possible or even feasible to obtain information on such activities unless voluntarily disclosed. We would suggest that a more effective approach may be to ascertain that the appointees in the postdoctoral-scholar category satisfy the State Department and Department of Commerce restrictions at the time of appointment, and that at the same time they should be required to attest that they understand and will abide the conflict of commitment rules. We further note that undue administrative burdens (including requiring prior approval for all “foreign activities”) may deter postdoctoral scholars from taking up positions at Berkeley.

Thank you again for the chance to review the proposed revisions to the APM.



Victoria C. Plaut
Chair

VCP/wl



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

December 13, 2021

CHAIR RONALD COHEN
Academic Senate

Re: Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671)

Dear Chair Cohen,

The Committee on Faculty Welfare reviewed and discussed the proposed draft revision to APM- 025, Conflict of Commitment Outside Activities of Faculty Members, and APM -671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

FWEL believes strongly that the proposed revisions will add significantly to faculty and staff workloads, and will create obstacles to international collaboration and international research. We believe that DIVCO should head off the chilling effects on UC's current best practices that these provisions invite:

Re: 025-2a (2): The expansion of APM -025 to require "Designated Other Academic Appointees" to comply with the same reporting requirements as faculty may create undue burdens on research colleagues who are not full-time UC employees. The reporting requirements may lead to research partners to sever their relationship with UC research projects, or for UC research projects in need of outside partners to have difficulty finding qualified partners willing to undergo the reporting required in APM-025.

Re: 025-6a (2): The definition of new Categories (Category I.A and Category I.B) and the inclusion of Category II activities in the activities requiring prior approval generates new and onerous burdens for securing approval ahead of conference and research trips.

Re: 025-6b and 025-6c: The language "all known relevant information regarding the nature of their outside professional activities and the business/agency/organization/group/individual for whom the services are performed" is both vague and excessive.

025-10a (1): The proposal breaks Category I activities (those that are related to training and expertise that qualify the individual for the University appointment, but which are performed for third parties and/or require significant professional commitment) into two parts: Category 1.A and Category 1.B. Category 1.b activities are defined as those that "involve" foreign owned entities or that occur outside the U.S. Faculty members must get prior approval from

the Chancellor for Category 1.A and 1.B activities and must disclose the activities in annual reporting; the revision requires other appointees to secure prior approval from the Chancellor for Category 1.B activities and annual reporting. This extension of the prior approval and reporting requirements to other appointees may have the same effects on collaborations as noted above, particularly as examples of Category 1.B includes employment outside the University, founding or co-founding a company, and assuming an executive or managerial position outside the University (including such a role in a professional society). Moreover, the term “involve” as the threshold for how activities relate to foreign-owned entities is vague and excessive.

025-10a (2): The proposal breaks Category II activities into two subcategories: Category IIA are activities within the US, and Category IIB are those that involve foreign owned entities or occur outside the U.S. The revision now requires faculty and other appointees to secure prior approval for Category IIB activities. These include consulting or testifying as an expert or professional witness; providing outside consulting services or referrals; serving on a board of directors; providing or presenting a workshop for industry; or other professional services provided outside the U.S. or to foreign-owned entities. The requirement to secure prior approval is excessively burdensome and may not be possible in cases with short timelines.

025-26a: The monitoring of the reporting, given the increased complexity of reporting, will be an increased burden on chairs or their designates. Hours of staff time will be diverted from more important work to ensure compliance with UC and federal regulations.

Taken in total, these revisions appear to be a reaction to fears regarding foreign influence on or foreign appropriation of faculty expertise and research information. This policy response will generate significant additional reporting burdens on faculty, other appointees, as well as chairs, staff, and administrators both to secure prior approvals and to report and oversee reporting. These additional requirements are likely to have a chilling effect on international research and international collaboration. Faculty at Berkeley value the intellectual benefits of international collegiality, and FWEL believes these proposed policy revisions will result in significant erosion of faculty productivity. We strongly recommend these changes not be adopted.

We appreciate the opportunity to weigh in on these matters.

Sincerely,



Thomas Leonard, Co-Chair
Committee on Faculty Welfare



Laura Nelson, Co-Chair
Committee on Faculty Welfare

TL/LN/pgs



January 18, 2022

PROFESSOR RONALD COHEN
Chair, Berkeley Division of the Academic Senate

*Re: COR comments on proposed revisions to APM Sections 025 and 671, Conflict of
Commitment and Outside Activities*

At its December 8th meeting, the Committee on Research reviewed the proposed modifications to APM-025 and APM-671. These revisions include two key recommendations, that 1) all policies for reporting conflicts of commitment will apply to all academic appointees regardless of faculty series or appointment percentage, and 2) all foreign activities will be classified as Category I activities that will require prior approval.

COR discussed concerns relating to upholding Berkeley's standards for ethical conduct and an overarching concern that this policy may have undue effects on faculty from countries outside the United States, as well as faculty who conduct their research outside the United States. Furthermore, the committee was concerned that faculty may look at national origins of potential faculty hires rather than focusing on the quality of the work.

The committee also raised a number of specific concerns about the policies, including the following:

- Increased burden on faculty and other academic appointees to go through a cumbersome prior-approval process for many activities, especially for those faculty whose research takes place outside the United States.
- Time required for multiple sets of reviews, and what the delays could mean in terms of research activity and productivity for faculty and other academic appointees.
- Lack of clarity on what types of activities fall into which categories for reporting. A concrete suggestion from COR was to include an explanatory list or table with as much detail as possible.
- Lack of detail regarding implications for foreign researchers who are working at UC Berkeley.
- Insufficient discussion of how the already-stretched research administrative staff will take on the increased reporting activities.

Thank you for asking COR to review this policy.

With best regards,

A handwritten signature in black ink, appearing to read "Lia Fernald". The script is cursive and fluid, with the first name "Lia" being more prominent than the last name "Fernald".

Lia Fernald, Chair
Committee on Research



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January 18, 2022

Robert Horwitz
Chair, Academic Council

RE: Proposed Revisions to APM – 025 and APM – 671

Dear Robert,

The proposed revisions to APM – 025 and APM – 671 were forwarded to all standing committees of the Davis Division of the Academic Senate. Seven committees responded: Academic Personnel Oversight (CAP), Privilege and Tenure Investigative (P&T), and the Faculty Executive Committees of the College of Agricultural and Environmental Sciences (CAES), the College of Biological Sciences (CBS), the College of Letters and Science (L&S), the School of Medicine (SOM), and the School of Veterinary Medicine (SVM). We also solicited feedback from UC Davis' Academic Federation, a campus governance organization to which several academic titles affected by these revisions belong.

Though committees understand the motivation for the revisions, CAES and CBS expressed concerns about the workload and financial burden the revisions could create. CBS cautions that the policies will “impose substantial new burdens on the department staff who need to manage the certification process. In the current budget climate, where departments are being asked to operate with fewer staff, this extra burden does not appear to be justified.” The scale of the foreign influence issues should be more thoroughly explained to help justify the revisions, and an analysis of alternative, less broad revisions would also be helpful.

Additional specific suggestions are relayed below:

- P&T suggests revising Category I.A to “activities involve U.S.-owned entities ~~or~~ **and** occur within the U.S and revising Category II.A. to “activities, which apply only to faculty, involve U.S.-owned entities ~~or~~ **and** occur within the U.S. and include, but are not limited to...” throughout APM 025 and APM 671. This will distinguish between Category I.B which includes all other foreign-owned activities or those that occur outside the U.S.
- P&T raised concern about APM 671-10 Guidelines in Category III – ‘Other Activities.’ In (3) was added “but within the U.S.” (page 13). This may adversely affect faculty who lecture internationally.
- CAES notes that the final sentence in section 025-2.a.(1) on page 1 of APM-025 states: “This policy also seeks to clarify reporting and prior approval requirements related to outside professional activities involving foreign entities that may pose foreign influence risks.” Who

determines which foreign entities “may pose foreign influence risks”? CAES suggests removing the phrase so that the policy applies to activities with all foreign entities.

- CBS wonders why non-faculty appointees are included in Category III activities (page 13, "Category III activities, which apply only to faculty, are within the course and scope of University employment"). For consistency and clarity, CBS recommends stating that such activities are also within the scope of University employment for non-faculty appointees.
- CBS notes that the language “Academic Appointees who are employed by the University of California owe their primary professional allegiance to the University” may be problematic—what about people appointed with less than 50% appointments at UC who also hold other positions at greater than 50%?
- The Academic Federation notes that it is unclear why some academic titles are now included in these policy updates but not others (e.g., librarians are not included).

The Davis Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tucker", with a stylized flourish at the end.

Richard P. Tucker, Ph.D.
Chair, Davis Division of the Academic Senate
University of California, Davis

Enclosed: Davis Division Committee Responses

- c: Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

November 18, 2021

Richard Tucker

Chair, Davis Division of the Academic Senate

RE: RFC: Proposed Revisions to APM - 025 and APM - 671

The Committee on Academic Personnel – Oversight (CAP) has reviewed and discussed the proposed revisions to APM - 025 and APM - 671. CAP does not have any objections to the proposed revisions.

January 11, 2021

Richard Tucker

Chair, Davis Division of Academic Senate

RE: RFC: Proposed Revisions to APM - 025 and APM – 671

Dear Richard:

The Committee on Privilege & Tenure -- Investigative Subcommittee reviewed the Request for Consultation (RFC) of the Proposed Revisions to APM - 025 and APM - 671. The committee was in overall agreement with the proposed revisions.

The committee understands the need and impetus for these policy revisions. There is general concern that the prior approval for Category II may impact faculty and non-faculty research with requiring this new level of approval.

There was also a suggestion within the committee discussion to revise Category I.A to *activities involve U.S.-owned entities and occur within the U.S* and revise Category II.A. to *activities, which apply only to faculty, involve U.S.-owned entities and occur within the U.S. and include, but are not limited to...* throughout APM 025 and APM 671. This will distinguish between Category I.B which includes all other foreign-owned activities or those that occur outside the U.S.

Lastly, the committee raised concern about APM 671-10 Guidelines in Category III – ‘Other Activities’ in (3) it was added ‘but within the U.S.’ (page 13). The committee raised concern about this insertion within honoraria for non-Senate faculty, as some may lecture, internationally. This statement in APM 671 does not apply only to non-senate faculty; it applies to all faculty under the health sciences compensation plan (who are under APM 671 rather than 025), which would include many senate faculty.

Thank you.



Catherine VandeVoort

Chair, Committee on Privilege and Tenure – Investigative Subcommittee

Proposed Revisions to APM - 025 and APM - 671

FEC: College of Agricultural and Environmental Sciences Committee Response

January 10, 2022

The Faculty Executive Committee of the College of Agricultural and Environmental Sciences (CA&ES) discussed the Proposed Revisions to APM-025 and APM-671 by email and through the ASIS whiteboard.

The two primary revisions to the policies are (1) that they would apply to all academic appointees regardless of faculty series or appointment percentage, and 2) that Category II activities conducted with or for a foreign entity would require prior approval, which was formerly only required for Category I activities. Based on the background material provided on the (growing) potential threat of foreign influence in UC research, it seems prudent to update APM-25 and APM-671, and the need for this update justifies some extra workload. These changes will increase the workload for academics and substantially increase the workload for campus staff.

We question whether the proposed changes will actually be effective in diminishing the foreign threat and would like to see a follow-up study in 2-5 years to gauge whether or not these changes have been effective. If they are not effective, then the increased reporting burden is not justified.

It appears that this policy is asking faculty and designated other academic employees to assess whether they have been unduly influenced by foreign interests. Will there be training necessary to make it possible to spot such influence and to accurately describe this influence in annual reports?

The final sentence in section 25-2.a.(1). on page 1 of APM-025 states: *“This policy also seeks to clarify reporting and prior approval requirements related to outside professional activities involving foreign entities that may pose foreign influence risks.”* The phrase *“that may pose foreign influence risks”* appears to indicate that the policy is only concerned with foreign entities that actually might pose a risk. That would appear to be difficult to determine – and who gets to say what is and is not a risk? – so it seems prudent to simply remove that phrase to avoid the ambiguity and have the policy apply to activities with all foreign entities.

