

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

Office of the Executive Director, Chief of Staff

PHONE: (510) 987-9458

FAX: (510) 763-0309

E-MAIL: mbertero@ucop.edu

Assembly of the Academic Senate

Academic Council

1111 Franklin Street, 12th Floor

Oakland, CA 94607-5200

October 29, 2007

SYSTEM-WIDE SENATE COMMITTEE CHAIRS DIVISION CHAIRS

RE: System-wide Review Proposed Amendments to Academic Personnel Manual (APM) 710, 711 and 080.

RESPONSE DATE: Thursday, December 13, 2007

Dear System-wide Senate Committee and Division Chairs:

On behalf of Chair Michael T. Brown, please find attached a proposal to amend APM 710 (Leaves of Absences/Sick Leave) and a proposal for two new APMs; APM 711 (Reasonable Accommodation for Academic Appointees with Disabilities) and APM 080 (Medical Separation). As background information, in 2004-05 there was a Senate-wide (informal) [review of proposed revisions](#) to Academic Personnel Policies governing sick leave, medical separation and general leaves of absences (APMs 710, 080, and 700). During 05-06, there was a system-wide (formal) [review of the same APMs](#) but in addition, APM 711 Reasonable Accommodation for Academic Appointees with Disabilities was introduced. In response to both reviews, the Academic Council expressed major concerns regarding the proposed revisions to APM 700 and asked that it be withdrawn. In 2006-07, the University Committee on Faculty Welfare (UCFW) formed a subcommittee to work with the administration on the proposed revisions of APMs 700, 710, 711 and 080. The revisions of APMs 710, 711 and 080 included in this packet address a majority of the concerns and suggestions put forth during the 2005-06 systemwide Senate review of these APM policies. You will notice that APM 700-30 (Constructive Resignation) is not included in this round of review. As was requested by the Academic Council and upon the recommendation of the UCFW subcommittee, the administration agreed to withdraw APM 700-30 from further review, leaving consideration of this policy for another time.

The administration is requesting that all comments be submitted by no later than January 18, 2008. In order for the Academic Council to submit its comments by that time, **it will be necessary to receive responses from both the System-wide Senate Committees and the Divisions by no later than December 13, 2007.**

As a reminder to System-wide Senate Committee Chairs, please note that requests for comments are sent out to all System-wide Senate Committees. Each committee may decide whether or not to opine. Please notify the Senate Office either directly by emailing me or through your Committee Analyst, if your committee chooses not to participate in this review.

Cordially,

A handwritten signature in dark ink, appearing to read "María", is written over a horizontal line.

María Bertero-Barceló, Executive Director
Academic Senate

Encl: 3 ([Current proposal](#); [2005-06 Council comments](#); and [2004-05 Council comments](#))

Copy: Academic Council Chair Michael T. Brown

Divisional Senate Directors

Academic Senate Committee Analysts



OFFICE OF THE PROVOST AND EXECUTIVE VICE PRESIDENT –
ACADEMIC AND HEALTH AFFAIRS

OFFICE OF THE PRESIDENT
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

October 17, 2007

**COUNCIL OF VICE CHANCELLORS
ACADEMIC COUNCIL CHAIR BROWN
ACTING VICE PRESIDENT - AGRICULTURE AND NATURAL RESOURCES**

Dear Colleagues:

Re: Proposed Revisions to APM - 710 Leaves of Absence/Sick Leave, Proposed new APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities and Proposed new APM - 080, Medical Separation

Enclosed for systemwide review are one proposed policy revision and two proposed new academic personnel policies. These proposals have been developed in response to requests to clarify policy governing paid medical leave for academic appointees who do not accrue sick leave and to develop new policies for reasonable accommodation and medical separation for academic appointees.

In 2005 these were sent out as preliminary proposals for management consultation. Last spring they were sent out for systemwide review. We received substantive feedback from the Academic Senate and from campus administrations, and in response we have made revisions to the proposed policies, as summarized below.

- **APM - 710 (Leaves of Absence/ Sick Leave)**

The proposed revised policy would establish a guaranteed amount of paid medical leave for full-time academic appointees who do not accrue sick leave and would provide guidelines for how and when medical information should be requested in support of requests for such leave.

The proposal provides a maximum of six-months of paid medical leave within the first 10 years of employment to academic appointees with less than 10 years of UC service in titles that do not accrue sick leave. For those with more than 10 years of service, the proposal provides a maximum of one year of paid sick leave in a 10-year period. To put this in context: other eligible UC academic and staff appointees accrue 12 days of sick leave per year, and it takes almost 22 years for them to accumulate one year of paid sick leave.

October 17, 2007

Page 2

For your convenience, attached are two versions of proposed revised APM - 710. One version shows the proposed changes to existing policy. The other version shows the new policy as it would read if all of the proposed changes were adopted. Since the last systemwide review, "sick leave" has been clarified as "medical leave" for academic appointees who do not accrue sick leave, and wording was changed to address a concern about UCRP service credit and to clarify language on the transfer of accrued sick leave.

Other proposed changes to APM - 710 that were sent out for systemwide review this March are shown on this draft.

- **APM - 711 (Reasonable Accommodation for Academic Appointees with Disabilities)**

This proposed new policy is needed to comply with Federal and State law. It would provide guidance for the interactive process and reasonable accommodation for academic appointees. No substantive changes have been made since the last systemwide review.

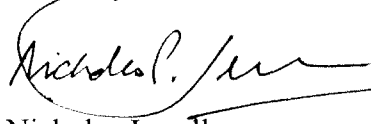
- **APM - 080 (Medical Separation)**

This proposed new policy outlines the process for medical separation of academic appointees who have exhausted leave and continue to be unable to work for health reasons and for whom reasonable accommodation is not possible. It would provide a means to handle this very sensitive issue and create a process for such cases distinct from disciplinary actions due to misconduct or incompetent performance.

Since the last systemwide review, changes have been made to clarify levels of authority, and to emphasize that the interactive process in proposed policy APM - 711 must be followed prior to consideration of medical separation.

As this is a systemwide review of Academic Personnel Policy proposals, employees should be afforded the opportunity to review and comment on the proposals, which are available online at: <http://www.ucop.edu/acadav/acadpers/apm/review.html>. Enclosed is a model communication which can be used to inform non-exclusively represented employees affected by these proposals. Please forward your comments to me by January 18, 2008. Comments may be sent by e-mail if you wish. If you have any questions, please contact Principal Analyst Gregory Sykes at (510) 987-0201 or gregory.sykes@ucop.edu.

Sincerely,



Nicholas Jewell
Vice Provost
Academic Personnel

Enclosures

October 17, 2007

Page 3

cc: Provost and Executive Vice President Hume
Associate Vice President Boyette
Vice Provosts for Academic Personnel
Executive Director Bertero-Barceló
Executive Director Pripas
Associate Director Glasscock
Director Frazier
Director Simon
Interim Director Slocum
Academic Personnel Directors
Assistant Director Dudley
Coordinator Capell
University Labor Relations Consultant Donnelly
University Labor Relations Consultant Okada
Principal Analyst Lopez
Principal Analyst Sykes
University Counsel Van Houten

710-0 **Policy**

- a. With the exception of those fiscal-year academic appointees listed in APM - 710-14, academic appointees do not accrue sick leave. In the case of personal illness, injury, or disability of appointees who do not accrue sick leave, Chancellors ~~may~~ shall approve leave with pay in accordance with APM - 710-11, Paid Medical Sick Leave for Academic Appointees Who Do Not Accrue Sick Leave and APM - 710-24, Authority. (See APM - 715-20 for family and medical leaves for care of a family member, including a domestic partner, with a serious health condition.)
- b. APM - 710 does not apply to Postdoctoral Scholars (see APM - 390).
- c. Student academic appointees do not accrue sick leave.
- d. For an academic appointee holding an appointment with a ~~definite~~ specified ending date, sick leave shall not be approved beyond the ending date of the appointment. In the event the appointment is renewed or extended or a subsequent appointment is made, further leave may be granted.
- e. See APM - 760 for family accommodations for childbearing and childrearing.

710-1 **Related Policies**

~~For information about~~ other related policies, refer to the Academic Personnel

Manual sections listed below:

- a. APM - 133, Limitation on Total Period of Service with Certain Academic Titles
- b. APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities
- ~~b.c.~~ APM - 715, Leaves of Absence/Family and Medical Leave
- ~~c.d.~~ APM - 730, Leaves of Absence/Vacation
- ~~d.e.~~ APM - 760, Family Accommodations for Childbearing and Childrearing

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

Sick leave benefits for academic appointees who accrue sick leave are described in APM - 710-14, -18, and -20.

Sick leave benefits for faculty who are members of the Health Sciences Compensation Plan are described in the relevant School Implementation Procedures and Department Guidelines, and consequently this section, APM - 710-11, does not apply to these faculty members.

Other non-student academic appointees who have a full-time appointment for at least a full academic year (three quarters or two semesters) who do not accrue sick leave and are unable to work for reasons of personal illness, injury or disability shall be granted paid medical leave as follows.

- a. Academic appointees with less than 10 years of University of California service in an academic title that does not accrue sick leave shall be granted a maximum of six months of consecutive or intermittent paid medical leave within a ten-year period for personal illness, injury, or disability.
- b. Academic appointees with 10 or more years of University of California service in an academic title that does not accrue sick leave shall be granted a maximum of 9 months, for academic-year appointees, or 12 months, for fiscal-year appointees, of consecutive or intermittent paid medical leave within each ten-year period for personal illness, injury, or disability.

- c. Academic appointees with term appointments will not be granted paid medical leave beyond the end date of the term appointment except in cases of reappointment.
- d. University of California Retirement Plan (UCRP) service credit accrues while an appointee is on a UC-paid medical leave as described in APM - 710-11.
- e. Paid medical leave described in APM - 710-11 does not accrue and, if unused, is not carried over, nor is it used to calculate University of California Retirement Plan (UCRP) service credit.

This policy provides paid leave in addition to normal childbearing and childrearing leaves (see APM - 760).

710-14 **Eligibility for Accrual of Sick Leave**

The following groups of ~~non-student~~ fiscal-year academic appointees accrue sick leave credit provided the appointment is at 50 percent or more time. Appointees at less than 50 percent time do not accrue sick leave. Visiting appointees in the following titles or series are eligible to accrue sick leave credit.

(See APM - 230-20-g.)