The CA&ES faculty appreciates the opportunity to comment.

January 10, 2022

Richard Tucker
Chair, UC Davis Division of the Academic Senate

RE: Conflict of Commitment and Outside Activities (revisions to APM - 025 and APM – 671)

Dear Richard,

The Faculty Executive Committee of the College of Biological Sciences has reviewed the request for consultation regarding the proposed revisions to APM - 025 and APM – 671. Much of our discussion focused on the administrative burdens that these revisions could produce. Although we see some value in having additional categories of academic personnel report their outside activities, there is concern among CBS faculty that extending the applicability of this policy so broadly represents a yet another unfunded mandate that will create significant additional work for staff and faculty, and that these changes aim to solve a problem that does not exist on a scale that would warrant such broad intervention. If we understand the changes correctly, these changes would require all or most postdocs, Project Scientists, and Research Specialists to file annual certifications even if they did not engage in any outside activities - same as what faculty do now. This may not be a big deal individually, but it will impose substantial new burdens on the department staff who need to manage the certification process. In the current budget climate, where departments are being asked to operate with fewer staff, this extra burden does not appear to be justified. The documents do not explain the problem that this change is intended to fix, making it difficult to judge whether the effort that will be required is commensurate with the scale of that problem. The documents also do not mention what other, less invasive and time-consuming solutions were considered before this change was proposed.

Conversely, with regard to Category III activities, why are non-faculty appointees not explicitly included in these? (i.e., page 13, "Category III activities, **which apply only to faculty** [emphasis mine], are within the course and scope of University employment. Examples include...(a) serving on panels... (b) reviewing manuscripts...."). For consistency and clarity, it would be better to state that such activities are also within the scope of University employment for non-faculty appointees.

Some faculty also expressed a concern that the language "Academic Appointees who are employed by the University of California owe their **primary** [emphasis mine] professional allegiance to the University" may be problematic - what about people appointed at <50% at UC, who hold other positions at >50%?

We appreciate being consulted on this proposal, and hope that our input will be carefully considered.

Artyom Kopp

Proposed Revisions to APM - 025 and APM - 671

FEC: College of Letters and Science Committee Response

January 10, 2022

The College of Letters and Science FEC reviewed this RFC and members agreed that these new policy revisions seem onerous and may disincentivize entrepreneurship and international exchange of ideas. Furthermore, the policy is written too broadly and could be interpreted differently.

Proposed Revisions to APM - 025 and APM - 671

FEC: School of Veterinary Medicine Committee Response

January 10, 2022

The SVM FEC has no major concerns.

Minor technical comment asking for clarification of how ongoing international collaborations and positions will be managed.

January 4, 2022

Richard Tucker

Chair, Davis Division of the Academic Senate

RE: Proposed Revisions to APM 025 and APM 671

Dear Richard:

The Academic Federation Executive Council (AFEC) distributed the proposed revisions to UC APM 025 and APM 671 to its three personnel committees (AFPC, ASPC, and JPC) for review. Their full responses are enclosed.

The AFEC also discussed the proposed revisions at their December 2, 2021 meeting. Members did not have any objections to the proposed revisions, but there were some questions raised about why certain academic titles were included and not others (e.g., librarians, who can be listed as key personnel on proposals submitted by the University). A clear explanation that includes the rationale for expanding the applicability of APM 025 and 0671 to specific academic titles would have been helpful in providing input on these proposed revisions. We ask that rationale for inclusion or exclusion of specific academic titles on the proposed revision be provided to share with AFEC members.

The Academic Federation appreciates the opportunity to review and provide feedback on these proposed revisions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. H. Smith", written in a cursive style.

Martin H. Smith

Chair, Academic Federation

c: Erin DiCaprio, Vice Chair, Academic Federation
Edwin Arevalo, Executive Director, Davis Division of the Academic Senate

January 6, 2022

Robert Horwitz, Chair
Academic Council

Re: Systemwide Review of Draft Revised APM-025 and APM-671

Dear Chair Horwitz,

The Irvine Division discussed the draft revisions to APM-025 and APM-671 at its January 4, 2022 Cabinet meeting. The Council on Planning and Budget (CPB) and the Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) also reviewed the revisions. Both councils provided significant feedback that is attached for your review.

CFW found the proposed changes to be troubling, xenophobic, and to have the potential to significantly limit academic freedom. The reporting burden placed on faculty may severely limit international opportunities from which faculty and the university greatly benefit. Further, few faculty will understand when they need prior approval and will inadvertently fail to list certain categories of activities.

CPB raised a number of specific questions and practical matters, such as the vagueness of the phrase "involve foreign-owned entities or occur outside the U.S." and whether educational institutions are included. The council also noted that assessing foreign ownership is often difficult or problematic. Most faculty will not even know whether the entities they are involved with are foreign owned. Finally, CPB could not evaluate the potential financial implications of implementation since little detail was provided.

Cabinet members generally agreed with the councils' assessment of the revisions and suspected these changes were proposed in response to a small number of high-profile cases of abuse rather than a widespread problem.

The Irvine Division appreciates the opportunity to comment.

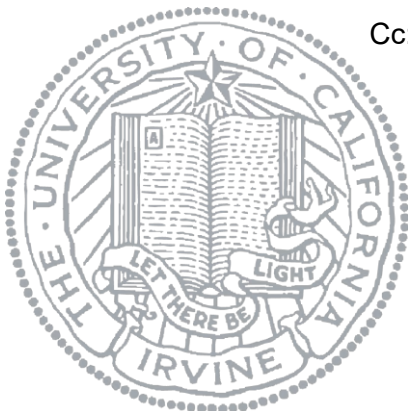
Sincerely,



Joanna Ho, Chair
Academic Senate, Irvine Division

Encl: CPB, CFW memos

Cc: Georg Striedter, Chair Elect-Secretary
Gina Anzivino, Interim Executive Director



December 17, 2021

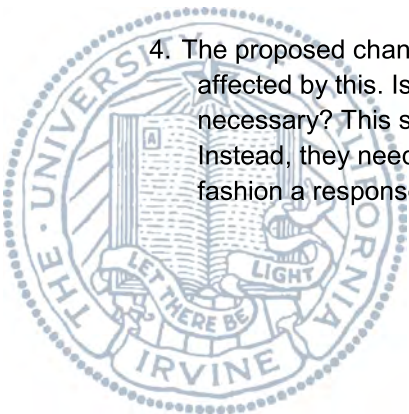
**JOANNA HO, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

Re: Review of Draft Revised APM-025 and APM-671

Systemwide Senate Chair Robert Horwitz has distributed for comment proposed revisions to APM-025: Conflict of Commitment and Outside Activities of Faculty Members, and APM-671: Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants. The proposed revisions are responsive to recommendations from the systemwide Office of Ethics, Compliance and Audit Services (ECAS) following a systemwide audit of foreign influence and subsequent working group.

The Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) reviewed this issue and solicited feedback electronically. The Council would like to submit the following comments:

1. The proposed changes are troubling, xenophobic, and have significant potential to limit academic freedom. The undue reporting burden could limit international opportunities that could be a great benefit to UCI. If there is real need for better reporting and tracking of these activities, a more salient argument should be made. A better, faster and more streamlined process for obtaining approval to engage in these activities should also be implemented.
2. A change requiring prior approval before presenting at a workshop in industry seems outrageous and against the missions of the university. Not only is that burdensome on faculty, it simply seems counter to what we stand for. Frankly, the changes to require prior approval in IA category also seem strange. The requirement for prior approval is a phenomenally bad idea and one that will have deleterious consequences for faculty at our institution. Such approvals are usually lengthy and ridden with administrative delays. Delays could mean that UCI faculty will basically be unable to perform any consulting work for 60-90 days after the company seeks to hire, and would unacceptable to most companies. This could result in faculty from other institutions being preferentially selected for these useful and important roles. Some important research ideas and inspirations for impactful science can come from such activities. It's mystifying why UCI would seek to limit them.
3. The substantive change is to Category 2, where now prior approval is required for 2b. I think that further clarification of what activities fall under 2b would be important. For example, is travel expenses and honorarium for participation in a conference at a company included? What about at an international organization or non-US academic institution?
4. The proposed changes are insufficiently supported to be acceptable. So many faculty will be affected by this. Is the potential for abuse so likely to make such a widespread application necessary? This seems to affect faculty negatively and is a bad idea all the way around. Instead, they need to identify and specify exactly what the problem seems to be, and then fashion a response that is as narrowly tailored as possible. This isn't it.



5. The proposed creation of category II.B activities may mean that faculty will no longer be able to participate in industry-sponsored workshops abroad without prior authorization. An important example are user workshops, which are often sponsored by third parties such as distributors abroad. Reporting and disclosure requirements regarding such activities are already burdensome, and this would make it even harder to participate, share the latest research and developments, and educate users in applying them. Similarly, the restrictions on participating on a board of directors will mean some faculty will lose influence and may eventually have to cease participating in any governance activities abroad. This policy could result in UCI losing out to competing institutions that are much more friendly and open to commercialization of fundamental research and supportive of faculty who engage in such activities beyond national borders.

Apart from the immediate chilling impact on research and service, there is also a deep concern regarding the broader implications for academic freedom and first amendment rights. We have just seen FSU inflict severe damage to itself and its faculty by its administrations' misguided attempt of preventing faculty from testifying in a lawsuit over voting restrictions. The proposed changes open the door to similar missteps. Even if the prior authorization requirement would "only" apply to foreign lawsuits and other activities, it could do great damage to the ability of UCI faculty to serve the public and make their expertise and knowledge available without concerns of institutional loyalty or retributions. The mere requirement of prior approval of such activities is unworthy of an institution that prides itself of having the highest standards of academic integrity and transparency and has "fiat lux" as its motto.

If anything creates a conflict of interest here, it is ill-defined and ill-conceived notions such as "primary professional allegiance" used in this policy. Academic integrity requires that our only "professional allegiance" be science, education, and relentless pursuit and analysis of scientific evidence, no matter how inconvenient it may be. This policy seems to be written on the assumption that faculty are just employees and a university is a business like any other. Especially during times of unprecedented faculty workload and further eroding of real salaries and benefits, this is tone deaf and likely a major mistake that may backfire.

The need for oversight of outside activities is understandable, but this is blatant administrative overreach. Since this is a core academic freedom issue for all UCI faculty and researchers, it might be appropriate to inform other Senate committees, as well as the Irvine Faculty Association, and possibly consult with AAUP.

6. Without concrete examples of proven or potential abuses and transgressions (a working group report is cited by not linked), it is hard to assess the merits of the proposed changes. This lack of clarity, plus the timing, create the appearance of an ill-advised response to external political pressure. The allusions to "undue foreign influence" seems xenophobic.
7. The creation of Category II.B will affect many faculty. Giving talks abroad at conferences of various sorts or at companies and getting reimbursed or compensated for the associated expenses is a commonplace activity. This may not refer to consulting specifically, but it could be taken as such. Many faculty will inadvertently fail to list Category II.B activities, and that few will understand that they need to get prior approval. There is a deep concern regarding the potential consequences of this change in policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Dalton', with a large, looping initial 'D'.

Terry Dalton, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom

C: Gina Anzivino, Associate Director
Academic Senate

Matthew Hurley, Cabinet Analyst
Academic Senate

January 4, 2022

JOANNA HO, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Systemwide Review of Proposed Revisions to APM 025, Conflict of Commitment and Outside Activities of Faculty Members and APM 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

At its December 8, 2021, meeting, the Council on Planning and Budget (CPB) discussed proposed revisions to APM 025 and 671, Conflict of Commitment and Outside Activities of Faculty Members and Health Sciences Compensation Plan Participants.

Background

The revisions seek to clarify reporting and prior approval requirements related to outside professional activities involving foreign entities that may pose foreign influence risks. Proposed revisions to APM–025 and APM–671 are responsive to recommendations from the Office of Ethics, Compliance and Audit Services following the systemwide audit of foreign influence. The results of the audit were published in the Systemwide Foreign Audit Influence Report, issued in February, 2021. The report noted increased concern regarding foreign influence in academia within the federal government and UC’s peer institutions, including concerns about efforts by foreign governments to unduly influence and capitalize on U.S.-conducted research.

Summary

The proposed changes include:

- Expanding applicability of APM–025 to cover designated other academic appointee titles. This includes adding the language “Designated Other Academic Appointees” to the policy (throughout) in order to cover a broader array of researchers (Academic Administrator Series, Academic Coordinator Series, Agronomist Series, Astronomer Series, Coordinator of Public Programs Series, Professional Research Series, Project Scientist Series, Specialist Series, Specialist in Cooperative Extension Series, Postdoctoral Scholars) and research activities.
- Expanding applicability of APM–025 to cover appointments above 0%. The threshold above which reporting is necessary has gone down for faculty, from 50% to 0%. The threshold for Designated Other Academic Titles Subject to APM–025 is newly set at 0%. Recalled faculty or others who have retired and are recalled at “exceeding 0% but at or less than 43% time are subject to the disclosure, prior approval and annual reporting requirements for Category I.B and Category II.B activities (but are not subject to the time limits)”.
- Establishing subcategories in APM–025 and APM–671 for domestic and foreign activities within Category I and Category II Outside Activities. New subcategories I.A and II.A are created for domestic activities and new subcategories I.B and II.B for foreign activities. Faculty would be responsible for securing prior approval for participation in Category I.A, I.B, and II.B activities and for submitting annual reports on all Category I and Category II activities. Designated other academic appointees would be responsible for securing prior approval for participation in and submitting annual reports on Category I.B and II.B activities.



- Removing Appendices B, C, and D. The revised policies propose to delete Appendices B, C, and D, as all campuses use OATS for APM-025 and APM-671 prior approval and annual reporting processes.

The Council offers the following comments:

- The phrase: “involve foreign-owned entities or occur outside the U.S.” used throughout the policy seems vague. More detail would be useful. What is meant by the word “involve”? What counts as foreign-owned? What are borderline situations? For example, does a US subsidiary of a foreign company with less than 50% ownership count? Does outside the U.S. include U.S. territories? What if the main firm a faculty works with is a U.S. company, but a secondary partner is foreign-owned? Does this include educational institutions?
- The report does not consider that assessing foreign ownership is often difficult or problematic. Most faculty will not know whether the entities they are involved with are foreign-owned. Most firms (e.g., private firms) don’t disclose this before one works with them. Also, finding out ownership information would likely require some investigation and may be impossible to determine for the faculty member. Furthermore, such inquiries could possibly damage relationships with the entity.
- An assessment of 0% is also vague, in that it suggests that any interactions that fall into the prescribed categories must be reported (e.g., one phone call). The corresponding additional reporting burden on faculty is not recognized. Requiring reporting for such low involvement (e.g., 1%) creates a significant burden on faculty. If “0%” throughout the text refers to the employment degree of an appointee, then this point is moot.
- It may be necessary to clarify non-compliance. For example 025-6.b., Item 2-10, on page 4, says “It is the responsibility of the individual faculty member to disclose to the best of their ability all known relevant information regarding the nature of their outside professional activities and the business, agency, organization, group, or individual for whom the services are performed.” However, there is a difference between failing to disclose and getting the disclosure wrong (e.g., claiming a US entity when there is some foreign ownership that is not immediately obvious). How far must faculty investigate to ensure that they are in compliance? How will such issues be evaluated?
- The proposed policy revisions recognize increased workloads for campuses and necessitate changes to the Outside Activity Tracking System (OATS), all of which have financial implications (Item 2-1, Item 2-4). However, very little detail is provided about these implications, so CPB cannot effectively evaluate these financial impacts at this time.
- It was noted that the policy does not require reporting of honoraria. The vast majority of the work that UCI faculty do likely falls into this category. However, given the proposed increased workload, perhaps this should remain omitted.

On behalf of the Council,



Alyssa Brewer, Chair

January 10, 2022

Robert Horowitz
Chair, UC Academic Senate

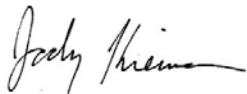
Re: (Systemwide Senate Review) Draft Revised APM 025 and APM 671

Dear Chair Horowitz,

The Divisional Executive Board, councils, and committees appreciate the opportunity to review the proposed revisions to APM 025 and APM671. The Executive Board reviewed the proposal and divisional council and committee feedback at its meeting on January 6, 2022.

Executive Board members voted unanimously to reject the proposal as written. Per the detailed attached feedback, Senate members expressed concerns about the inclusion of postdoctoral scholars, the lack of reference to NIH and NSF policies that informed the proposal, the lack of clarity between domestic and foreign activities as defined, and the need to disambiguate foreign influence from percent commitment.

Sincerely,



Jody Kreiman
Chair
UCLA Academic Senate

Encl.

Cc: Jessica Cattelino, Vice Chair/Chair Elect, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate

December 16, 2021

To: Jody Kreiman, Chair
Academic Senate

From: Carson T. Schutze, Chair
Faculty Welfare Committee

Re: **(Systemwide Senate Review) Draft Revised APM 025 and APM 671**

Dear Chair Kreiman,

At its meeting on November 15, 2021, the Faculty Welfare Committee (FWC) reviewed and discussed the Draft Revisions to APM 025 and APM 671. Members resumed the discussion electronically and offered the following comments.

The FWC has two concerns with these proposals. The major concern is the lack of motivation for the new pre-approval requirements. The secondary concern is the lack of clarity in how the new distinction between domestic and foreign activities is defined.

I. Lack of motivation for new pre-approval requirements

The proposed policy revisions would newly require prior approval by the Chancellor for Category II foreign activities, by faculty as well as ten new categories of academic appointees not previously subject to APM-025. According to the cover letter from VPAPP Susan Carlson, the origin of these proposed changes is the following:

Since 2018, the National Institutes of Health (NIH) and the National Science Foundation (NSF) have expanded their efforts to increase awareness of foreign influence risk and increased compliance enforcement. The report [*Systemwide Foreign Audit Influence Report* issued by systemwide Office of Ethics, Compliance and Audit Services], which recognizes the critical importance of **preserving federal funding for research within UC**, contained two systemwide recommendations...

One of those recommendations was an even more far-reaching expansion of pre-approval requirements on outside activities.

Unfortunately, neither the cover letter nor the policy proposal cite any specific language from NIH/NSF or refer to any policies, statements, etc., by those agencies. If the administration's claim is that the new requirements are necessary to avoid jeopardizing federal funding, the onus is on them to show this by (1) citing exactly what NIH/NSF have said about "foreign influence risk"; (2) explaining how this applies

to all Category II foreign activities; and (3) explaining how requiring prior approval by the Chancellor (based on provision of what details?) will ensure that NIH/NSF's concerns in this regard are assuaged.

Absent such direct linkage between the extra burden that the proposed policy revision would place on faculty (and other academic appointees) and the stated motivation for it, we see no reason to believe this extra effort is required to preserve federal funding, and consider it simply another unnecessary bureaucratic hurdle that will further drain time and effort away from research, and in particular will discourage international interactions of the sort we understand to be in the spirit of UCLA's vision of being a global institution. We therefore recommend the policy proposal be rejected unless it can be re-written with full justification as outlined above.

II. Lack of clarity in the definitions of subcategories I.A vs. I.B and II.A vs. II.B

The definitions of Category I.A vs. I.B and II.A vs. II.B activities do not seem to be mutually exclusive, leaving ambiguity as to where certain activities would fall, and hence in some cases whether they would require prior approval. The proposed definitions are as follows (emphasis added):

Category I.A & II.A activities involve U.S.-owned entities **or** occur within the U.S.

Category I.B & II.B activities involve foreign-owned entities **or** occur outside the U.S.

In which category is an activity that occurs within the U.S. but involves a foreign-owned entity (e.g. remote teaching from the U.S. for a foreign university)? Likewise, an activity that occurs outside the U.S. but involves a U.S.-owned entity (e.g. remote teaching from abroad for a U.S. university)? We note that, in light of modern technologies, the question of the physical location where an event is taking place may be becoming less relevant, and in some cases impossible to answer.

Furthermore, the definition of "US-owned entity" and "foreign-owned entity" are not self-evident and require further explication.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Assistant Director, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
Members of the Faculty Welfare Committee

To: Jody Kreiman, Chair
Executive Board

From: Andrea S. Goldman, Chair
Committee on International Education

Date: December 15, 2021

Re: Systemwide Senate Review – Draft Revised APM 025 and AMP 671

The draft of the revised APM 025 (Conflict of Commitment and Outside Activities of Faculty Members) and APM 671 (Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants) was circulated to the Committee on International Education members for independent review. Members did not have comments regarding the proposed revisions.

Thank you for the opportunity to review and comment. If you have any questions, please do not hesitate to contact me via the Committee on International Education analyst, Emily Le, at ele@senate.ucla.edu.

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

December 8, 2021

To: Jody Kreiman, Chair, UCLA Academic Senate

From: Leah Lievrouw, Chair, Graduate Council

Re: Systemwide Senate Review: Draft Revised APM 025 and APM 671

At its meeting on November 5, 2021, the Graduate Council reviewed and discussed the draft revised APM 025 (Conflict of Commitment and Outside Activities of Faculty Members) and APM 671 (Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants). We offer the following remarks for the Executive Board's consideration.

The Council was broadly supportive of the policies' intent to identify and track significant conflicts of commitment among regular faculty and other academic appointees, particularly their affiliations with or compensation received from domestic or foreign organizations or institutions outside the University. One member noted that the effort is consistent with recent advice from key U.S. institutions such as the NSF and the NIH, though others also observed that the requirements might be seen as frankly political gestures, drawing broad distinctions between domestic and foreign activities and reporting.

However, members' principal concerns related to the inclusion of postdoctoral scholars in the list of appointees subject to the revised reporting and prior approval requirements. Members noted that while the policies' language is primarily and consistently directed toward "faculty" and other full-time academic appointments, postdoctoral scholars are not permanent University employees or faculty, but rather are appointed as limited-term academic fellows or trainees working under the mentorship and supervision of Senate or other full-time faculty. For example, per UC Bylaw 330 B.3.(c), Graduate Councils set policies and standards for "the appointment of postdoctoral scholars or their academic equivalent and for their *enrollment* by the Graduate Division" (emphasis added), and Graduate Division administers and oversees such appointments.

In essence, the distinction between postdoctoral scholars and graduate students is minimal, which prompted some members to speculate whether the same requirements could not be extended to graduate students or even undergraduates employed as GSRs funded by research grants from domestic or international agencies, for example. As presented in the draft, the reporting and permission requirements could have the unintended effect of limiting postdoctoral scholars' research agendas or professional relationships outside UCLA, with adverse consequences for their academic careers. Members also pointed out that the revisions and covering documents did not contain clearly stated rationales/justifications for the 10 new categories of appointees to be covered by the revised policies, or an account of how the new categories were selected. Members recommended removing postdoctoral scholars from the list.

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410 Charles E. Young Drive East
Los Angeles, California 90095

Some members also expressed frustration with the difficulty of distinguishing which activities under the policy are subject to limits on compensation, versus limits on time, and called for clearer language on this point. Others suggested that the revised policies should state more clearly the reporting implications of differences between domestic vs. foreign organizations or institutions, whether located in the U.S. or internationally -- or as one member put it, clearly distinguishing the “interaction” between outside-university and outside-country affiliations or activities.

We appreciate the opportunity to express our views on this matter. If you have any questions, please contact us via Graduate Council’s Analyst, Estrella Arciba, at earciba@senate.ucla.edu.

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

November 23, 2021

To: Jody Kreiman, Chair, Academic Senate

From: Kathleen Bawn, Chair, Undergraduate Council

Re: Systemwide Senate Review: Draft Revised APM 025 and APM 671

At its meeting on November 12, 2021, the Undergraduate Council had an opportunity to review proposed revisions to the following policies:

- APM - 025, Conflict of Commitment and Outside Activities of Faculty Members;
- APM - 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

Members noted that some of the language in the revisions refers to “ownership,” which may be difficult to establish. Members recommend revising such language to “foreign-controlled” or “foreign-domiciled.”