BENEFITS AND PRIVILEGES
Leaves of Absence/Sick Leave

APM - 710
DRAFT
10/10/07

- a. Professional Research series
- b. Postgraduate Research*
- c. Visiting (_____) – Postdoctoral*
- d. Specialist series
- e. Appointees in Cooperative Extension
- f. Librarian series
- g. Associate University Librarian and Assistant University Librarian
- h. Continuing Education Specialist series
- i. Academic Administrator series
- j. Academic Coordinator series
- k. Coordinators of Public Programs

1. Project (e.g., *Scientist*) series

*These titles will be removed as of January 1, 2010.

710-18 **Rate of Accrual**

Eligible appointees accrue sick leave at the rate of one working day per month for full-time service, including leaves with pay. Eligible appointees at 50 percent or more time accrue sick leave at a proportionate rate; appointees at less than 50 percent time do not accrue sick leave.

An appointee who is on leave without pay for a work-incurred injury, illness, or disability and is receiving temporary disability payments accrues sick leave on the same basis as if regularly employed, but such accrued sick leave is credited to the appointee only upon return to work.

710-20 **Use of Accrued Sick Leave**

Use of accrued sick leave for fiscal-year academic appointees listed in APM - 710-14 is governed by the following:

- a. Accrued sick leave shall be used in keeping with normally approved purposes including personal illness; medical appointments; childbearing (see APM - 715 and 760); disability; and medical appointments of, illness of, or bereavement for an appointee's child, parent, spouse, domestic partner, sibling, grandparent, or grandchild. In-laws or step relatives in the relationships listed, including relatives of the domestic partner who would be covered if the domestic partner were the appointee's spouse, are also covered. This provision also covers other persons residing in the appointee's household.
- b. Accrued sick leave may be substituted, at the appointee's option, for unpaid family and medical leave to which the appointee is entitled under State or Federal law; see APM - 715. In the case of the appointee's own illness, the appointee may be eligible for University employer-Paid Short-Term Disability Plan benefits and, if enrolled, for University of California Employee-Paid Supplemental Disability Plan benefits.
- ~~e. Accrued sick leave shall be used in proportion to the reduced workload during periods of active service modified duties. (See APM - 760 28 b(2).)~~

~~c.d.~~ While receiving injury or illness compensation under the Workers'

Compensation Act, an absent appointee may also use accrued sick leave to supplement temporary disability payments provided the total of the sick leave pay and workers' compensation does not exceed the appointee's University of California Retirement Plan (UCRP) covered compensation for the period.

Leave for a work-incurred injury, ~~or~~ illness, or disability which also qualifies as a serious health condition within the meaning of the Federal Family and Medical Leave Act shall be counted against an eligible appointee's family and medical leave entitlement.

d. Accrued sick leave shall be used in proportion to the reduced workload during periods of active service-modified duties. (See APM - 760-28-b(2).)

e. ~~Records of sick leave used shall be recorded in one day increments only or in increments not less than that portion of a day during which an appointee with less than a full time appointment is normally scheduled to work.~~

710-24 **Authority**

Authority of Chancellors includes the Senior Vice President—Business and Finance and the Vice President— ~~Division of~~ Agriculture and Natural Resources in their areas of authority.

Authority to review and approve requests for sick leave and paid medical leave has been delegated as follows:

- a. The Chancellor shall determine the appropriate documentation and campus approval procedures for all paid and unpaid leaves due to illness, injury, or disability. ~~For an academic appointee not eligible to accrue sick leave because of his/her title, Chancellors may approve sick leave, regardless of duration. Such leave may be approved with pay in accord with campus policy.~~
- b. The Family and Medical Leave Act (FMLA) regulations will be used to determine required medical documentation during the first 12 workweeks of illness, injury, or disability for FMLA leaves. The Chancellor may establish standards and procedures for the review of appropriate medical documentation for all other paid and unpaid leaves due to illness, injury, or disability. The information provided should include an estimated return to work date.

Campuses should determine what constitutes adequate medical certification for approval of non-FMLA leaves and when such documentation will be required.
The University may require certification from a University-selected healthcare provider before approving a leave, in which case the University shall pay the reasonable costs of any medical examinations requested or required by the University. ~~For an academic appointee eligible to accrue sick leave, Chancellors are authorized to approve sick leave up to the total of an appointee's accrued sick leave credit. For an appointee who exhausts sick leave and is still unable to work, Chancellors may approve leave without pay pursuant to APM—759.~~

- c. For academic appointees eligible to accrue sick leave, the Chancellor may approve sick leave up to the total of an appointee's accrued sick leave credit.
~~For an academic appointee at less than 50 percent time who is ineligible to accrue sick leave, Chancellors may approve leave without pay pursuant to APM—759.~~
- d. For academic appointees who do not accrue sick leave, the Chancellor is authorized to approve paid medical leave for personal health reasons in accordance with APM - 710-11 and campus guidelines. Such paid medical leave should be approved in advance whenever possible. Occasionally a

department chair approves leaves for illness, injury, or disability for less than one month. Such leaves should be counted towards the maximum six months or 9 (for academic-year appointees) or 12 (for fiscal year appointees) months calculation of paid leave. For any paid medical leave longer than one month, prior approval must be obtained by the designated campus authority to avoid conversion to unpaid leave.

- e. For academic appointees who do not accrue sick leave and who are not eligible for paid medical leave under APM - 710-11, Chancellors may approve leave with or without pay pursuant to APM - 758 and APM - 759.
- f. Academic appointees are urged to apply for disability benefits before periods of paid sick leave or paid medical leave end.
- g. If an appointee exhausts sick leave or paid medical leave and is still unable to return to work, Chancellors may approve leave without pay for up to one year and may approve a longer leave without pay pursuant to APM - 759. Updated medical information or documentation shall be required to demonstrate the appointee's continuing inability to return to work. (See APM – 080, Medical Separation, for additional information).

- h. When an academic appointee is ready to return to work, the chair may evaluate the appointee's ability to resume the duties of the position. The chair may request a release to return to work and/or request a healthcare provider's statement outlining any limitations and any known accommodations that might be requested. The University may require certification from a University-selected healthcare provider before approving a return to work, in which case the University shall pay the reasonable costs of any medical examinations requested or required by the University.

710-28 Reasonable Accommodation for Academic Appointees with Disabilities

It is the policy of the University to provide reasonable accommodations to otherwise qualified academic appointees who are disabled or become disabled and need assistance to perform the essential functions of their positions (see APM - 711).

710-38 Relation with Family and Medical Leave Entitlement

~~If An~~ An employee is eligible for family and medical leave (see APM - 715), the appointee is entitled to up to 12 workweeks of unpaid leave to attend to the appointee's own serious health condition or to care for the appointee's child,

parent, ~~or~~ spouse, or domestic partner (same-sex or opposite-sex) with a serious health condition (see APM - 715). For academic appointees who accrue sick leave and/or vacation leave, accrued paid leave may be substituted for unpaid leave. For academic appointees who do not accrue sick leave and/or vacation leave, the Chancellors may approve leave with pay (see APM - 715-20-b). Family and medical leaves run concurrently with other approved leaves ~~taken~~ that are granted for a purpose which meets the criteria for a family and medical leave-qualifying event.

710-40 **Effect on the Eight-Year ~~Probationary~~ Limitation of Service Period of Assistant Professors**

See APM - 133-17-g, Applicability of Periods of Leave.

For determining years toward the eight-year limitation of service for an assistant professor or other tenure track titles, the combined ~~total of~~ periods of leave unrelated to academic duties and time off the tenure clock may not exceed two years.

710-42 Sabbatical Leave Credit

Sabbatical leave credit is not accrued during a leave of absence with pay for one quarter or semester or more, or for a leave of absence without pay (see APM - 740-11-h(3) and (4)).

710-44 Transfer of Accrued Sick Leave

An appointee who transfers from one ~~University~~ position to another ~~University~~ position within the University in which sick leave accrues shall have the sick leave transferred.

~~An appointee who transfers from one University position to another University position in which sick leave does not accrue shall not have prior sick leave transferred. However, if the appointee later transfers to a position in which sick leave accrues, the previously accrued sick leave shall be reinstated.~~

An appointee who transfers from a position within the University in which sick leave accrues to another position within the University in which sick leave does not accrue shall not have prior sick leave accruals transferred. However, if an appointee later transfers to a position in which sick leave accrues, the prior sick leave accrual balance shall be reinstated.

~~If an appointee retires within 4 months after leaving the University, any unused sick leave will be converted to UCRP service credit.~~

At retirement, any unused accrued sick leave balance will be converted to UCRP service credit, if an appointee retires within 4 months after leaving University employment.

710-46 Reinstatement of Sick Leave

An appointee who is reemployed after a separation from employment of less than 15 calendar days shall have all accrued sick leave from prior service reinstated, unless the leave balance was previously converted to UCRP service credit upon retirement. If the separation from employment lasted for ~~is~~ more than 15 calendar days but less than 6 months, not more than 80 hours of accrued sick leave shall be reinstated as determined by the Chancellor. If the separation lasted for 6 months (180 days) or more, accrued sick leave shall not be reinstated. For purposes of this section only, State of California service shall be treated the same as University service.

An appointee who is reemployed from layoff status shall have all accrued sick leave reinstated in accordance with APM - ~~145-7~~ 145-36, Benefits Upon Reemployment.

710-95 **Records**

Chancellors and Vice Presidents shall assure that appropriate records are maintained in the department (or specified unit) for those academic appointees under their jurisdictions ~~who accrue sick leave~~.

710-0 **Policy**

- a. With the exception of those fiscal-year academic appointees listed in APM - 710-14, academic appointees do not accrue sick leave. In the case of personal illness, injury, or disability of appointees who do not accrue sick leave, Chancellors shall approve leave with pay in accordance with APM - 710-11, Paid Medical Leave for Academic Appointees Who Do Not Accrue Sick Leave and APM - 710-24, Authority. (See APM - 715-20 for family and medical leaves for care of a family member, including a domestic partner, with a serious health condition.)
- b. APM - 710 does not apply to Postdoctoral Scholars (see APM - 390).
- c. Student academic appointees do not accrue sick leave.
- d. For an academic appointee holding an appointment with a specified ending date, sick leave shall not be approved beyond the ending date of the appointment. In the event the appointment is renewed or extended or a subsequent appointment is made, further leave may be granted.
- e. See APM - 760 for family accommodations for childbearing and childrearing.