Members also sought clarification on the category of individuals labeled as “other” who are not subject to time constraints.

Thank you for the opportunity to opine. If you have any questions, please contact me via the Undergraduate Council’s analyst, Julia Nelsen, at jnelsen@senate.ucla.edu.

cc: Jessica Cattelino, Vice Chair/Chair-Elect, Academic Senate
April de Stefano, Executive Director, Academic Senate
Julia Nelsen, Committee Analyst, Undergraduate Council
Peter Petersen, Vice Chair, Undergraduate Council
Shane White, Immediate Past Chair, Academic Senate



OFFICE OF THE ACADEMIC SENATE
LEROY WESTERLING, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

January 14, 2022

To: Robert Horwitz, Chair, Academic Council

From: LeRoy Westerling, Chair, UCM Divisional Council (DivCo)

Re: [Proposed Revisions to APM 025 and APM 671](#)

The proposed revisions to APM 025, *Conflict of Commitment and Outside Activities of Faculty Members* and APM 671, *Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants* were distributed for comment to the Merced Division Senate Committees and the School Executive Committees. Graduate Council offered comments (appended).

On December 16, 2021, members of the Divisional Council were invited to share their thoughts on the proposed revisions. No concerns were raised.

Graduate Council's comments were endorsed by the DivCo Chair on January 14, 2022.

CC:

Divisional Council and UCM Senate Office
Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE ACADEMIC SENATE
ERIN HESTIR, CHAIR, GRADUATE COUNCIL
ehestir@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

DECEMBER 3, 2021

TO: LEROY WESTERLING, CHAIR, DIVISIONAL COUNCIL

FROM: ERIN HESTIR, CHAIR, GRADUATE COUNCIL

RE: PROPOSED REVISIONS TO APM SECTIONS 025 AND 671

Graduate Council (GC) has reviewed [the proposed revisions](#) to APM 025, Conflict of Commitment and Outside Activities of Faculty Members and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants. GC is pleased to endorse the proposed revisions with the following comments.

APM 025

Section 025-06 introduces reporting lines involving Department Chairs. However, responsibilities of this sort are not explicitly assigned to Department Chair. Perhaps a section should be added to APM 025 outlining Department Chair responsibilities. Additionally, a reference to such responsibilities should be added to APM 245.

Postdoctoral scholars have been added to APM 025's list of academic appointees who are responsible for submitting disclosure documents. Are their mentors/supervisors responsible in any way for the action of their postdoctoral scholars? GC wonders if (faculty) supervisors should be required to approve such disclosures before the submission of the documents to the Department Chair.

APM 025 and 671

Although this passage (in p.10 in both documents) is outside the scope of the proposed revisions, GC lead reviewer found it puzzling that grants submitted as part of a professional society are exempted from the reporting requirements. What are the rationales for this exemption?

In both documents, in page 14, it is stipulated that reporting begins on "date of hire." Further clarification would be beneficial, as it is not clear if such requirements can be binding in advance of appointment date.

Graduate Council appreciates the opportunity to opine.

CC: Graduate Council
Senate Office



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

JASON STAJICH
PROFESSOR OF BIOINFORMATICS
RIVERSIDE, CA 92521-0217
TEL: (951) 827-6193
EMAIL: JASON.STAJICH@UCR.EDU

January 14, 2022

Robert Horwitz, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: (Systemwide Review) Draft Revised APM 025 and APM 671

Dear Robert,

The Riverside Executive Council discussed the subject proposed APM revisions at their January 10, 2022 meeting.

Council members commented that these revised policies require administrative infrastructure to assess, ensure compliance, and education. I trust these comments and those attached from Riverside Divisional committees prove helpful.

Sincerely yours,

/s/ Jason

Jason Stajich
Professor of Bioinformatics and Chair of the Riverside Division

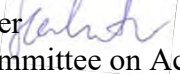
CC: Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office



COMMITTEE ON ACADEMIC PERSONNEL

January 5, 2022

To: Jason Stajich
Chair, Riverside Division Academic Senate

Fr: Sean Cutler 
Chair, Committee on Academic Personnel

Re: [Systemwide Review] Proposed Revisions to Academic Personnel Manual (APM):
Draft Revised APM 025 and APM 671

CAP discussed the proposed revisions to APMs 025 and 671. CAP did not take issue with the recommended changes regarding their expansion to cover other academic appointee titles. However, CAP was concerned by the recommendation that all foreign activities be classified as Category I activities requiring prior approval. CAP is concerned that this burdensome requirement will reduce external collaborations and discourage a highly desirable form of scholarly engagement that reviewing bodies usually encourage and reward. In addition, clear guidelines on what activities are “foreign” need to be provided. For example, faculty often participate in large international multi-member teams or utilize remote facilities for their experiments, even though they may not visit other countries to collaborate or access instrumentation and data. CAP was similarly concerned with potentially conflicting guidance on reporting and compliance. The proposed language states that “It is the responsibility of the individual faculty member to disclose, *to the best of their ability*, all known relevant information...” and later that “faculty will be considered out of compliance” for “failure to disclose and describe ... outside professional activities *accurately*” (italics added). Since reporting guidelines often change throughout a project’s lifetime (often unbeknownst to the faculty member), it is conceivable that a faculty member may unintentionally make technically inaccurate statements despite following the “best of their ability” guidance. How is accuracy defined and measured by this policy? What are the consequences of failing to “accurately” disclose and describe outside professional activities? The document should address these questions. Lastly, CAP members noted the document mentions “that the proposed policy revisions would result in increased workloads for campuses and necessitate changes to the Outside Activity Tracking System (OATS)”. Estimates for the cost and time required to implement these changes would also be helpful.



December 17, 2021

To: Jason Stajich, Ph.D., Chair, Academic Senate, UCR Division

From: Declan McCole, Ph.D., Chair, Faculty Executive Committee, UCR School of Medicine

Subject: Response to Review [Systemwide Review] Proposed Revisions to Academic Personnel Manual (APM): *Draft Revised APM 025 and APM 671*

Dear Jason,

The SOM Faculty Executive Committee has reviewed the Proposed Revisions to Academic Personnel Manual (APM): Draft Revised APM 025 and APM 671. There was broad approval for the proposed revisions, but we offer the following feedback.

The SOM Faculty Executive Committee is in full support of monitoring more rigidly any foreign outside activities by faculty and other non-faculty associates. However, and in order to avoid additional roadblocks to entrepreneurship and translation of University inventions, it would be advisable that non-faculty University employees would be exempt from rigid reporting, in particular that they would not need to request permissions and reporting Category I activities if these involve secondary employment at a University “affiliated” company, such as a formal spin-off company and/or a company that has in-licensed University intellectual property (IP). We also suggest that some guidance be included as to whether any existing situations will be grandfathered in if the APM is updated.

Yours sincerely,

A handwritten signature in black ink that reads "Declan McCole".

Declan F. McCole, Ph.D.
Chair, Faculty Executive Committee School of Medicine



OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

January 18, 2022

Professor Robert Horwitz
Chair, Academic Senate
University of California
VIA EMAIL

Re: Divisional Review of Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671)

Dear Professor Horwitz,

The proposed revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671) were distributed to San Diego Divisional Senate standing committees and discussed at the January 10, 2022 Divisional Senate Council meeting. Senate Council had no objection to the proposal, and offered the following comments for consideration.

There was no objection to revise the policy to include additional academic series, but Council members were concerned about the additional workload associated with the proposed changes, especially for those involved in the review and approval process as well as the supporting staff. The approval process for outside activities is already onerous for faculty, and the addition of more reporting requirements further highlights the need for explicit instructions on how to classify activities correctly. In addition, the definitions of the new subcategories I.A, I.B, II.A, and II.B are not clear enough (especially II.A and II.B since pre-approval is needed for II.B), given that companies can be owned by many different entities using various legal structures and can conduct business online. It may be hard for a faculty member to determine if a company would be considered "foreign-owned" or "U.S.-owned" and whether it conducts business only in the U.S. or outside the U.S. In light of a history of profiling, how can we ensure the policy does not create a fertile ground for targeting foreign-born scholars? It would also be helpful for faculty to know what constitutes allowable and unallowable foreign engagements in order to both prevent potential violations and to encourage an open scholarly culture fostering productive international engagements and collaborations.

The responses from the Divisional Committee on Academic Personnel, Committee on Faculty Welfare, and Committee on Research are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Javidi", with a long horizontal flourish extending to the right.

Tara Javidi
Chair
San Diego Divisional Academic Senate

Attachments

cc: Nancy Postero, Vice Chair, San Diego Divisional Academic Senate
Lori Hullings, Executive Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, UC Systemwide Academic Senate

November 15, 2021

IN CONFIDENCE

TARA JAVIDI

Academic Senate, San Diego Division

SUBJECT: Proposed Revisions to APM 025: Conflict of Commitment and Outside Activities of Faculty Members and APM 671: Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

The Committee on Academic Personnel (CAP) appreciates the opportunity to provide comments on the proposed revisions to APM 025: Conflict of Commitment and Outside Activities of Faculty Members and APM 671: Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants. The committee discussed the proposal at its November 10, 2021 meeting.

The committee has no objection to the proposal to modify APM 025 to cover 10 additional academic series that would be newly subject to prior approval and annual reporting requirements if engaging in foreign activities. CAP also has no objections to expanding the applicability of APM 025 to cover appointments above 0%, therefore requiring faculty and designated other academic appointees appointed above 0%, including recall appointees, to secure prior approval for and submit annual reports on participation in foreign activities. CAP understands that these policies would only be applicable if the appointee is participating in foreign activities and that no such annual reporting nor pre-approval is required in cases where someone appointed in one of the ten newly added series is performing Category I.A and Category II.A activities (i.e. involving U.S.-owned entities or occurring within the U.S.). If the intent is to require that these 10 series report on all Category I and II activities annually and receive prior approval for all Category I activities, regardless of whether they are domestic or foreign, then the policy revisions should make that clearer.

CAP also supports the removal of Appendices B, C, and D in the policies since all campuses use UC OATS for APM 025 and APM 671 prior approval and annual reporting processes.

In general, CAP understands that the University has an interest in protecting the University from any potential liability that may result from an academic appointee participating in outside foreign activities. Most committee members voiced support for the goal of the proposed policy and the need to establish new subcategories I.A and II.A for domestic activities and new subcategories I.B and II.B for foreign activities. However, CAP found that the definitions of Category I.A and Category I.B were not clear enough (*Category I.A activities involve U.S.-owned entities or occur within the U.S.; Category I.B activities involve foreign-owned entities or occur outside the U.S.*). Members judged that there is a conflict between these definitions because an activity can take place in the U.S. (hence Category I.A) but with a foreign-owned entity (hence Category I.B). Some committee members surmised that the intention was to define Category I.A activities as involving U.S.-owned entities AND occurring within the U.S. CAP recommends that the policy

language is refined, with possible permutations (example: U.S. owned company with activity occurring in the U.S.= Category I.A, etc.) listed as examples, to make the requirements as clear as possible.

CAP also notes that clarity is required on the definitions of "U.S. owned" and "foreign-owned" with all the permutations of direct ownership, partially-owned subsidiaries, investments, and so on. An example of why this is necessary is illustrated by an example a member brought up during the discussion: An academic appointee wants to consult at a company that is physically located in San Diego, CA. After doing their due diligence by checking that Wikipedia says the company is listed on NASDAQ and headquartered in another U.S. state, would that be sufficient to call this a Category II.A activity, or would the academic appointee need to dig further, perhaps needing to review any publicly noted foreign company investors that may have a large stake/ownership in the company that would bump this into a Category II.B activity, or perhaps being expected to use specific types of information sources, rather than just Wikipedia? Having to spend an inordinate amount of time researching the ownership of the company adds an undue burden to the academic appointee and CAP can see compliance issues if this is the level of scrutiny expected by every academic appointee that would be required to comply with the revised policy.