710-1 Related Policies

For other related policies, refer to the Academic Personnel Manual sections listed below:

- a. APM - 133, Limitation on Total Period of Service with Certain Academic Titles
- b. APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities
- c. APM - 715, Leaves of Absence/Family and Medical Leave
- d. APM - 730, Leaves of Absence/Vacation
- e. APM - 760, Family Accommodations for Childbearing and Childrearing

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

Sick leave benefits for academic appointees who accrue sick leave are described in APM - 710-14, -18, and -20.

Sick leave benefits for faculty who are members of the Health Sciences Compensation Plan are described in the relevant School Implementation Procedures and Department Guidelines, and consequently this section, APM - 710-11, does not apply to these faculty members.

Other non-student academic appointees who have a full-time appointment for at least a full academic year (three quarters or two semesters) who do not accrue sick leave and are unable to work for reasons of personal illness, injury or disability shall be granted paid medical leave as follows.

- a. Academic appointees with less than 10 years of University of California service in an academic title that does not accrue sick leave shall be granted a maximum of six months of consecutive or intermittent paid medical leave within a ten-year period for personal illness, injury, or disability.
- b. Academic appointees with 10 or more years of University of California service in an academic title that does not accrue sick leave shall be granted a maximum of 9 months, for academic-year appointees, or 12 months, for fiscal-year appointees, of consecutive or intermittent paid medical leave within each ten-year period for personal illness, injury, or disability.

- c. Academic appointees with term appointments will not be granted paid medical leave beyond the end date of the term appointment except in cases of reappointment.
- d. University of California Retirement Plan (UCRP) service credit accrues while an appointee is on a UC-paid medical leave as described in APM – 710-11.
- e. Paid medical leave described in APM - 710-11 does not accrue and, if unused, is not carried over, nor is it used to calculate University of California Retirement Plan (UCRP) service credit.

This policy provides paid leave in addition to normal childbearing and childrearing leaves (see APM - 760).

710-14 Eligibility for Accrual of Sick Leave

The following groups of fiscal-year academic appointees accrue sick leave credit provided the appointment is at 50 percent or more time. Appointees at less than 50 percent time do not accrue sick leave. Visiting appointees in the following titles or series are eligible to accrue sick leave credit.

(See APM - 230-20-g.)

BENEFITS AND PRIVILEGES
Leaves of Absence/Sick Leave

APM - 710
DRAFT/Clean Version
10/10/07

- a. Professional Research series
- b. Postgraduate Research*
- c. Visiting (_____) – Postdoctoral*
- d. Specialist series
- e. Appointees in Cooperative Extension
- f. Librarian series
- g. Associate University Librarian and Assistant University Librarian
- h. Continuing Education Specialist series
- i. Academic Administrator series
- j. Academic Coordinator series
- k. Coordinators of Public Programs

1. Project (e.g, *Scientist*) series

*These titles will be removed as of January 1, 2010.

710-18 **Rate of Accrual**

Eligible appointees accrue sick leave at the rate of one working day per month for full-time service, including leaves with pay. Eligible appointees at 50 percent or more time accrue sick leave at a proportionate rate; appointees at less than 50 percent time do not accrue sick leave.

An appointee who is on leave without pay for a work-incurred injury, illness, or disability and is receiving temporary disability payments accrues sick leave on the same basis as if regularly employed, but such accrued sick leave is credited to the appointee only upon return to work.

710-20 **Use of Accrued Sick Leave**

Use of accrued sick leave for fiscal-year academic appointees listed in APM - 710-14 is governed by the following:

- a. Accrued sick leave shall be used in keeping with normally approved purposes including personal illness; medical appointments; childbearing (see APM - 715 and 760); disability; and medical appointments of, illness of, or bereavement for an appointee's child, parent, spouse, domestic partner, sibling, grandparent, or grandchild. In-laws or step relatives in the relationships listed, including relatives of the domestic partner who would be covered if the domestic partner were the appointee's spouse, are also covered. This provision also covers other persons residing in the appointee's household.
- b. Accrued sick leave may be substituted, at the appointee's option, for unpaid family and medical leave to which the appointee is entitled under State or Federal law; see APM - 715. In the case of the appointee's own illness, the appointee may be eligible for employer-paid Short-Term Disability Plan benefits and, if enrolled, for University of California employee-paid Supplemental Disability Plan benefits.
- c. While receiving injury or illness compensation under the Workers' Compensation Act, an absent appointee may also use accrued sick leave to supplement temporary disability payments provided the total of the sick leave

pay and workers' compensation does not exceed the appointee's University of California Retirement Plan (UCRP) covered compensation for the period.

Leave for a work-incurred injury, illness, or disability which also qualifies as a serious health condition within the meaning of the Federal Family and Medical Leave Act shall be counted against an eligible appointee's family and medical leave entitlement.

- d. Accrued sick leave shall be used in proportion to the reduced workload during periods of active service-modified duties. (See APM - 760-28-b(2).)

710-24 **Authority**

Authority of Chancellors includes the Senior Vice President—Business and Finance and the Vice President—Agriculture and Natural Resources in their areas of authority.

Authority to review and approve requests for sick leave and paid medical leave has been delegated as follows:

- a. The Chancellor shall determine the appropriate documentation and campus approval procedures for all paid and unpaid leaves due to illness, injury, or disability.
- b. The Family and Medical Leave Act (FMLA) regulations will be used to determine required medical documentation during the first 12 workweeks of illness, injury, or disability for FMLA leaves. The Chancellor may establish standards and procedures for the review of appropriate medical documentation for all other paid and unpaid leaves due to illness, injury, or disability. The information provided should include an estimated return to work date. Campuses should determine what constitutes adequate medical certification for approval of non-FMLA leaves and when such documentation will be required. The University may require certification from a University-selected healthcare provider before approving a leave, in which case the University shall pay the reasonable costs of any medical examinations requested or required by the University.
- c. For academic appointees eligible to accrue sick leave, the Chancellor may approve sick leave up to the total of an appointee's accrued sick leave credit.

- d. For academic appointees who do not accrue sick leave, the Chancellor is authorized to approve paid medical leave for personal health reasons in accordance with APM - 710-11 and campus guidelines. Such paid medical leave should be approved in advance whenever possible. Occasionally a department chair approves leaves for illness, injury, or disability for less than one month. Such leaves should be counted towards the maximum six months or 9 (for academic-year appointees) or 12 (for fiscal year appointees) months calculation of paid leave. For any paid medical leave longer than one month, prior approval must be obtained by the designated campus authority to avoid conversion to unpaid leave.
- e. For academic appointees who do not accrue sick leave and who are not eligible for paid medical leave under APM - 710-11, Chancellors may approve leave with or without pay pursuant to APM - 758 and APM - 759.
- f. Academic appointees are urged to apply for disability benefits before periods of paid sick leave or paid medical leave end.
- g. If an appointee exhausts sick leave or paid medical leave and is still unable to return to work, Chancellors may approve leave without pay for up to one year and may approve a longer leave without pay pursuant to APM - 759. Updated

medical information or documentation shall be required to demonstrate the appointee's continuing inability to return to work. (See APM - 080, Medical Separation, for additional information).

- h. When an academic appointee is ready to return to work, the chair may evaluate the appointee's ability to resume the duties of the position. The chair may request a release to return to work and/or request a healthcare provider's statement outlining any limitations and any known accommodations that might be requested. The University may require certification from a University-selected healthcare provider before approving a return to work, in which case the University shall pay the reasonable costs of any medical examinations requested or required by the University.

710-28 Reasonable Accommodation for Academic Appointees with Disabilities

It is the policy of the University to provide reasonable accommodations to otherwise qualified academic appointees who are disabled or become disabled and need assistance to perform the essential functions of their positions (see APM - 711).

710-38 Relation with Family and Medical Leave Entitlement

An employee eligible for family and medical leave is entitled to up to 12 workweeks of unpaid leave to attend to the appointee's own serious health condition or to care for the appointee's child, parent, spouse, or domestic partner (same-sex or opposite-sex) with a serious health condition (see APM - 715). For academic appointees who accrue sick leave and/or vacation leave, accrued paid leave may be substituted for unpaid leave. For academic appointees who do not accrue sick leave and/or vacation leave, the Chancellor may approve leave with pay (see APM - 715-20-b). Family and medical leaves run concurrently with other approved leaves that are granted for a purpose which meets the criteria for a family and medical leave-qualifying event.

710-40 Effect on the Eight-Year Limitation of Service Period of Assistant Professors

See APM - 133-17-g, Applicability of Periods of Leave.

For determining years toward the eight-year limitation of service for an assistant professor or other tenure track titles, the combined periods of leave unrelated to academic duties and time off the tenure clock may not exceed two years.

710-42 Sabbatical Leave Credit

Sabbatical leave credit is not accrued during a leave of absence with pay for one quarter or semester or more, or for a leave of absence without pay (see APM - 740-11-h(3) and (4)).

710-44 Transfer of Accrued Sick Leave

An appointee who transfers from one position to another within the University in which sick leave accrues shall have the sick leave transferred.

An appointee who transfers from a position within the University in which sick leave accrues to another position within the University in which sick leave does not accrue shall not have prior sick leave accruals transferred. However, if an appointee later transfers to a position in which sick leave accrues, the prior sick leave accrual balance shall be reinstated.

At retirement, any unused accrued sick leave balance will be converted to UCRP service credit, if an appointee retires within 4 months after leaving University employment.

710-46 Reinstatement of Sick Leave

An appointee who is reemployed after a separation from employment of less than 15 calendar days shall have all accrued sick leave from prior service reinstated, unless the leave balance was previously converted to UCRP service credit upon retirement. If the separation from employment lasted for more than 15 calendar days but less than 6 months, not more than 80 hours of accrued sick leave shall be reinstated as determined by the Chancellor. If the separation lasted for 6 months (180 days) or more, accrued sick leave shall not be reinstated. For purposes of this section only, State of California service shall be treated the same as University service.

An appointee who is reemployed from layoff status shall have all accrued sick leave reinstated in accordance with APM - 145-36, Benefits Upon Reemployment.

710-95 Records

Chancellors and Vice Presidents shall assure that appropriate records are maintained in the department (or specified unit) for those academic appointees under their jurisdictions.

BENEFITS AND PRIVILEGES
Reasonable Accommodation
for Academic Appointees with Disabilities

APM - 711
New Policy
DRAFT
10/10/07

711-0 **Policy**

- a. The University provides reasonable accommodation to otherwise qualified academic appointees who are disabled or become disabled and need assistance to perform the essential functions of their positions. Accommodation options will be considered in an interactive process with the appointee. Both the University and the appointee are expected to participate in the interactive process.

711-1 **Related Policies**

For other related policies, refer to the Academic Personnel Manual sections listed below:

- a. APM - 710, Leaves of Absence/Sick Leave
- b. APM - 715, Leaves of Absence/Family and Medical Leave
- c. APM - 730, Leaves of Absence/Vacation
- d. APM - 758, Leaves of Absence/Other Leaves With Pay

e. APM - 759, Leaves of Absence/Other Leaves Without Pay

f. APM - 080, Medical Separation

711-5 **The Interactive Process**

The interactive process is an ongoing dialogue between the appointee and appropriate representatives of the University about possible options for reasonably accommodating the appointee's disability. During the interactive process the University considers information related to the essential functions of the job, functional limitations, possible accommodations, the reasonableness of possible accommodation, and the implementation of a reasonable accommodation. This information will be used by the University to determine what, if any, reasonable accommodation will be made. The interactive process, including the reasons for reasonable accommodation, should be documented.

711-80 **Procedures for Reasonable Accommodation for Academic Appointees with Disabilities**

- a. Unless the disability or the need for accommodation is known to the University, it is the responsibility of the academic appointee to inform the chair or unit head

that an accommodation is needed in order to perform the essential job functions (see APM - 210-1-d, other relevant academic personnel policy, or job description for criteria for standards.) When a disabling condition is known to the University, the chair or unit head is encouraged to initiate a discussion with the academic appointee to determine if there is a need for accommodation.

- b. Upon receipt of information about the need for accommodation, the chair or unit head should consult with the department personnel manager (or equivalent officer), the campus Vocational Rehabilitation Counselor, or the ADA/504 Compliance Officer to determine if the appointee is a qualified individual with a disability and, if so, to obtain assistance in reviewing essential job functions and the possible need for accommodation.

Consistent with campus procedures, the designated campus officer, the chair, or unit head should consult with the academic appointee to determine any specific physical or mental limitations as they relate to the performance of the essential job functions, and to discuss the appointee's preferences with regard to accommodation. The chair or unit head may request that the appointee provide written documentation from a licensed healthcare provider, including a statement of the appointee's functional limitations. This documentation also may include the healthcare provider's recommendations about potential

accommodations. Documentation provided by the appointee may be subject to confirmation by a University-selected healthcare provider. The University shall pay the cost of a University-selected healthcare provider. This information will be used by the University to determine what reasonable accommodation, if any, will be made.

- c. Consistent with campus procedures, the University will provide reasonable accommodation for essential functions. Reasonable accommodation may include, but is not limited to:
 - 1. making existing facilities readily accessible to and usable by the disabled appointee
 - 2. assigning a faculty member to teach in classrooms with appropriate accessibility and instructional facilities
 - 3. restructuring the job
 - 4. granting a leave of absence in accordance with these procedures, see APM - 710, APM - 758, and APM - 759

5. reduction of appointment percentage on a temporary or permanent basis
with corresponding reduction in duties, compensation and benefits
 6. modifying work schedules
 7. acquiring or modifying equipment or devices
 8. providing qualified readers or interpreters
 9. reassignment to an available alternative position for which the academic
appointee is qualified
- d. If it is not possible to provide a reasonable accommodation to allow the
performance of essential job functions in accord with section 3 of these
guidelines, a medical separation review may be initiated (see APM - 080,
Medical Separation).

080-0 **Policy**

Medical separation will be considered only in cases where a long term or serious disability occurs that cannot be reasonably accommodated. Prior to medical separation, the University will engage in the interactive process in accordance with the provisions of APM – 711, Reasonable Accommodation for Academic Appointees with Disabilities. After an appropriate period of leave and/or other accommodation, if an academic appointee is still unable to return to work and/or perform the essential functions of the position within a reasonable period of time, a medical separation review may be initiated. Thereafter, an appointee's inability to perform the essential assigned functions of the position, with or without reasonable accommodation, due to a disability or medical condition will constitute a good cause for termination and an appointee may be separated after the required review is completed. (See APM - 210-1-d, other relevant academic personnel policy, or job description for criteria for standards of essential job functions.)

080-1 **Basis for Medical Separation Review**

Whenever possible, the chair, Dean, or unit head, or the campus Disability Management office (or equivalent) shall consult with an academic appointee who is being considered for a medical separation review prior to the initiation of such a review.

GENERAL UNIVERSITY POLICY
REGARDING ACADEMIC APPOINTEES
Medical Separation

APM - 080
New Policy
DRAFT
10/10/07

If the chair or Dean or the campus Disability Management office (or equivalent) determines that a medical separation review may be warranted, the chair or Dean will prepare written documentation describing the essential functions of the position that the academic appointee is not performing, the interactive process that took place in consideration of possible reasonable accommodation, why reasonable accommodations were not possible or were unsuccessful, and any other pertinent documentation (see APM - 711-5 and -80 for information about the interactive process and reasonable accommodation). The file will then be reviewed by the Chancellor who, upon approval, will forward the request for a medical separation review to the campus disability management office or another office designated by the Chancellor. In cases where the Dean initiates the request for a medical separation review, the chair should be consulted before the file is submitted to the Chancellor. In cases where the chair initiates the request for a medical separation review, the Dean must approve the request before the file is submitted to the Chancellor. The file should include any comments received from the Dean and/or chair. The disability management office will review the chair's and/or Dean's statement and any other pertinent material. The disability management office will advise the Chancellor whether or not a medical separation is warranted. The Chancellor shall then determine whether or not to proceed with a medical separation. The authority to make this determination rests with the Chancellor. This authority may not be redelegated.

A medical separation review also may be initiated based on notice of approval of disability income from a retirement system to which the University contributes or approval of University long-term disability insurance benefits.

080-3 Notice

An academic appointee shall be given advance written notice by the Chancellor of the intention to separate. The notice shall state the reason for medical separation; include copies of the chair's, unit head's, and/or Dean's statements; and any other pertinent material considered.

- a. For Academic Senate faculty the notice of intent to separate shall state that the faculty member has the right to respond either orally or in writing within thirty (30) calendar days of the date of issuance of the notice regarding the separation and the right to a hearing under Regents Standing Order 103.9. The notice shall include the name of the person to whom the faculty member should respond. The faculty member must respond within thirty (30) calendar days to request a hearing otherwise the Chancellor will make a final decision as to whether or not to forward the medical separation recommendation to the President and The Regents.

- b. For non-Senate faculty the notice of intent to separate shall state that the faculty member has the right to respond either orally or in writing within thirty (30) calendar days regarding the separation and the right to a hearing under Regents' Standing Order 103.9. The notice shall include the name of the person to whom the faculty member should respond. The appointee must respond within thirty (30) days to request a hearing otherwise the Chancellor will make the final decision as to whether or not to proceed with a medical separation. If the Chancellor decides to proceed, a written notice of medical separation will be issued within sixty (60) calendar days of the notice of intent. The non-senate faculty member shall be notified of the effective date in writing and of the right to grieve under APM - 140 if the appointee did not elect a hearing under Regents' Standing Order 103.9.
- c. For other academic appointees the notice of intent to separate shall state that the appointee has the right to respond either orally or in writing within thirty (30) calendar days. The notice shall include the name of the person to whom the appointee should respond. If the Chancellor determines that a medical separation is warranted following the review of a timely response, if any, from the appointee, a letter of medical separation shall be issued to the appointee within sixty (60) days of the date of the notice of intent. The letter shall include the separation date and the right to file a grievance under APM - 140.

GENERAL UNIVERSITY POLICY
REGARDING ACADEMIC APPOINTEES
Medical Separation

APM - 080
New Policy
DRAFT
10/10/07

080-24 **Authority**

For Academic Senate faculty, the Chancellor will recommend medical separation to the President who will submit the action to The Regents for approval. The authority of the Chancellor to recommend medical separation to the President may not be redelegated. The Chancellor has the authority to approve the medical separation of other academic appointees in accordance with these procedures and after appropriate due process.



Chair, Academic Council and Assembly of the Academic Senate
Telephone: (510) 987-9303
Fax: (510) 763-0309
Email: John.Oakley@ucop.edu

Faculty Representative to the Board of Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

July 17, 2006

**SHEILA O'ROURKE, ACTING ASSISTANT VICE PRESIDENT
ACADEMIC ADVANCEMENT**

Re: Formal Review of APMs 700, 710, 711 and 080: Paid Sick Leave, Reasonable Accommodation, Medical Separation and Constructive Resignation

Dear Sheila,

At its June 21, 2006 meeting, the Academic Council reviewed two proposed policy revisions to APM 700 (Leaves of Absence/General) and APM 710 (Leaves of Absence/Sick Leave), and two new proposed academic personnel policies contained in APM 711 (Reasonable Accommodation for Academic Appointees with Disabilities) and APM 080 (Medical Separation). Due to issues of sufficient seriousness as identified by the Academic Council in this premature round of formal review, and in last year's informal review, the Academic Council unanimously requests that APMs 700, 710, 711 and 080 be immediately withdrawn from formal review in favor of a new round of proposed APM policies, as informed by the issues and concerns detailed below, to be sent out for a second round of informal review in fall 2006.

Please also note the following request of the Academic Council in its August 3, 2005 letter to then Assistant Vice President Switkes (also enclosed), regarding the 2005 informal review of the proposed APM revisions: "In considering the number of substantive changes that will be required to make these acceptable APM policies, the Academic Council has concluded that it would be irresponsible not to commence a second informal review once these drafts are revised." This request was not honored, leading to the problematic situation at hand. The Academic Council takes seriously these important policy changes that will notably impact the welfare of faculty at the University, and believes a second round of informal review will best serve the interests of both UCOP and the Academic Senate.

Following is a summary of concerns and issues raised by the divisions and committees of the Academic Senate during the 2006 formal review. I have enclosed with this letter each of the Senate committee and divisional responses as well, so that you may gain a complete understanding of the numerous issues that require resolution before the University moves forward with these policies.

APM – 700: Leaves of Absence/General (APM 700-10: Constructive Resignation)

- The policy requires a justification or statement of need. Examples should be added to better clarify the context of this policy revision and to justify reversing the burden of proof on such a grave matter as a faculty position, i.e., evidence that there is a large or growing number of faculty who fail to report to duty thus necessitating the need for this policy.