CAP members were also deeply concerned with the downstream effects that will occur as the result of the proposed new policy. Even with the campus adoption of the UC OATS system, processing times are unnecessarily long. In many cases, an appointee is faced with a short deadline to respond to any entities with which they may wish to engage in outside activities. Members are worried that with this new requirement and the many new requests for pre-approval that will be generated as a result, that the approval process will be considerably longer. CAP strongly urges that, if at all possible, streamlined and speedy pre-approval processes are programmed into the UC OATS system before the policy goes into effect.

CAP appreciates the opportunity to comment on the proposed policy revisions and hopes that the Senate will consider some of the concerning elements of the proposed policy revisions that CAP judged as needing further clarification.



Pamela Cosman, Chair
Committee on Academic Personnel

Cc: N. Postero
L. Hullings
J. Lucius

December 15, 2021

TARA JAVIDI, CHAIR
Academic Senate, San Diego Division

SUBJECT: APM 025 & 671 Proposed Revisions to Conflict of Commitment and Outside Activities of Faculty Members and Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

The Committee on Faculty Welfare (CFW) reviewed the proposed revisions to the APM 025 and 671 Conflict of Commitment and Outside Activities of Faculty Members and Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants at its November meeting. The members of the committee endorsed the revisions.

Sincerely,

Juan Pablo Pardo-Guerra, Vice Chair
Committee on Faculty Welfare

cc: N. Postero
S. Sinha

November 29, 2021

TARA JAVIDI, Chair

Academic Senate, San Diego Division

SUBJECT: Review of APM 025 & 671, Conflict of Commitment and Outside Activities

The Committee on Research (COR) discussed the proposed revisions to APM 025 and 671 at their November 15, 2021 meeting. The Committee endorses the proposed changes, and understands and supports that the rules and processes will, and should, apply to every researcher on campus, regardless of appointment or series. COR believes the changes will be beneficial in helping to keep faculty accountable for activities needing prior approval to prevent future violations. The changes will also keep the University aware of the entire range of commitments and activities its faculty members are engaged in.

Along with the proposed changes, COR opined that providing a clear outline of which activities are under the threat of potential foreign influence would be beneficial to researchers. The Committee believes educating faculty on what constitutes allowable and unallowable foreign engagements is crucial in order to prevent potential violations.

We thank you for the opportunity to comment on the proposed revisions to APM 025, Conflict of Commitment and Outside Activities of Faculty Members APM 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

Sincerely,

Gert Cauwenberghs, Chair
Committee on Research

cc: S. Golden
L. Hullings
J. Lucius
N. Postero

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500 Parnassus Ave, MUE 230
San Francisco, CA 94143-0764
Campus Box 0764
tel.: 415/514-2696
academic.senate@ucsf.edu
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Steven W. Cheung, MD, Chair
Steve Hetts, MD, Vice Chair
Pamela Ling, MD, Secretary
Kathy Yang, PharmD, Parliamentarian

January 18, 2021

Robert Horwitz
Chair, Academic Council
Systemwide Academic Senate
University of California Office of the President
1111 Franklin St., 12th Floor
Oakland, CA 94607-5200

Re: UCSF Comments on the Proposed Revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members)

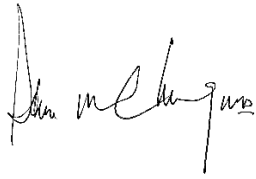
Dear Robert:

The San Francisco Division of the Academic Senate recently reviewed the proposed revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members). In brief, the proposed revisions would increase the number of academic appointees who are subject to outside activity/conflict of commitment requirements, and would increase the reporting and pre-approval requirements for foreign outside activities. In addition, we understand that the proposed changes are intended to reduce or mitigate foreign influence over the University. UCSF's Clinical Affairs Committee (CAC), Committee on Faculty Welfare (CFW), Rules & Jurisdiction (R&J), and the School of Medicine Faculty Council (SOMFC) provided comments. Given the importance of outside activities to UCSF, this is a critical issue for our faculty.

We have the following specific concerns and suggestions:

1. *Xenophobia*: UCSF's CAC is concerned that these changes will have a chilling effect on productive and appropriate work with colleagues across the world.
2. *Faculty Administrative Burden*: The proposed revisions would complicate what are already significant reporting and preapproval requirements (CAC, CFW, & SOMFC). On this point, we recommend that the University quantify the estimated increased burden on faculty before moving forward with the policy, and develop a process for faculty to provide requested information in a streamlined manner that does not result in undue burden (CFW & SOMFC). We are also particularly concerned about how faculty will know whether activities involve foreign-owned entities or occur outside the U.S. Therefore, both CAC and the SOMFC recommend that the University provide faculty guidance on how faculty should determine whether an activity involves a foreign-owned entity or whether it occurs outside the U.S.
3. *Application to Staff*: While we understand that the APMs only apply to UC faculty, our CFW articulated concerns that the proposed policy only applies to faculty and not to staff. If the risk of foreign influence is significant, a similar policy should be drafted that would apply to staff.
4. *Impact on Post-Doctoral Scholars*: If the policy is limited to academic appointees, CFW is concerned about how it will impact postdoctoral scholars, whose careers are especially vulnerable to delays.

Thank you for the opportunity to opine on the revisions to these important APMs. If you have any questions, please let me know.



Steven W. Cheung, MD, 2021-23 Chair
UCSF Academic Senate

Enclosures (4)

Cc: Kathleen Liu, Chair, UCSF Clinical Affairs Committee
Lindsay Hampson, Chair, UCSF Committee on Faculty Welfare
Mijung Park, Chair, UCSF Rules & Jurisdiction
Marta Margeta, Chair, School of Medicine Faculty Council

Clinical Affairs Committee
Kathleen Liu, M.D., Ph.D., M.A.S., Chair

January 10, 2022

Steven Cheung, M.D.
Division Chair
UCSF Academic Senate

Re: **Systemwide Review of Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members**

Dear Chair Cheung:

The Clinical Affairs Committee (CAC) writes to comment on proposed revisions to APM 025 and 671 that govern outside activities of faculty members and potential conflicts of commitment.

CAC understands that the proposed changes are intended to reduce or mitigate foreign influence over the University, but CAC is concerned that these changes will have a chilling effect on productive and appropriate work with colleagues across the world. CAC is also concerned that the proposed revisions will foster xenophobia and racism and make faculty less willing to develop the very relationships that break down barriers and stereotypes.

Outside activity is important to faculty professionally and financially. The proposed revisions would complicate what are already significant reporting and preapproval requirements. CAC is particularly concerned about how faculty will know whether activities involve foreign-owned entities or occur outside the U.S. This might seem like a strange concern, but it is not always obvious whether entities are foreign-owned. In a world filled with multi-national corporations, parent companies, subsidiaries, and international supply chains, it is not easy to know whether entities are foreign-owned. It can even be difficult to tell whether an activity occurs outside of the U.S. Is a faculty member participating in an activity that occurs outside the U.S. if the faculty member is paid by a U.S. company to speak at a European online conference while the faculty member remains in the U.S.?

CAC recommends that the University provide faculty with guidance on how faculty should determine whether an activity involves a foreign-owned entity or whether it occurs outside the U.S. These questions are not as straightforward as they may seem, and faculty will need guidance and resources to comply with the proposed policy.

Thank you for the opportunity to comment on this systemwide review.

Sincerely,



Kathleen Liu, M.D., Ph.D., M.A.S., Clinical Affairs Committee Chair
CC Senate Executive Director Todd Giedt

Committee on Faculty Welfare
Lindsay Hampson, MD, MAS, Chair

January 13, 2022

Steven Cheung, MD
Division Chair
UCSF Academic Senate

Re: Systemwide Review of Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members

Dear Chair Cheung:

The Committee on Faculty Welfare (CFW) writes to comment on the systemwide review of [Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members](#). CFW is concerned about the proposed revisions to APM 025 and APM 671. CFW fears that the revisions would make the Conflict of Commitment and Outside Activities policy excessively bureaucratic and would not meaningfully address the problem of malfeasance by foreign governments in academic research.

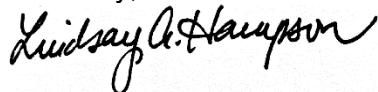
CFW recommends that the University quantify the estimated increased burden on faculty before moving forward with the policy and provide a system for faculty to provide requested information in a streamlined manner that does not result in undue burden.

If the proposed policy is implemented and chancellor-level approval is required for more outside activities, the process for obtaining that approval should be efficient. Otherwise, projects can be delayed by months to years.

CFW is also concerned that the proposed policy only applies to faculty and not to staff. If the risk of foreign influence is significant, the policy should also apply to staff. If the policy is limited to academic appointees, CFW is concerned about how it will impact postdoctoral scholars whose careers are especially vulnerable to delays.

Finally, CFW believes that if the proposed changes are implemented, there should be a thoughtful and coordinated effort to educate faculty about the new rules. CFW members were not very familiar with the existing policies on outside activities, and the members are concerned that faculty will not learn about the proposed changes if they are implemented.

Sincerely,



Lindsay Hampson, MD, MAS, Committee on Faculty Welfare Chair

Committee on Rules and Jurisdiction**Mijung Park, PhD, MPH, RN, Chair**

January 10, 2022

Steven Cheung, MD
Division Chair
UCSF Academic Senate

Re: Systemwide Review of the Proposed Revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members).

Dear Chair Cheung:

The Committee on Rules and Jurisdiction (R&J) writes to comment on the proposed revisions to APM 025 and APM 671 related to conflict of commitment and outside activities of faculty members. APM 025 and APM 671 frequently refer to “a day” in time limits for outside activities. It is unclear whether “a day” is a calendar day, a business day, or eight hours.

The proposed policy defines “A Day” in APM 025 as follows, “For purposes of this policy, a day is defined using common sense and customary practice. This definition may vary by campus and/or discipline.” (See PDF page 8 of the 93-page systemwide review packet.) The proposed policy uses an identical definition for APM 671 but with this additional language at the end, “School or Departmental Implementing Procedures may include a more specific definition of a day.” (See PDF page 54.) R&J finds these definitions inadequate and recommends that the definitions be more specific.

Thank you for the opportunity to comment on this systemwide review. Please reach out if you have any questions.

Sincerely,

Mijung Park, PhD, MPH, RN
Committee on Rules and Jurisdiction, Chair

School of Medicine Faculty Council
Marta Margeta, MD, PhD Chair

January 10, 2022

Steven Cheung, M.D.
Division Chair
UCSF Academic Senate

Re: Systemwide Review of Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members

Dear Chair Cheung:

The School of Medicine Faculty Council (SOMFC) writes to comment on the systemwide review of proposed revisions to APM 025 and APM 671 regarding conflict of commitment and outside activities of faculty members.

The proposed revisions would increase the number of academic appointees who are subject to outside activity/conflict of commitment requirements, and the revisions would increase the reporting and pre-approval requirements for foreign outside activities.

SOMFC has concerns about the administrative burden of increasing reporting and pre-approval requirements. SOMFC recommends that any forms, processes, and systems for implementing the proposed changes be as streamlined as possible. A streamlined system would not only be less frustrating for faculty, but it likely would result in more accurate information and be a better tool for identifying undue foreign influence. It needs to be relatively easy and clear for faculty to provide information about their outside activities.

Of note, the University should provide clear guidance on how faculty should determine whether an outside activity involves a foreign entity. With so many multinational entities with complex parent and subsidiary relationships, it may not be easy to know when an outside activity involves a foreign entity. If the proposed revisions are adopted, SOMFC recommends that the University provide faculty with clear guidance on how to evaluate whether an entity is considered foreign.

Last, SOMFC recommends that the University provide clear guidance on whether lower risk Category III activities like serving on an editorial board of a foreign or international journal would have any increased reporting or preapproval requirements.

Thank you for the opportunity to comment on this systemwide review. Please contact me if you have any questions.

Sincerely,

A handwritten signature in purple ink that reads "Marta Margeta". The signature is written in a cursive, flowing style.