- Concern for the speed with which academic appointees can be dismissed (based on as little as one day's absence), and ambiguities in the procedural safeguards such as who is responsible for providing advance written notice to the appointee of his or her presumed resignation (i.e., the Chancellor), and whether a former academic appointee who was a member of the Academic Senate prior to his or her separation may still appeal to Senate committees as part of the regular Senate grievance process. The University Committee on Faculty Welfare (UCFW) recommends specific amendments to APM 700-10, detailed in its enclosed letter.
 - Note Assistant Vice President Switkes' May 22, 2006 email agreeing to some of the minor modifications in the policy as UCFW and UCAP suggested: "we plan to add a stipulation that the Chancellor personally sign the notice of intend [*sic*] as well as the final written decision, without delegation of authority."
- The policy should be amended to include an appropriate role for divisional Senate review of the termination process that is initiated under the terms of this new policy.
- Concern for the motivation behind the APM 700 revision, and whether APM 700-10 was drafted in response to past or anticipated litigation rather than to a significant number of affected faculty members.
- As proposed, the policy applies only to academic-year (9 month) appointees; fiscal-year (11 month) appointees are not mentioned.
- Recommendation for APM 700-10 to be withdrawn: (1) no explicit provision for a hearing *prior* to a dismissal, thus violating specific provisions in the Standing Orders of the Regents; (2) violation of Senate Bylaw 337, which provides a faculty member a hearing before his or her divisional Privilege and Tenure committee prior to early termination; (3) vague language that could lead to egregious misapplication of the policy; and (4) the absence of a compelling explanation to create new policy when existing policy under APMs 015 (Faculty Code of Conduct) and 016 (University Policy on Faculty Conduct and the Administration of Discipline) has not been proven inadequate.

APM – 710: Leaves of Absence/Sick Leave (APM 710-11: Paid Sick Leave for Academic Appointees Who Do Not Accrue Sick Leave; APM 710-42: Sabbatical Leave Credit)

- APM 710-11 should be clarified to say that it is only unused sick leave credit that is not counted towards the University of California Retirement Program (UCRP) and that faculty do receive service credit while they are on paid sick leave.
- Current policy has a great deal of flexibility and it is unclear whether this more rigid proposal would be more advantageous overall. Will faculty who are members of the Health Sciences Compensation Plan end up being completely excluded from sick leave policy?
- This policy is supported as long as the codification of sick leave policy for faculty members is well advertised and faculty are actively encouraged to obtain supplemental disability insurance.
- Recommendation for APM 710-42 to be withdrawn: The proposed revision to APM 710-42 implies that brief leaves of seven days or so would be deducted from the accounting of sabbatical leave accrual, without justification, given that the current policy specifies that sabbatical leave credits will not be accrued during leaves "for one quarter or semester or more."
 - Note AVP Switkes' May 22, 2006 response to UCPT's concerns: "The proposed change to [APM] 710-42 is wrong ... It's probably best to make no changes to the current language. [APM] 710-42 should read: **Sabbatical Leave Credit** – Sabbatical leave credit is not accrued during a leave of absence with pay for one quarter or semester or more or for a leave of absence without pay (see APM 740.11.h(3) & (4))."

APM – 711: Reasonable Accommodation for Academic Appointees with Disabilities

- Concern that APM 711-80 (Procedures for Reasonable Accommodation) could be taken to imply that a faculty member is obligated to divulge a hidden disability, leading to an invasion of privacy.
- Concern that APM 711 and APM 080 leave open the vague possibility that reasonable accommodations may not be possible, as if “reasonableness” were at the discretion of the University. Additional explanation and clarity under the Americans with Disabilities Act is requested – perhaps a wording change to distinguish between *reasonable* (and therefore mandatory) accommodations and other accommodations which go beyond reasonable.

APM – 080: Medical Separation

- The policy requires a justification or statement of need. It is not clear why faculty with medical problems should not utilize their disability insurance and thus be in a position to reclaim their positions when their conditions resolve or abate.
- It should be clarified that separations would be determined on a case-by-case basis through procedures involving the campuses and Senate Privilege and Tenure committees as noted in Section 080-3.
- It should be clarified that the intent of APM 080-24 is to apply to “tenure-track faculty” as well as “tenured faculty.”
- APM 080-3 should be amended to include a specific role for the Academic Senate in the early-termination process in the case of medical separation, including the right to a hearing constituted by the Academic Senate as promulgated in Senate Bylaw 337.
- Further clarification is needed to specify who shall provide to the academic appointee advance written notice of the intention to separate (i.e., the Chancellor), and the policy should require coordinated approval by *both* the department chair and the dean before the recommended separation is forwarded to the Chancellor.

On behalf of the Academic Council, I look forward to working with you to ensure that the issues and concerns of the Academic Council are fully addressed. As I await your detailed response, please let me know in the meantime if you require any additional information or clarification.

Sincerely yours,



John Oakley, Chair
Academic Council

Copy: Wyatt R. Hume, Provost and Senior Vice President, Academic Affairs
Academic Council
María Bertero-Barceló, Executive Director, Academic Senate

Encl: (1) Comment letters from UCAP, UCPT, and UCFW; UCB, UCD, UCI, UCLA, UCR, UCSB, UCSC, and UCSD; with Assistant VP E. Switkes May 22, 2006 email.
(2) Chair G. Blumenthal to Assistant VP E. Switkes, August 3, 2005, re: [Informal Review of Proposed Revisions to APMs 700, 710, 711 and 080](#).



UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL (UCAP)

ANTHONY NORMAN, CHAIR

anthony.norman@ucr.edu

The Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9467
Fax: (510) 763-0309

May 17, 2006

JOHN OAKLEY, CHAIR

ACADEMIC COUNCIL

Re: Formal Review of Proposed Revisions to Systemwide Academic Personnel Policies related to paid sick leave, reasonable accommodation, medical separation and constructive resignation—APMs 700, 710, 711, and 080

Dear John,

The University Committee on Academic Personnel (UCAP) reviewed the package of proposed APM policy revisions related to paid sick leave, reasonable accommodation, medical separation and constructive resignation at our May 16 meeting. UCAP also benefited from the presence of Assistant Vice President Ellen Switkes, who clarified the intent of the policies, and we reviewed a letter from the University Committee on Privilege and Tenure (UCPT) forwarded to us by UCPT Chair Montgomery, which raised a number of concerns about the proposed policies.

We are comfortable with the policies as currently proposed and endorse the package as written, with one suggestion. It seems to us that APM 700, providing guidelines for the constructive resignation of faculty who may be making excessive or inappropriate use of leave, is reasonable and appropriately crafted; however, we do suggest that an example or examples of a constructive resignation be included in either the policy itself or an appendix to clarify the context.

We note that constructive resignation is a well established legal concept and in the very limited circumstances of negligent behavior alluded to – the personal choice of a faculty member to stop coming to work without explanation – the institution is justified in taking steps to remove that faculty member from gainful employment without a prolonged and costly P&T process. Constructive resignation is not a University dismissal necessitating a hearing; it's a decision by an individual to effectively make the choice to resign by not coming to work.

APM 080 outlines procedures for the termination of faculty who are unable for medical reasons to continue work long-term because of a mental illness, disability or other reason. UCPT expressed concern about the absence of any role for the Senate in such a situation. But it is our understanding that separations would be determined on a case-by-case basis through procedures involving the campuses and Senate P&T committees. This is noted in Section 080-3, which states that faculty members considered for medical separation must be notified of the right to a hearing by a Senate committee under Regents Standing Order 103.9.

Thus in summary, UCAP unanimously supports the proposed revisions to APMs 700, 710, 711, and 080.

Sincerely,

Anthony Norman
Chair, UCAP

cc: UCAP
Executive Director Bertero-Barceló



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Raymond Russell, Chair
raymond.russell@ucr.edu

The Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9467
Fax: (510) 763-0309

June 12, 2006

**JOHN OAKLEY, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Revisions to APM 700, 710, 711 and 080

Dear John,

The University Committee on Faculty Welfare (UCFW) discussed the proposed changes and additions to APM 700, 710, 711, and 080 at its meetings of April 21 and May 19. I am writing to report the Committee's comments and recommendations.

APM 700-10

Regarding the standards for constructive resignation, UCFW shares some of the concerns of the University Committee on Privilege and Tenure (UCP&T). Specifically, the Committee is concerned about the speed with which academic appointees can be dismissed (as little as one day's absence), and the ambiguity of procedural safeguards.

Assistant Vice President Ellen Switkes was present during UCFW's discussion of these problems. Vice President Switkes suggested that the Office of the President is willing to consider alterations in the proposed wording of APM 700-10 that might address the Committee's concerns.

Our discussion identified three places in the proposed draft of APM 700-10 in which clarifications or amendments strike UCFW as being needed.

In the first sentence, UCFW recommends adding the stipulation that resignation has occurred only if an academic appointee is absent without an approved leave "for an extended period of time," or does not return to assigned duties "within a reasonable period" after an approved leave. Without the addition of some such language, resignation might be presumed to have occurred after as little as a single day's absence.

The second sentence requires that in cases of presumptive resignation, "advance written notice of the appointee's presumed resignation will be sent to the appointee's address on file." UCFW recommends that this advance written notice should be sent "by the Chancellor." In her e-mail

to you dated June 2, Vice President Switkes indicated that the Office of the President has already incorporated this recommendation into its plans.

The last sentence of the same paragraph says that “An academic appointee subject to presumptive resignation may grieve the action through the applicable grievance procedures, but not remain on pay status after the separation date.” Members of UCFW were unsure what the “applicable” grievance procedures might be. Former academic employees who appeal to Senate committees for help are often told that because they are no longer members of the Senate, Senate committees are powerless to help them. UCFW considers it important to specify here or elsewhere that the “applicable” grievance procedures are those that would have applied if the grievance were being filed prior to the separation. In the case of presumptively separated employees who were members of the Academic Senate prior to their separation, applicable grievance procedures include the right of a hearing under Regents Standing Order 103.9.

APM 080

APM 080 deals with medical separation. The first sentence states, “An academic appointee shall be given advance written notice of the intention to separate.” As in the case of APM 700-10, UCFW recommends that this sentence be amended to say that the academic appointee shall be given advance written notice of the intention to separate “by the Chancellor.”

UCFW members were also concerned about one other problem in APM 080. The proposed APM 080-1 says that medical separations may be initiated by either department chairs or Deans. If the Dean initiates the separation, he or she must consult with the chair before submitting the file to the Chancellor. But if the chair initiates the request for a separation, he or she is free to send the file directly to the Chancellor, without first consulting the Dean. UCFW feels that faculty need to be protected from ill-considered actions initiated by department chairs, at least as much as they need to be protected from actions initiated by Deans. Whether proposed medical separations are initiated by chairs or by Deans, UCFW recommends that they should be approved by both the chair and the Dean before being forwarded to the Chancellor.

Summary of Comments and Recommendations

In the case of both presumptive resignation and medical separation, requiring notification by the Chancellor will protect academic appointees against ill-considered and hasty actions initiated by department chairs. In the case of presumptive resignation, the unique character of this form of separation makes it a rare case in which grievance procedures including the opportunity for a hearing are applied after separation rather than before. For that reason, continued access of presumptively separated Senate members to Divisional Committees on Privilege and Tenure after their dates of separation needs to be assured in some way.

If these or equivalent safeguards and clarifications can be added to the proposed texts of APM 700 and 080, UCFW believes that the concerns expressed by UCP&T and by UCFW can be effectively addressed. With the understanding that some accommodation of these recommendations is going to be made in the texts of APM 700 and 080, UCFW endorses the proposed changes in APM 700, 710, 711, and 080.

Sincerely,

A handwritten signature in dark ink, reading "Raymond Russell". The signature is written in a cursive style with a large, looped "R" and a distinct "Russell" at the end.

Raymond Russell, Chair
University Committee on Faculty Welfare

Copy: UCFW
Mariá Bertero-Barceló, Executive Director



UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE (UCP&T)
Kathleen Montgomery, Chair
kathleen.montgomery@ucr.edu

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

May 10, 2006

**JOHN OAKLEY, CHAIR
ACADEMIC COUNCIL**

RE: UCP&T Comments on Proposed Revisions to APM 700, 710, 711, and 080

Dear Chair Oakley:

The University Committee on Privilege and Tenure (UCP&T) has carefully reviewed the proposed revisions to the Systemwide Academic Personnel Policies (APM) related to paid sick leave, reasonable accommodation, medical separation and constructive resignation – APMs 700, 710, 711, and 080.

APM 700-10: UCP&T has serious concerns and strong reservations about proposed APM 700-10, with respect to “presumed resignation.” We provide the basis of our concerns below:

1. The proposed policy does not explicitly provide for a hearing prior to dismissal and thus stands in violation of existing protections for faculty, granted under Regents Standing Orders, as follows
 - a. 100.4(c), which instructs the Chancellor to consult with a properly constituted advisory committee on the Academic Senate in matters relating to dismissal;
 - b. 103.2, which grants the right to any member of the Academic Senate to the privilege of a hearing;
 - c. 103.9 and 103.10, which grant the right to a hearing prior to any termination decision.
2. The proposed policy also stands in opposition to the fundamental principle of shared governance, as embodied in Academic Senate Bylaws regarding early termination cases, as follows
 - a. SBL 337: Privilege and Tenure: Divisional Committees – Early Termination Cases, which states that no Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before the Divisional Privilege and Tenure Committee.

3. Aside from the grave concerns regarding faculty rights and shared governance just noted in #1 and #2, the proposed policy also has the potential for egregious misapplication, because of vague language, as follows
 - a. APM 700 states that academic-year appointees are expected to “be present” from the beginning of the Fall term through the end of the Spring term. Faculty, chairs, and deans may have very different interpretations of what “be present” means, especially given the tremendously varying work patterns practiced by the faculty of the University’s various schools and departments.
 - b. APM 700-10 states that presumptive resignation will occur if an academic appointee is “absent without approved leave” or does not return to “assigned duties” after an approved leave. The vagueness of these terms, as well, is likely to lead to different interpretations of the policy.
4. Existing policy – namely, APM 015, the Faculty Code of Conduct, provides sufficient guidance regarding types of unacceptable conduct subject to disciplinary action; and APM 016, University Policy on Faculty Conduct and the Administration of Discipline – provides the framework within which disciplinary action, including dismissal, may occur, while protecting faculty rights. There has been no compelling explanation about the inadequacy of existing policy to justify the need for a new policy.

UCP&T strongly recommends that proposed APM 700-10 be withdrawn. If the University wishes to include explicit reference to absence without approved leave or failure to return to assigned duties, these behaviors would most appropriately be added to the list of types of unacceptable conduct codified in the Faculty Code of Conduct (APM 015), with sufficient specificity to avoid misinterpretation.

APM 080: UCP&T also expresses concern about the absence of any role for the Academic Senate in the early termination process in the case of medical separation. We refer again to Academic Senate Bylaw 337, which provides that no faculty member may be terminated prior to the expiration of an appointment without having the opportunity for a hearing before the Divisional Privilege and Tenure Committee. As now written, proposed APM 080-3 does not specify that the right to a hearing should be one constituted by the Academic Senate.

UCP&T recommends that reference to Senate participation in hearings, such as provided in SBL 337, be added to proposed APM 080-3.

APM 710-42: UCP&T also expresses concern about the proposed change with regard to accrual of sabbatical leave credit. The current policy clarifies that sabbatical leave credits will not be accrued during leaves “for one quarter or semester or more.” The proposed change would eliminate that modification, with the implication that brief leaves of 7 days or so must be deducted from the accounting of sabbatical leave accrual. No justification is provided to show that any savings to the University in terms of sabbatical

leave obligations would warrant the increased administrative burden of maintaining records of leaves constituting fractions of terms. UCP&T is concerned that inaccuracies in accounting based on partial-term leaves may lead to a larger number of grievances from faculty who believe they have been denied earned benefits.

UCP&T recommends that the proposed change to APM 710-42 be withdrawn.

Sincerely,

Kathleen Montgomery, Chair
UCP&T

cc: Michael T. Brown, Vice Chair
Maria Bertero-Barcelo, Executive Director
UCP&T



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

May 18, 2006

JOHN OAKLEY
Chair, Academic Senate

*Subject: Proposed Revisions to Systemwide Academic Personnel Policies Related to
Absences/Sick Leave, Medical Separation and Leaves of Absence/General–
APM 700, 710, 711, and 080*

At its meeting on May 15, 2006, the Divisional Council (DIVCO) of the Berkeley Division discussed the *Proposed Revisions to Systemwide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence/General–APM 700, 710, 711, and 080*, and the comments of the Committee on Faculty Welfare (FWEL). DIVCO endorsed the proposed revisions. In doing so, it agreed with FWEL's assessment: "We found the proposed revisions bring a useful improvement in clarity to a difficult area. They represent a substantial improvement over the wording circulated last year for informal review, and include many of the changes suggested by the Systemwide and campus committees during that review process."

Sincerely,

A handwritten signature in dark blue ink that reads "Alice M. Agogino".

Alice M. Agogino
Chair, Berkeley Division of the Academic Senate

Cc: Dorothy Hale, Chair, Committee on Faculty Welfare
Lili Vicente, Senate staff, Committee on Faculty Welfare



OFFICE OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
TELEPHONE: (530) 752-2231

June 5, 2006

JOHN OAKLEY, CHAIR

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

Subject: Formal Review of Proposed Revisions to System-wide Academic Personnel Policies (APM) 700, 710, 711, and 080

Dear John,

The Davis Division has reviewed the proposed revisions to the Academic Personnel Policies referenced above. The item was forwarded to all of the standing committees of the Davis Division with comments specifically solicited from: Committee on Planning and Budget, Committee on Academic Personnel and the Committee on Faculty Welfare. The Committee on Planning and Budget provided the following:

"The proposed wording of APM 700-10 does not include an appropriate role for Divisional Senate review of a termination process that is initiated under the terms of this change to the APM. The Committee on Planning and Budget is of the opinion that the termination of a faculty member should include review by the Senate Privilege and Tenure Committee."

On behalf of the Davis Division, I request an update of the proposed policies to include review by the Divisional Committee on Privilege and Tenure.

Sincerely,



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

c: John Dixon, UC Davis Academic Personnel Office



Office of the Academic Senate
2300 Berkeley Place South
Irvine, CA 92697-1325
(949) 824-2215 FAX

June 8, 2006

John Oakley, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

**RE: Formal Review of Proposed Revision to Academic Personnel Manual
700, 710, 711, and 080 (related to sick leave, reasonable
accommodation, medical separation, and constructive resignation)**

The Irvine Councils on Academic Personnel and Faculty Welfare and the Academic Senate Cabinet reviewed and endorsed the final versions of these revisions. The Council on Faculty Welfare was pleased to note that two of its recommendations from the first round of review were incorporated into the proposed text: APM 080's definition of "essential assigned duties," and APM 700's addition of the sentence "The campus must make a good faith attempt to contact the appointee."

A handwritten signature in blue ink, reading "K C Janda".

Kenneth C. Janda, Senate Chair

C: Geri Harre, Academic Personnel



ADRIENNE LAVINE, CHAIR
ACADEMIC SENATE EXECUTIVE OFFICE
LOS ANGELES DIVISION
3125 MURPHY HALL
LOS ANGELES, CA 90095-1408

PHONE: (310) 825-3851
FAX: (310) 206-5273

June 10, 2006

JOHN OAKLEY
CHAIR, UC ACADEMIC SENATE

In Re: Proposed Changes to APM 700, 710, 080, and 711

Dear John:

I am writing to transmit to you the UCLA Division's response to the proposed amendments to APM 700, 710, 080, and 711. The proposals were sent to all of the committees of the Academic Senate as well as to all the various Faculty Executive Committee Chairs with the specific request that the Executive Board, Privilege and Tenure Committee, Faculty Welfare Committee, and Emeriti and Pre-Retirement Planning Committee opine. The Committee of Faculty Chairs and the Executive Board discussed the proposals in their meetings, and Privilege and Tenure and the Committee on Diversity and Equal Opportunity discussed them and responded in writing (attached). I understand that Faculty Welfare will respond through UCFW. Generally speaking, faculty expressed support for the notion of holding faculty members accountable should they refuse to fulfill their duties. Some faculty members were appreciative of the attempt to operationalize what they saw as business practices systemwide. With the exception of the Committee of Faculty Chairs, which was somewhat receptive to the proposals, the general response was overwhelmingly negative to APM 700 and lukewarm on 080, 711, and 710 for the following reasons:

For all proposals:

- More background information is required before faculty support can be lent to these proposals. I.e., is there a large or growing number of faculty who fail to report to duty which creates the need for a policy on "presumptive resignation?" As one faculty member put it, these proposals offer various "treatments" without providing a "diagnosis" of the disorder. Moreover, do the current provisions of the Faculty Code of Conduct and Academic Personnel Manual fail to address these issues? If so, where do they fail? Before the UCLA Academic Senate will support these proposals, it needs to be advised as to what, specifically, motivates and necessitates them.