Marta Margeta, MD, PhD
Chair of the School of Medicine Faculty Council

cc: Todd Giedt, UCSF Academic Senate Executive Director
Elena Fuentes-Afflick, UCSF SOM Vice Dean for Academic Affairs
Rene Binder, UCSF SOM Associate Dean for Academic Affairs



UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

1233 Girvetz Hall
Santa Barbara, CA 93106-3050
<http://www.senate.ucsb.edu>

January 18, 2022

To: Robert Horwitz, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division 

Re: Systemwide Review of Revisions to APM 025 and 671 - Conflict of Commitment and Outside Activities

The Santa Barbara Division distributed the proposed revisions to Senate councils and committees, including the Council on Faculty Welfare, Academic Freedom, and Awards (CFW), Committee on Academic Personnel (CAP), Committee on Diversity and Equity (CDE), Committee on International Education (CIE), Committee on Privilege and Tenure (P&T), Committee on Research Policy and Procedures (CRPP), and the Faculty Executive Committees (FECs) of the College of Letters and Science (L&S), College of Engineering (COE), and Gevirtz Graduate School of Education (GGSE), Bren School of Environmental Science and Management (BREN) and the College of Creative Studies (CCS). CRPP and GGSE, BREN, and CCS FECs opted not to or were unable to opine within the time permitted.

Overall, the Santa Barbara Division finds the expansion of APM 025 objectionable, which was our primary focus given the lack of a medical school at UC Santa Barbara. The policy presents an undue burden on faculty for activities that are critical to the mission of the University of California and which fall within their normal range of professional duties. As presented, the policy places compliance at odds with the principles of academic freedom. The revisions also poorly define "foreign influence risks" and the metrics by which these risks will be judged. A summary of key points is included below, and the individual responses are attached for your review.

A key issue raised by the reviewing groups is the expansion of the policy. As stated by CFW, "In general, we object as a matter of principle to the UC requiring faculty to seek prior written approval for participation in foreign activities. We are concerned that this policy change results in intensified UC oversight over faculty professional activities due to more generalized federal concerns about foreign influence in the US. There is a need to maintain a balance between the reporting of conflicts of commitment and protection of academic freedom." Similarly, CAP stated that the revision "...appears to be expanding an existing reporting system into a surveillance system, in order to collect data on an issue unrelated to the original statute. Further, how this new data will be judged is nebulous. We find this objectionable."

Another issue raised was the lack of a clear definition of “foreign influence risks.” Multiple groups emphasized the critical importance of a revised policy which defines the metrics that will be used to judge the risks of foreign influence in outside activities. The L&S FEC states, “Clarity around this definition is critical, because the very mission of the University depends on the generation, sharing, and distribution of knowledge both domestically and internationally. The campus benefits tremendously from this multi-directional creation of knowledge and its exchange, and provides value from its own contributions. Without a clear definition for what constitutes a “foreign influence” threat, for example in the sense of a specific risk to national security, the whole-sale implementation of changes presented could unduly damage our faculty’s and students’ ability to engage in international exchange and collaboration with entities outside of the country and erode the very foundation of our ethics of engagement.” The boundary between work within the university and outside of the university was also unclear.

Per CDE, the language in section II.A(c) “Providing outside consulting services or referrals or engaging in professional practice as an individual or through a single-member professional corporation or sole proprietorship;” is vague. Faculty members frequently provide consultations and referrals in the context of their research, graduate mentorship, and other professional activities. The UC Regents encourage entrepreneurial activities among faculty; are those enterprising activities to be reported as well? Or only an individual faculty member’s professional work outside the university?

Several groups also called attention to the implementation of this new aspect of the policy, characterizing the requirements as onerous. CFW states “Faculty should not be tasked with onerous and unnecessary reporting requirements or be asked to work in a context in which they must question whether each of their teaching, research, or professional activities constitutes a conflict of commitment. The oversight and reviewing workload for this policy change is extensive and excessive, especially during a time of staff attrition in the UC system and on our campus.” They specifically call attention to why the activities mentioned in Category III A-F would be included in a conflict of commitment policy, noting that these are normal professional activities that faculty typically report as part of the academic personnel review process. They ask how these activities could “interfere with a faculty member’s obligations to the University” when they are expected as part of faculty members’ merit and promotion cases. The groups also raised questions about how administrators, faculty, and staff might be trained to identify the vaguely defined “foreign influence risks,” and noted that the lack of clarity would make the policy difficult to adhere to.

Multiple groups also raised concerns about equity, noting that the policy will impact some faculty more than others, due to their nationality or area(s) of research. P&T emphasized that international and domestic activities should be seen as equitable.

Other, more specific concerns include:

- **Potential for abuses of power.** There could be conflicts of interest if a Chair does not want to approve faculty, or postdoctoral scholars, from pursuing supplemental work (which is often needed to earn a living wage in high cost of living areas). Will Chairs be

subject to recusal? Will there be a way to appeal a decision? The approval process should be explained in more detail.

- **Earnings for outside activities.** CDE expressed concern about how the amount of money a faculty member can make on top of what they earn at the UC will be calculated. \$40,000 or 40%, whichever is greater, seems inequitable.
- **Elected positions.** Footnote 6 of section 025-10.a.1.I.B indicates that faculty members must have prior approval from the Chancellor before “assuming an executive managerial position outside of the University” with foreign-owned entities or those that occur outside the U.S., with the inclusion of positions with professional societies. As these types of positions are often elective, it is unclear whether the approval of the Chancellor would be required prior to a faculty member standing for election, or only after they win. In either case, obtaining the Chancellor’s approval constitutes a time-consuming and onerous additional step in the process. P&T is of the opinion that Footnote 4 of section 025-10.a.1.I.A, indicating that such a limitation would specifically not include positions with professional societies, should apply to both categories I.A and I.B.
- **Executive or managerial positions in professional societies.** P&T suggests that section 025-10 should overall state that serving in an executive or managerial position in a professional society is a Category II, rather than a Category I, activity. Subsequently, footnote 4 and footnote 6 may instead read, “with the exception of positions in professional societies, which constitute Category II activities.”
- **Differing restrictions.** P&T is also generally concerned that different restrictions apply to I.A/II.A and I.B/II.B activities. Such distinctions suggest that faculty participation in foreign-based professional activities should be under stricter scrutiny than their domestic-based counterparts, presumably on the assumption that the membership of non-American citizens will be greater in the former than the latter. The Committee believes that the standards governing faculty participation in I.A/II.A and I.B/II.B activities should be the same.

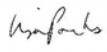
In short, the Santa Barbara Division feels strongly that all of these issues should be taken into consideration in an effort to further revise the policy. Any future iterations should be routed to the Academic Senate for review prior to implementation.

We thank you for the opportunity to comment.

**Academic Senate
Santa Barbara Division**

January 12, 2022

To: Susannah Scott, Divisional Chair
Academic Senate

From: Lisa Parks, Chair 
Council on Faculty Welfare, Academic Freedom, and Awards

Re: Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671)

The Council on Faculty Welfare, Academic Freedom, and Awards reviewed the Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM - 025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671) and offered comment via email. The memo was drafted based on input from council members solicited via email. The comments below are specific to APM-025; the Council did not consider APM 617 applicable since our campus does not have a medical school.

The council finds the mandatory reporting and permissions for Category I.A(a) & I.B(a) to be unnecessarily onerous: "Teaching, research, or administration of a grant at an educational institution, trust, organization, government agency, foundation, or other entity outside of the University;"

Faculty frequently participate in collaborative work that involves teaching and/ research activities outside the university and should not have to request prior permission to engage in such activities. There is a need for clarification as to whether these policies pertain to faculty delivering lectures at other universities, whether in the U.S. or foreign countries, where students are present and may receive honoraria. Is this considered "teaching"?

Additionally, section II.A(c) needs further clarification. "Providing outside consulting services or referrals or engaging in professional practice as an individual or through a single- member professional corporation or sole proprietorship;" is vague. Faculty members frequently provide consultations and referrals in the context of their research, graduate mentorship, and other professional activities. The UC Regents encourage entrepreneurial activities among faculty; are those enterprising activities to be reported as well? Or only an individual faculty member's professional work outside the university? The boundaries are a bit confusing.

It is unclear as to how and why the activities mentioned in Category III A-F would be included in a conflict of commitment policy. These are normal professional activities that faculty typically report as part of the academic personnel review process. How could they "interfere with a faculty member's

obligations to the University” when they are expected as part of faculty members’ merit advancements and promotions? This needs clarification.

The policy does not provide information about the training and education of faculty or academic appointees about the details and requirements of the policy. What UCSB offices will be charged with informing the research community about this? Department chairs? Deans? Currently, they are charged with oversight and review, but what about informing faculty and academic appointees about these requirements? More detail is needed in this regard.

In general, we object as a matter of principle to the UC requiring faculty to seek prior written approval for participation in foreign activities. We are concerned that this policy change results in intensified UC oversight over faculty professional activities due to more generalized federal concerns about foreign influence in the US. There is a need to maintain a balance between the reporting of conflicts of commitment and protection of academic freedom. Faculty should not be tasked with onerous and unnecessary reporting requirements or be asked to work in a context in which they must question whether each of their teaching, research, or professional activities constitutes a conflict of commitment. The oversight and reviewing workload for this policy change is extensive and excessive, especially during a time of staff attrition in the UC system and on our campus.

Moreover, such a policy poses equity issues as some faculty, due to their nationality or research, would be more targeted or limited than others. In the foreign languages and literatures fields, for instance, most international organizations and conferences may be housed abroad and participating in these professional organizations and meetings may be more or less a requirement in order to be a leading scholar in the field. This policy would strongly prevent such faculty from doing the work and achieving the renown they have been hired for.

CC: Shasta Delp, Executive Director, Academic Senate

ACADEMIC SENATE
SANTA BARBARA DIVISION

January 12, 2022

TO: Susannah Scott, Divisional Chair
Academic Senate

FROM: Omar Saleh, Chair
Committee on Academic Personnel

RE: Proposed Revisions to Academic Personnel Manual (APM) 025 and APM 671

The Committee on Academic Personnel (CAP) has reviewed the proposed revisions to APM 025 and APM 671. Given UCSB's lack of a medical school, the focus was solely on APM 025.

CAP members appreciated the need to bring campus reporting policy in line with the expectations of federal agencies, and also understood the motivation to more clearly identify and categorize the various types of external activities. However, the general consensus of the committee was negative, for the following reasons:

- The stated intent of the revisions (page 1) is to identify outside activities involving 'foreign entities that may pose foreign influence risks.' However, no criteria are explicated as to which activities or foreign entities might pose such a risk. In many cases it is unclear how to define whether an entity is, in fact, foreign-- many corporations are multinational, and even apparently domestic companies maintain foreign headquarters, e.g. for tax reasons. The memo indicates that the Department Chair will play a key role in approving activities, but it is far from obvious that this individual will have the knowledge and insight to clarify these points. Thus even well-informed faculty wishing to follow the revised procedures will ultimately be left in the dark as to how to define foreign activities and their potential risk, and so will not be able to predict the likelihood of obtaining prior approval for any given activity, which will lead to uncertainty, inability to make future plans, and delays. It seems critical that the statute be revised so there is a clear answer to the question, "What metrics will be used to judge the risks of foreign influence in outside activities?"
- There is significant concern about the way in which the statute is being expanded in this revision. The original statute was aimed at ensuring faculty are committing appropriate time and effort to university activities, particularly by clearly explicating the amount of time permitted to be devoted to outside activities. The revision adds a new aspect ('foreign influence risks'), without defining them. The revision thus appears to be expanding an existing reporting system into a surveillance system, in order to collect data on an issue unrelated to the original statute. Further, how this new data will be judged is nebulous. We find this objectionable.
- A second manner in which the revision expands the statute regards who must report-- now not just faculty, but various other members of the University community (e.g. researchers, scientists,

academic administrators). This expansion is likely to have an impact on recruiting individuals into those positions; we are concerned that the proposed increase in scrutiny will make it difficult to attract foreign-born candidates. Already, hiring of international candidates into these positions has been negatively impacted by various political and legal developments; the expansion proposed here is likely to exacerbate those impacts.

Because of the issues stated above, there is concern that the revision will have the effect of discouraging international collaboration in research and other scholarly activities, which is contrary to the principles of academic freedom and global engagement that are integral to the University's values.

For the Committee,

A handwritten signature in black ink, appearing to read 'Omar Saleh', written in a cursive style.

Omar Saleh, Chair

**Academic Senate
Santa Barbara Division**

January 3, 2022

To: Susannah Scott, Divisional Chair
Academic Senate

From: Jean Beaman, Chair
Committee on Diversity and Equity



Re: Proposed Revisions to Academic Personnel Manual APM 025 and APM 671

At its meeting of November 29, 2021, the Committee on Diversity and Equity (CDE) reviewed the proposed revisions to Academic Personnel Manual (APM) 025 and 671, pertaining to conflict of commitment and outside activities of faculty members. CDE focused on APM 025, as APM 671 covers health sciences compensation plan participants. The Committee questioned the reasoning behind these changes: it would be odd if the motivation for these changes is to scrutinize faculty members' sources of income, but understandable if it is to protect intellectual property. Other concerns raised included:

- Participation in foreign and domestic professional groups being treated differently. If a faculty member is a member of a domestic professional organization, this does not need additional approval, but does if they belong to a foreign professional organization. This seems odd as many professional organizations are international in nature. This is also an issue of equity, as certain areas of research may be more international than others.
- Potential for abuses of power. There could be conflicts of interest if a Chair does not want to approve faculty, or postdoctoral scholars, from pursuing supplemental work (which is often needed to earn a living wage in high cost of living areas). Will Chairs be subject to recusal? Will there be a way to appeal a decision? The approval process should be explained in more detail.
- How the amount of money a faculty member can make on top of what they earn at the UC will be calculated. \$40,000 or 40%, whichever is greater, seems inequitable.

CC: Shasta Delp, Executive Director, Academic Senate

January 12, 2022

To: Susannah Scott
Divisional Chair, Academic Senate

From: Spencer Smith, Chair
Committee on International Education



Re: Proposed Revisions to Academic Personnel Manual (APM) 025 and APM 671

The Committee on International Education (CIE) has reviewed the “Proposed Revisions to Academic Personnel Manual (APM) 025 and APM 671.” Since UC Santa Barbara does not have a School of Medicine, the committee chose not to discuss APM 671, which focused on “Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.” Instead, the committee focused on APM 025 as it pertains to “General Academic Appointees” and how these revisions could affect international education.

The committee commented that the addition of the line, “This policy also seeks to clarify reporting and prior approval requirements related to outside professional activities involving foreign entities that may pose foreign risk,” due to its vagueness, could cultivate prejudice as the revisions do not indicate what constitutes a “foreign risk.” Without clear definitions of “foreign risk,” undue burden will be placed upon faculty members and others to determine what is a “foreign risk” and could negatively impact potential research collaborations with foreign universities and institutions. The committee understands that there are legitimate national security concerns, but this addition as written will likely cause complications in recruiting international scholars and researchers.

We hope that the policy will affirm the positive components of international scholarship and collaboration, avoid placing undue burdens on academic personnel, and use precise language to delineate the types of risks that merit careful reporting to address legitimate national security concerns.

Please do not hesitate to contact the committee if you have additional questions.

Cc: Shasta Delp, Executive Director, Academic Senate



UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

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<http://www.senate.ucsb.edu>

November 22, 2021

To: Susannah Scott, Divisional Chair, Academic Senate

From: Risa Brainin, Chair, Committee on Privilege and Tenure

Re: Review of Proposed Revisions to APM-025/APM-671

The Committee on Privilege and Tenure (P&T) reviewed and discussed the proposed revisions to the Academic Personnel Manual 025 and 671. The following items were identified as areas of concern.

Footnote 6 of section 025-10.a.1.I.B indicates that faculty members must have prior approval from the Chancellor before "assuming an executive managerial position outside of the University" with foreign-owned entities or those that occur outside the U.S., with the inclusion of positions with professional societies. As these types of positions are often elective, it is unclear whether the approval of the Chancellor would be required prior to a faculty member standing for election, or only after they win. In either case, obtaining the Chancellor's approval constitutes a time-consuming and onerous additional step in the process. The Committee is of the opinion that Footnote 4 of section 025-10.a.1.I.A, indicating that such a limitation would specifically *not* include positions with professional societies, should apply to both categories I.A and I.B.

Moreover, the Committee suggests that section 025-10 should overall state that serving in an executive or managerial position in a professional society is a Category II, rather than a Category I, activity. Subsequently, footnote 4 and footnote 6 may instead read, "with the exception of positions in professional societies, *which constitute Category II activities.*"

The Committee is also generally concerned that different restrictions apply to I.A/II.A and I.B/II.B activities. Such distinctions suggest that faculty participation in foreign-based professional activities should be under stricter scrutiny than their domestic-based counterparts, presumably on the assumption that the membership of non-American citizens will be greater in the former than the latter. The Committee believes that the standards governing faculty participation in I.A/II.A and I.B/II.B activities should be the same.

The Committee on Privilege and Tenure appreciates the opportunity to comment on these proposed revisions.

Cc: Shasta Delp, Executive Director, Academic Senate
Monica J. Solorzano, Analyst, Committee on Privilege and Tenure

December 13, 2021

To: Susannah Scott
Chair, Divisional Academic Senate

From: Sabine Frühstück
Chair, L&S Faculty Executive Committee 

Re: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) 025
and APM 671

At its meeting on December 2, 2021, the Faculty Executive Committee of the College of Letters and Science (FEC) reviewed the proposed revisions to Academic Personnel Manual (APM) 025 and APM 671. These revisions focus on expanding policy application to a wider range of academic titles and creating separate categories of reporting and approval requirements between "domestic" and "foreign" outside activities.

The committee found these revisions presented a disturbing shift in focus toward the vaguely defined "foreign influence" threat described in the background section of the proposal. The proposal highlights the potential for foreign governments to "influence and capitalize on US conducted research," but it does not present a clear definition of criteria used in defining such threatening influence or capitalization.

Clarity around this definition is critical, because the very mission of the University depends on the generation, sharing, and distribution of knowledge both domestically and internationally. The campus benefits tremendously from this multi-directional creation of knowledge and its exchange, and provides value from its own contributions. Without a clear definition for what constitutes a "foreign influence" threat, for example in the sense of a specific risk to national security, the whole-sale implementation of changes presented could unduly damage our faculty's and students' ability to engage in international exchange and collaboration with entities outside the country and erode the very foundations of our ethics of engagement. In particular, outside activities involving collaboration with entities in politically sensitive regions abroad could be at greater risk from an overly vague characterization of "foreign threat" risks during prior approval and review, making them more susceptible to being silenced for political or other reasons.

The committee strongly feels that the above should be addressed before the campus provides an endorsement of the proposed changes, also in light of the increased administrative burden required to implement them.

cc: Pierre Wiltzius, Executive Dean of the College and Dean of Science
Michael Miller, Interim AVC and Interim Dean of Undergraduate Education
Mary Hancock, Acting Dean of Humanities and Fine Arts
Charlie Hale, Dean of Social Sciences

January 18, 2022

TO: Susannah Scott
Divisional Chair, Academic Senate

VIA: Shasta Delp, Academic Senate

FROM: Tobias Hollerer, Chair
College of Engineering, Faculty Executive Committee

RE: Proposed Revisions to Academic Personnel Manual 025

DocuSigned by:

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The College of Engineering FEC met on Monday, January 3rd, 2022, and Tuesday, January 18th, 2022 and reviewed the proposed revisions to the APM - 025 - Conflict of Commitment and Outside Activities of Faculty Members and Designated Other Academic Appointees. The committee strongly disagrees with both the necessity and the practicality of the proposed changes.

The proposed revisions to APM 025 nominally address “foreign influence risks” as they relate to faculty (and broader categories of employees) involvement in outside professional activities. The explanation provided for the proposed revisions is that are a response to address the “critical importance of preserving federal funding for research within UC.” It is our opinion that these revisions are deeply flawed and would damage relationships with public and private sector companies, which are vital for significant amounts of research funding, employment and internship opportunities for students, and the economy of the state of California. The policies are stated to address potential “Conflicts of Interest and Commitment” associated with foreign influences, yet the current APM 025 has more than adequate disclosure requirements to address both COI and COC arising from interactions with both domestic and overseas entities.

The current Category II class of activities, which includes consulting for a public or private company, does not distinguish where the company is located or who owns it. The proposal is to split the category in two with Category II.A corresponding to “U.S.-owned entities or activity occurs in U.S.” and Category II.B corresponding to “Foreign-owned or activity occurs outside the U.S.” Category II.A does not require prior approval (as does the current Category II class), while Category II.B requires Chancellor-level approval. There are insurmountable problems associated with this proposal:

- 1) The descriptions used to distinguish II.A from II.B are insufficient. For example, if one consults for a German company by a Zoom call in the U.S., both categories II.A and II.B are met. Likewise, how would a Zoom consultation from the U.S. with a Microsoft research team in China be categorized? What about the case of consulting for a wholly owned subsidiary of the same German company located in the U.S. that was perhaps originally a U.S.-based startup company? As another example, suppose an individual was consulting for a publicly traded U.S. company in the U.S., but that company was acquired by a company from Japan or its domicile was changed

to Ireland. How should that be reported? In short, many large companies today are so global as to defy categorization as U.S. or non-U.S., so the proposed policy as written is completely unworkable.

- 2) Classifying all foreign-owned or based entities the same, regardless of geography and governance seems unreasonable. Does a private western European company, a Japanese company, or an Australian company pose the same “foreign influence risk” as a state-owned Chinese, Russian, or N. Korean company? Moreover, why should consulting for a trusted international company such as Unilever in the UK require Chancellor approval, when consulting for a proven domestic bad actor such as an Enron does not? UC should not be trying to sort entities as “good” or “bad” based on geography or other criteria; this is an impossible distinction to make as companies change domicile, merge, and evolve.
- 3) Mandating that participating in a Category II.B activity requires Chancellor-level approval is an unnecessary burden that would fall disproportionately on UC faculty of engineering, sciences, and professional schools. Such a policy could cause UC’s most industry-engaged faculty to seek other employment, resulting in significant loss of revenue and reputation.

In summary, it is the opinion of the CoE FEC that the current APM 025 has more than adequate disclosure and approval requirements to address Conflict of Interest and Commitment arising from interactions with foreign entities. The committee deems the proposed revisions both unworkable and unacceptable and strongly urges against their implementation.



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125 CLARK KERR HALL
(831) 459 - 2086

January 18, 2022

Robert Horwitz, Chair
Academic Council

RE: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM-025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM-671)

Dear Robert,

The Santa Cruz Division has reviewed the proposed revisions to APM Sections 025 and 671 regarding conflict of commitment and outside activities. Our Committees on Academic Freedom (CAF), Academic Personnel (CAP), Faculty Welfare (CFW), and Research (COR) have responded. The Santa Cruz Division notes that the proposed revisions to these policies are in response to recommendations made in the 2021 Systemwide Foreign Audit Influence Report, which expressed concern regarding foreign influence in academia within the federal government and UC's peer institutions, including concerns about efforts by foreign governments to unduly influence and capitalize on U.S.-conducted research. Although Senate faculty and academic appointees should be made aware of the potential of foreign influence to undermine the benefits of research enterprise in the U.S. and guidance regarding appropriate action should be provided, our responding committees raised serious concerns about the potential effects that the increased workload and bureaucracy associated with these proposed revisions could have on research and entrepreneurship, and provided recommendations to help mitigate this issue, and improve the overall clarity of the policies.

The cover letter for this review acknowledges that the proposed revisions will require an increase in administrative workload and recognizes that a "significant amount of time will need to be devoted to partnering with stakeholders on the challenges of implementation".¹ Our committees raised concerns that the excessive bureaucracy and increased workload that will result from all the inquiries,

¹ Carlson to Chancellors, Horwitz, et al., 10/22/21, Re: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM-025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM-671)

applications, approvals, and reporting that are required by the revisions may actually discourage faculty and academic appointees from pursuing international research and entrepreneurship, and therefore greatly hinder the UC's overall mission. Further, the proposed revisions will place chairs and deans into the role of arbiter of appropriate and inappropriate foreign activity, which places extraordinary responsibility on these individuals, and will require significant training and resources. Extension of the policy to other academic appointee titles will additionally increase the need for training, resources, and outreach.