For APM 700:

- The Executive Board and the Committee on Privilege and Tenure delineated more specific resistance with respect to APM 700: At present a faculty member who fails to

perform properly assigned duties is guilty of a breach of the Faculty Code of Conduct and can be charged with that breach, and, when the charges are sustained, she or he can be dismissed or otherwise sanctioned. The Executive Board believes that is as it should be: faculty members have duties and must discharge them, and a process involving peer judgments should impose discipline when colleagues fail to live up to their obligations.

- Again with respect to APM 700, both the Executive Board and P&T are greatly alarmed that the Academic Senate's proceedings are triggered only *after* a faculty member is terminated due to presumptive resignation (and is no longer being paid). The onus to prove that a presumptive resignation exists should be satisfied *before* one is deemed terminated; proving that a presumptive resignation exists must take place within the established mechanisms and procedures of the Academic Senate.
- There was great concern among those who responded that terms were not sufficiently defined, specifically with regard to APM 700. As the Committee on Privilege and Tenure opined, "This vagueness, in combination with the enormous diversity of working patterns practiced by the faculty of the University's various schools and departments, will inevitably lead to ambiguity in implementation and result in unfairness. If adopted in their present form the revisions have the potential to place the Administration in a position to create ad hoc justifications for terminating faculty at will." For example, if a faculty member teaches on Mondays, Wednesdays, and Fridays, but worked from a home office on Tuesdays and Thursdays, it appears as if this faculty member could be declared "presumptively resigned." This does not appear to be the intent of the policy, but absent more definition the policy can be read and applied this way. Specific language that precludes such an abuse must be developed.
- Were the UCLA Senate to be convinced that large numbers of faculty were failing to perform their duties – such large numbers that the existing grievance system had collapsed – or that there were other exigent circumstances that made this change in procedure necessary, we would be prepared to consider APM 700 or other less drastic alternatives. Nothing in the proposal or its supporting materials suggests such a situation. In the absence of such justification, we believe that reversing the burden of proof on such a grave matter as a faculty position is a very bad idea. It reverses the existing assumptions about peer judgments and shared governance, and it changes fundamental aspects of faculty appointments. We urge rejection of APM 700.

For APM 080 and 711:

- The Committee on Privilege and Tenure was somewhat more receptive to the proposals for APM 080 and 711. However, it was not clear to the Committee why faculty with medical problems should not utilize their disability insurance and thus be in a position to reclaim their positions when their conditions resolve or abate. As with the proposal for APM 700, these proposals lacked any justification or statement of need. The Committee is concerned that no mechanisms were described for the fair enforcement of the policies.
- The Committee on Diversity and Equal Opportunity (CODEO), whose membership includes faculty with experience relating to disability law, had grave concerns about APM 080 and 711. For example, CODEO noted that APM 711-80 "could be taken to imply that an employee is obligated to divulge a hidden disability. That could be an

invasion of privacy.” The committee also questioned the notion of reasonable accommodations not being possible, as implied in APM 080-1 and 711-5. The Americans with Disability Act mandates reasonable accommodations; they are not at the discretion of the employer. I suggest that perhaps what is needed here is a wording change to distinguish between *reasonable* (and therefore mandatory) accommodations and other accommodations which go beyond reasonable, but having no experience with the ADA I cannot say if this would be appropriate. The letter from CODEO contains additional specific points of concern that should be addressed.

For APM 710:

- In the discussions of proposed APM 710, faculty commented that the proposal provided a specified benefit to the faculty that had heretofore not been articulated, while at the same time capping that benefit. Existing practice has a great deal of flexibility, and it is unclear whether a more rigid policy would be more advantageous overall.

I look forward to discussing these policies in Academic Council.

Sincerely,



Adrienne Lavine
UCLA Divisional Senate Chair

Cc: María Bertero-Barceló, Academic Senate Executive Director
Jaime Balboa, CAO UCLA Academic Senate

Encs.: CODEO Memo
P&T Memo

To: Executive Board, UCLA Academic Senate
From: Jody Kreiman, PhD; Chair, UCLA Committee on Diversity and Equal Opportunity
Re: Response to proposed revisions to APM – 711

The Committee on Diversity and Equal Opportunity reviewed the proposed revisions to APM – 711 at our meeting on June 2, 2006. The Committee unanimously expressed serious concern about this proposal, due in part to our uncertainty about the intent and motivation of the proposed changes. How do these change existing policy, and why are they needed? What situations have arisen that are not adequately addressed by existing policies? What specifically are these regulations designed to accomplish? Beyond these uncertainties of intent, the proposal itself is unacceptably vague. It does not define the extent to which the university is willing to provide “reasonable accommodation;” and the steps that comprise the “interactive process” are not adequately specified. The proposed policy also includes additional points of vagueness and concern:

711 – 80 – a “it is the responsibility of the academic appointee to inform the chair or unit head...” This could be taken to imply that an employee is obligated to divulge a hidden disability. That could be an invasion of privacy. It should be explicit that an employee informs a superior of accommodation needs only at their own choice and at the moment of perceived need.

711 – 80 – b “the campus Vocational Rehabilitation Counselor...” No such person is listed on the UCLA web site, and the telephone number given for the office in fact links to a fax machine.

711 – 80 – c – 9 “an available alternate position...” (1) If no such position happens to be available, can the university just proceed to medical separation? (2) Who will determine the alternate position and qualification? By what procedure?

711 – 80 – d “If it is not possible to provide a reasonable accommodation...” This appears to contradict the terms of section 711 – 0 – a: “The University provides reasonable accommodation...”

CODEO is additionally concerned that the person under review for termination cannot introduce external representation or appeal until the initial process is complete, and the intent to separate has been determined. At the least, the person under review should be alerted at the beginning of the process, and able to introduce the University Ombuds Office at any point.

Some terms of the proposal also appears to contradict or duplicate the ADA or existing case law in several respects:

080-1 “why reasonable accommodations were not possible...”
ADA mandates reasonable accommodation. It does not appear appropriate for the university to decide when or how accommodation goes beyond “possible.”

711 – 5 “...to determine what, if any, reasonable accommodation will be made.”

This again directly contradicts 711-0-a: “The University provides reasonable accommodation...” It also appears to contradict the terms of the ADA. Again, the law mandates such accommodation. Why and how should the university determine “if” accommodation will be provided?

In conclusion, the proposed policy is seriously flawed in a number of ways. Its intent is unclear; its formulation is vague and seemingly in conflict with Federal law; and it lacks formal justification.

May 2, 2006

To: Executive Board, UCLA Academic Senate
Prof. Kathleen Montgomery, Chair, UC Systemwide Committee on Privilege and Tenure

From: Michael S. Goldstein, Ph.D. Chair, UCLA Committee on Privilege and Tenure

Re: Proposed revisions to APM 700 and 710

The Committee on Privilege and Tenure reviewed the proposed revisions to APM 700 and 710 and discussed them at our meeting of April 28th, 2006. The Committee was unanimous in expressing great trepidation about the impact of these proposals should they be adopted. While the Committee agrees that all faculty must be held accountable if they refuse to perform their duties, there is little doubt that, as written, the proposed revisions offer a fundamental change in the procedures that are used to remove faculty (both tenured and untenured) from their positions, and are a threat to the principles of shared governance at UC. Our concerns focus on four areas:

1. The lack of justification for the proposed revisions. One would expect that either a conceptual or empirical (data-based) rationale would be presented to justify the need for such fundamental changes. Yet, to our knowledge, no such justifications have been provided. Has there been an increase in faculty being absent from their duties over the past few years? If so, is there any understanding of why such an increase has occurred? Without such information it is difficult to comprehend the reasoning behind these proposals. The absence of any rationale whatsoever makes the proposed revisions suspect on their face.
2. Is there any reason to believe that the existing procedures for dealing with unjustified absences by faculty cannot be dealt with using the existing regulations of the APM? Our Committee knows of no such reasons. If the Administration believes the existing system is faulty, it should specify why and propose precise remedies. Discarding fundamental premises of shared governance and a basic sense of fairness is not an acceptable substitute.
3. The “standards” set out (700-10, p.3) for the most central components of the proposed regulations (exs. “absent without an approved leave” and “assigned duties”) are left completely undefined. This vagueness, in combination with the enormous diversity of working patterns practiced by the faculty of the University’s various schools and departments, will inevitably lead to ambiguity in implementation and result in unfairness. If adopted in their present form the revisions have the potential to place the Administration in a position to create ad hoc justifications for terminating faculty at will. Indeed, the rule is clearly not intended to operate automatically as it provides for the Chancellor to determine whether “separation is appropriate.” But, this open-ended discretion is unencumbered by any standard for its implementation. Furthermore, the

basic premise of these revisions, that a faculty member may only grieve his/her termination after the fact is totally unacceptable to the Committee. If enacted, such a provision will essentially nullify the most basic elements of UC's tradition of shared governance.

4. The lack of clarity regarding the central concepts in the revisions described above create not only the potential, but the inevitability, for selective enforcement by the Administration. Given the realities of University life, these proposals almost insure unequal enforcement, increased conflict within departments, and divisiveness on the Campus.

In sum, these provisions have the potential (perhaps unintended) to destroy the most central tenets of academic freedom and faculty well being. As presented, they are so poorly crafted as to bring chaos to the principles of shared governance, and insure that the University could be successfully sued almost every time they were put into practice. There is something fundamentally askew when the University proposes that the faculty accept as a basic standard that employment be at the whim of an administrator and that one may grieve only after termination and cessation of salary and benefits.

Re: Proposed new APM 080 and 711:

The Committee was somewhat more receptive to these additions to the APM. However, it is not clear why faculty with medical problems should not utilize their disability insurance and thus be in a position to reclaim their positions when their conditions resolve or abate. Again, the proposals suffer from a lack of clear justification or statement of need. Given the broad and inclusive nature of terms such as "illness" and "disability" the total removal of the Academic Senate from the termination process is a cause for alarm. Why is this needed now? And how will it be enforced fairly? What is presented here does not lead one to have confidence in either the procedures or mechanisms of enforcement, nor the motives that lie behind their introduction.