Although it is expected that the implementation of these proposed revisions will greatly increase workload, and presumably the allocation of resources, there is no guidance provided to mitigate these effects, or central support provided to alleviate the associated burden. Our committees noted that a clear statement on the specific problems that the proposed changes to APM 025 and 671 aim to solve and why the revisions are necessary would have greatly assisted reviewers in determining whether the expected negative impacts are worth the potential gains.

In addition to the need for a statement of problems the revisions aim to address in the review packet, the Santa Cruz Division urges that the following should be addressed and clarified in the revised policies:

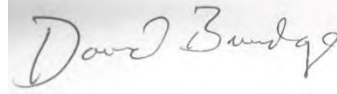
- What is the criteria for approval and how long will approval take? The process and timing of approval should be clarified and standardized in order to ensure equity.
- What constitutes an approval or disapproval for Category II.B?
- The difference between what is acceptable vs. what is not acceptable/transgressive foreign activity should be noted. Multidisciplinary examples are needed.
- The policy should clearly state what constitutes “outside activities” and provide examples.
- Will the reporting requirements for international academic appointees be the same as those of other academic appointees?
- What is the reasoning behind the different reporting requirements for Senate faculty vs. other academic appointees?²
- What constitutes “providing or presenting a workshop for industry” under Category II.B.d.?
- The process of academic appointee training or orientation in APM 025 should be clarified.

In order to decrease the workload and resource burden of these revisions, the Santa Cruz Division recommends that a threshold be included in APM 025 to determine the need for the requirement to report and gain prior approval for Category II.B activity. The threshold could require approval and reporting for any single payment or accumulated total that exceeds a specific dollar amount and has the ability to greatly reduce workload and simplify the overall process.

Due to the concerns expressed above and the need for further clarification and improvements to the proposed revisions to APM 025 and APM 671, the Santa Cruz Division does not support the drafts of these two policies as proposed. Our Division looks forward to participating in a new review with revised proposed revisions that address these concerns and those that may be raised by our sister campuses.

² The Key Policy Revisions section in Vice Provost Carlson's 10/22/21 review cover letter state, “Faculty would be responsible for securing prior approval for participation in Category I.A, I.B, and II.B activities and for submitting annual reports on all Category I and Category II activities. Designated other academic appointees would be responsible for securing prior approval for participation in and submitting annual reports on Category I.B and II.B activities.”

Sincerely,

A handwritten signature in cursive script, appearing to read "David Brundage", written in dark ink on a light-colored background.

David Brundage, Chair
Academic Senate
Santa Cruz Division

cc: Minghui Hu, Chair, Committee on Academic Freedom
Stefano Profumo, Chair Committee on Academic Personnel
Nico Orlandi, Chair, Committee on Faculty Welfare
Jarmila Pittermann, Chair, Committee on Research



UNIVERSITY COMMITTEE ON PLANNING AND BUDGET (UCPB)
Kathleen McGarry, Chair
mcgarry@econ.ucla.edu

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January 12, 2022

**ROBERT HORWITZ, CHAIR,
ACADEMIC COUNCIL**

**RE: PROPOSED REVISIONS TO APM 025 AND APM 671, CONFLICT OF COMMITMENT
AND OUTSIDE ACTIVITIES OF FACULTY MEMBERS**

Dear Robert,

UCPB appreciates the opportunity to review the proposed changes to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members.

The changes in policy are in response to an ECAS systemwide audit of foreign influence, amid growing concerns that foreign governments may seek to “unduly influence and capitalize on U.S.-conducted research.” The policy separates outside activity of faculty between foreign and domestic consulting activities. Faculty would face a higher reporting threshold for consulting activities with foreign entities.

Committee members expressed concern that vaguely defined “foreign activities” would complicate compliance. Increased workloads on faculty and staff would follow from increased need for prior approvals of faculty activities. UCPB recognizes the University’s legitimate interest in preventing the misuse of faculty research and therefore interest in outside activity, but urges that any changes to the APM be made with clarity and acknowledgement of the costs.

Sincerely,

A handwritten signature in black ink that reads 'Kathleen McGarry'.

Kathleen McGarry, Chair
UCPB

cc:UCPB



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
Ty Alper, Chair
talper@law.berkeley.edu

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

January 18, 2022

RE: PROPOSED REVISIONS TO APM 025 AND APM 671

Robert Horwitz, Chair
Academic Senate

Dear Robert,

The proposed revisions to sections 025 and 671 of the systemwide Academic Personnel Manual (APM) will likely have several critical implications and repercussions, including with respect to academic freedom. Accordingly, UCAF respectfully submits these comments.

Our primary concern related to academic freedom is that the expansion of activities that require pre-approval and the vagueness of the criteria that will be used to evaluate pre-approval requests may have a chilling effect on the pursuit of certain research, especially for the expanded categories of non-Senate faculty that may now be included in the policy. The restrictions on participating on a board of directors may mean some faculty will lose influence and may eventually have to cease participating in any governance activities abroad. This policy could result in UC faculty losing out to competing institutions that are much more friendly and open to commercialization of fundamental research and supportive of faculty who engage in such activities beyond national borders.

The fundamental concern of the proposed policy expansion in the APM 025 and 671 is that it may create a chilling effect for many academic appointees, who are more likely to be foreign nationals, to pursue their research in a relatively unconstrained way. UCAF understands the goals of the APM 025 and 671 are to regulate outside activities, especially outside the US, and encourage more academic appointees to report them. We understand the spirit of the policy language is to protect national security and US intellectual property. However, the proposed policy raises so many unanswered questions that vest great discretion in administrators who are tasked with approving outside activities.

For example, most multinational corporations and industries operate beyond our national borders. Research activities often involve international cooperation, global support, and cross-national interaction. There are circumstances where giving a workshop to a foreign-owned industry outside the US could be straightforward and easily defined as “non-US.” At the same time, other situations could be very complex. For example, many US industry conferences take place outside of the US, and pre-approval requirements may discourage faculty and academic appointees, or create unnecessary scrutiny by administrators, especially if they were prejudiced. Most corporations are

multinational in their operation and management structure. Faculty and academic appointees in schools of engineering often consult, work for, and interface with the industries adjacent to campuses. However, these companies may be subsidiaries of other foreign companies. How do we define the line on that activity? What about the international industry or academic conferences with a foreign industry presence? How would they be scrutinized and approved?

When so much is left to the discretion of administrators, faculty members—and especially academic appointees with less status—may be reasonably wary of pursuing research that may be deemed to run afoul of these regulations. The need for pre-approval, without significantly clearer guidelines for approval criteria, threatens to chill the exercise of research that is conducted, even in small part, abroad. We pose the above questions because we are primarily concerned with the chilling effect and deterrence on the cosmopolitan spirit of global collaboration and exchange of ideas, research, and promotion of valuable knowledge. During the Cold War, the United States government had closed the national borders on helpful intellectual dialogue. The “national security state” policy had trumped many scientific priorities before. UCAF hopes that UC does not stifle the cosmopolitan spirit of scientific and technological exchange by echoing the Cold War-like policies pursued by the Federal Government.

UCAF appreciates the opportunity to comment on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Alper', with a stylized, flowing script.

Ty Alper, Chair

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Karen Bales, Chair
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January 14, 2022

ROBERT HORWITZ
CHAIR, ACADEMIC COUNCIL

RE: Proposed Revisions to Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members

Dear Robert,

UCORP offers the following comments on the Proposed Revisions to APM 025 and APM 671, Conflict of Commitment and Outside Activities of Faculty Members:

UCORP members are concerned about added responsibility for deans and chairs to approve activities and monitor compliance with new regulations. Will they be provided with training to have the appropriate knowledge to make approval decisions?

We understand the need to address “foreign influence” risks, but are concerned about additional administrative burdens on faculty and delays from a bureaucratic process that will lead to lost opportunities. We note that the potential for increased workloads is recognized in the cover letter, and hope that sufficient resources will be dedicated to the implementation process. A streamlined approval process will be critical for compliance. Communication with all groups affected by the changes in this policy will be an important challenge as well.

UCORP appreciates the opportunity to comment on these revisions.

Sincerely,

A handwritten signature in blue ink that reads "Karen L. Bales".

Karen Bales
Chair, University Committee on Research Policy



UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL (UCAP)
John Kuriyan, Chair
kuriyan@berkeley.edu

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1111 Franklin Street, 12th Floor
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Phone: (510) 987-9466

January 13, 2022

ROBERT HORWITZ, CHAIR
ACADEMIC COUNCIL

RE: PROPOSED REVISIONS TO APM 025 AND APM 671 (CONFLICT OF COMMITMENT AND OUTSIDE ACTIVITIES OF FACULTY MEMBERS)

Dear Robert,

UCAP has discussed the proposed revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members) and the committee offers the following comments.

UCAP notes that one major change in APM 025 and APM 671 is the requirement that Category II.B activities require prior approval. The definition of Category II.B activities is very broad, and makes no distinction between different kinds of foreign-owned entities, such as universities, non-profit organizations, and companies:

- (a) Consulting or testifying as an expert or professional witness;
- (b) Providing outside consulting services or referrals or engaging in professional practice as an individual or through a single- member professional corporation or sole proprietorship
- (c) Serving on a board of directors outside of the University;
- (d) Providing or presenting a workshop for industry;
- (e) Providing outside consulting or compensated professional activities performed for foreign-owned entities or that occur outside the U.S.

UCAP expresses concern that requiring prior approval for all such activities involving “foreign-owned entities” will impose an unacceptable administrative burden and will introduce delays in commencing a range of activities that are normal and desirable corollaries of having faculty with international reputations who are engaged in wide-ranging foreign collaborations. We feel that the requirement for prior approval for such activities should be thought through carefully, with only a restricted subset of such activities requiring prior approval.

The committee also notes that there is problematic wording in 025-8 – General Principles; subsections b.1 and b.2 (on time limits). In section b.1., for faculty, the term used is “professional activities,” and Category I and II activities are specifically mentioned, while in b.2, for other academic appointees, “professional service activities” is used, with no reference to Category I/II. This language should be clarified, with the qualifier “service” perhaps being deleted.

UCAP appreciates the opportunity to comment on this matter. Please don’t hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Kuriyan".

John Kuriyan, Chair
UCAP



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Jill Hollenbach, Chair
Jill.Hollenbach@ucsf.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

January 19, 2022

**ROBERT HORWITZ, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members)

Dear Robert,

The University Committee on Faculty Welfare (UCFW) has reviewed the proposed revisions to APM 025 and APM 671 (Conflict of Commitment and Outside Activities of Faculty Members), and we have several comments. UCFW understands that these proposals are in response to concerns raised at the federal level in 2018, and we are concerned that while they may address some legitimate concerns, they will likely place an undue burden on faculty engaged in routine professional activities, and that additionally they may reflect anti-Chinese racist sentiments.

The main revision is the extension of prior approval by the Chancellor (required for Category I activities) to previously Category II activities that occur with foreign entities or outside the U.S. (proposed as Category IIb). These activities are already required to be disclosed in annual reporting. The additional step of requiring Chancellor approval before engaging in such activity represents a significant bureaucratic expansion that will likely lead to a substantial slowing down of any international activity. Being a consultant, for example, to the World Health Organization for a report, or serving as an editor (which often includes compensation) on a journal based overseas, would now require Chancellor approval. This change was recommended by the University of California Ethics, Compliance and Audit Services (ECAS) Systemwide Foreign Influence Audit.

UCFW is also troubled by the difference in what is listed in proposed Category IIb between APM sections 025 and 671. While the phrase "include, but are not limited to" is used, there are five descriptions in APM 025 and ten in APM 671; these should be made consistent.

UCFW has no concerns about the expansion of titles subject to APM 025.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jill Hollenbach".

Jill Hollenbach, UCFW Chair