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY COLLEGE BUILDING
ROOM 225
TEL: (951) 827-5530
FAX: (951) 827-5545
EMAIL: Senate@ucr.edu

MANUELA MARTINS-GREEN, PhD
BIOLOGY OF WOUND HEALING LABORATORY
DEPT. CELL BIOLOGY AND NEUROSCIENCE
2210 SPIETH HALL
RIVERSIDE, CA 92521-0217
TEL: (951) 827-2585 LAB 3891
FAX: (951) 827-4286
E-MAIL: Manuela.martins@ucr.edu

June 12, 2006

John Oakley
Professor of Law
Chair, UC Systemwide Academic Senate
1111 Franklin St., 12th Floor
Oakland, CA 94607

Dear John:

Formal Review of Proposed Revisions to System-wide Academic Personnel Policies (APM) related to paid sick leave, reasonable accommodation, medical separation and constructive resignation--APMs 700, 710, 711, and 080 (<http://www.universityofcalifornia.edu/senate/underreview/AS.formal.rv.apm.700.710.711.080.pdf>)

I am writing on behalf of the UCR Division to comment on the above APM policies related to sick leave, reasonable accommodation, medical separation and constructive resignation. Committee on Academic Personnel (CAP) were concerned over the loss of the older, more flexible practices, which allowed productive faculty members to return to full participation after debilitating diseases and accidents. Although they understand that the University is attempting to institute business practices that shift more of the burden of insuring welfare to the individual faculty member rather than the institution itself, and we recognize that previous policy favored faculty members over other employees, the older policy helped the university maximize the research and teaching careers of valuable individuals. One member asked whether the new policy was the result of the incidence of chronic diseases such as AIDS, and if so, whether it was a policy that targeted a specific class of faculty. CAP was also concerned with the language and the procedures for triggering a constructive resignation and concluded that such an unusual set of procedures and hypothetical circumstances must relate to very specific cases, and that the revisions to the APM are in response to past or anticipated litigation rather than to a significant number of faculty members who find themselves in such an aberrant relation to their university duties. The Committee on Faculty Welfare suggests that the wording in 710-11 (d) be changed to clearly say that it is only unused sick leave that is not counted towards UCRP and that faculty does receive service credit while they are on paid sick leave.

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

Sincerely,

A handwritten signature in black ink that reads "Manuela Martins-Green".

Manuela Martins-Green
Chair, Riverside Division



ACADEMIC SENATE
1233 Girvetz Hall
Santa Barbara, CA 93106-3050

senate.reception@senate.ucsb.edu
(805) 893-2885
<http://www.senate.ucsb.edu>

Walter Yuen, Chair
Claudia Chapman, Executive Director

June 13, 2006

John Oakley, Chair
Academic Council

RE: Proposed Changes to APM 700, 710, 711, and 080

The Santa Barbara Senate has completed its review of the proposed changes to APM 700, 710, 711 and 080, and has no substantive comments. The proposed changes were sent to our CAP, P&T, Council on Faculty Issues and Awards, and all five campus Faculty Executive Committees for comment. The only comments received back by the deadline were grammatical suggestions as follows:

- 1) On page 3, Section 080-3-a, the last sentence is a run-on sentence and should be modified to read: "The faculty member must respond within thirty (30) calendar days to request a hearing. **Otherwise** the Chancellor..." [OR: hearing; **otherwise**...]
- 2) On pages 3-4, Section 080-3-b, the third sentence should be modified to read: "The appointee must respond within thirty (30) days to request a hearing. **Otherwise** the Chancellor..." [OR: hearing; **otherwise**]

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Yuen".

Walter Yuen
Divisional Chair



1156 HIGH STREET
SANTA CRUZ, CALIFORNIA 95064

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

Email: senate@ucsc.edu
FAX: (831) 459 - 5469

June 7, 2006

John Oakley, Chair
Academic Council

RE: UCSC Response to Formal Review of Proposed Revisions to System-wide Academic Personnel Policies – APMS 700, 710, 711, and 080.

Thank you for providing us with the opportunity to comment on APMS 700, 710, 711 and 080. We asked our Committee on Academic Personnel (CAP) and our Committee on Privilege and Tenure (CP&T) to comment. The present chair of CAP believes that CAP may not deal with policy issues, and his committee has declined to comment. CP&T has provided the attached comments, with which I concur entirely.

Sincerely,

A handwritten signature in black ink, appearing to read "Faye J. Crosby".

Faye J. Crosby, Chair
Academic Senate
Santa Cruz Division

Cc: Al Zahler, Chair CP&T

Attachments: Letter from CP&T

May 22, 2006

Chair Faye Crosby
Academic Senate

RE: P&T review of changes to APM 700, 710 and 080

Dear Faye;
UCSC P&T was asked to comment on proposed changes to the APM, specifically APM sections 700, 710 and 080.

APM 700 deals with leaves of absence. The new proposed material for this section allows for termination of a professor based on unauthorized absences. This new policy is entirely unnecessary because there currently exist rules in the APM, in the faculty code of conduct, and well-defined procedures for holding faculty accountable for performing their duties. This new rule does not define "unauthorized absences" so is wholly an interpretation of the Chancellor. There is also a significant change in the line of authority for termination from a Regental action to Chancellor's authority. Of greatest concern to us is that this new termination authority avoids a hearing before P&T prior to a decision by the administration, which is a faculty right when facing termination. When you take away the P&T hearing component in this case, you take away our shared governance and the faculty member's rights to a well-working grievance and discipline procedure. Also there is no justification given for the need for this dramatic change in charges and discipline proceedings.

Recommendation: This policy is redundant with current policy and these changes to APM 700 should not be made.

APM 710 deals with paid sick leave for employees (faculty) who do not accrue sick leave. This new policy codifies current practices (6 months of paid sick leave for less than 10 years of service, one year for more than 10 years of service) and in some ways brings fairness and clarity to an issue that before left a temporarily disabled employee at the whim of the Chancellor. An important aspect of this is that faculty must be made aware of the importance of getting supplemental (employee paid) disability insurance for when sick leave ends, and we would like to see the administration agree to actively advertise this when this policy is put in place.

Recommendation: It is good to codify sick leave policy for faculty members as long as this is well-advertised and faculty are actively encouraged to obtain supplemental disability insurance.

APM 080 deals with a policy of medical separation for when, even with reasonable accommodation, a disabled faculty member is no longer able to perform his/her faculty duties. We have a concern about this policy change because, as with any termination, we believe the faculty member first has a right to a P&T hearing before termination.

Recommendation: No medical separation should occur without a hearing before P&T, or at least a mechanism must be in place for P&T to review the case.

Please contact me with any questions.

Sincerely,

Al Zahler, Chair
Committee on Privilege and Tenure



OFFICE OF THE ACADEMIC SENATE

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

June 19, 2006

Professor John Oakley
Chair, Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

Re: Formal Review of Systemwide Academic Personnel Policies: APM 700, Leaves of Absence/General; APM 710, Leaves of Absence/Sick Leave; APM 711, Reasonable Accommodation for Academic Appointees with Disabilities; APM 080, Medical Separation

Dear John:

In response to your request of April 4, the San Diego Divisional Senate Council received comment from its cognizant committees and considered the proposed revisions to APM 700, 710, 711, and 080 on June 12, 2006.

The first, general reaction was one of dismay that the Division's comments last year on the introduction of the presumed resignation concept had not been addressed in these proposed changes. All reviewers were struck by the lack of defined timelines. While some saw needed flexibility in the looseness of the language, most were concerned that without a clear definition of when the "clock" starts, and who starts it, faculty are without a safeguard: presumed resignation could be precipitated even when such was not the intent of the faculty member. A defined grace period would eliminate this possibility. Other comments included:

- o APM 080-3: More detailed guidance with respect to timing is necessary to define when notice is adequately provided. Academic Senate Bylaw 337 provides that no Senate member may be terminated prior to the expiration of an appointment without having an opportunity for hearing before the Divisional Committee on Privilege and Tenure. Although this right is implied in the last sentence of APM 080-3(a), the language is not clearly in agreement with Bylaw 337.
- o APM 080-24: This section discusses "tenured faculty" and "other academic appointees". It would seem that the intent is to also capture "tenure-track faculty" in this section, but this is not clear.
- o APM 700: As proposed, the policy applies only to academic year (9 month) appointees; fiscal year (11 month) appointees are not mentioned.
- o APM 710-11: Concern was voiced that since faculty who are members of the Health Sciences Compensation Plan are specifically excluded and since accommodations for sick leave are the responsibility of these individuals and their respective departments, the possibility exists that some faculty could end up being covered by no policy at all.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bernard", with a horizontal line underneath.

Jean-Bernard Minster, Chair
Academic Senate, San Diego Division

E.Switkes 05-22-06 correspondence to J.Oakley re: APM 700, 710, 711, 080

Date: Fri, 02 Jun 2006 07:17:41 -0700

To: UCACOUN-L@listserv.ucop.edu

From: Maria Bertero-Barcelo <maria.bertero-barcelo@ucop.edu>

Subject: (Academic Council) APM 700, 710, 711 and 080

Cc: UCSUPS-L@listserv.ucop.edu, todd.giedt@ucop.edu, brenda.foust@ucop.edu, kimberly.peterson@ucop.edu, michael.Labriola@ucop.edu, michelle.ruskofsky@ucop.edu, midge.fox@ucop.edu, Kenneth.Feer@ucop.edu

Dear Members of the Academic Council:

Following up on the May 26 meeting of Council, Chair Oakley asked that I circulate to you a copy of AVP Ellen Switkes comments on UCP&T's concerns with respect to the proposed revisions to APM 700, 710, 711 and 080.

Please find below Ellen's comments. For your convenience I have also attached, UCP&T's comments on these proposed revisions.

Please note that Divisional comments (and those Committees who have yet not responded) on the proposed APM revisions are due by June 9.

Cordially,

Maria

Date: Mon, 22 May 2006 17:15:39 -0700

To: jboakley@ucdavis.edu, Maria.Bertero-Barcelo@ucop.edu

From: Ellen Switkes <ellen.switkes@ucop.edu>

Subject: UP&T Comments

Cc: jill.slocum@ucop.edu, rory.hume@ucop.edu, linda.fabbri@ucop.edu

John,

I reviewed the memo from UCP&T on the proposed revisions to APM 700, 710, 711 and 080 and have a few comments.

My major concern deals with the issue UCP&T raised about the provision proposed in APM 700-10 about constructive resignation. UCP&T is correct that this proposed policy does not explicitly provide for a hearing prior to the constructive resignation. That's exactly the point. The University already has policies and procedures, including right to a hearing prior to termination. This proposed policy is not an "early termination." Termination is an involuntary action by the employer. Rather failure to show up for work is a voluntary act on the part of the professor, consequently it is not a termination for cause. It's the professor who decides whether to return from a leave or not to work. As we've discussed in the past, the situation whereby a professor is on leave without pay and requests a second year of year is usually complicated by the start date of the pay period. Under such circumstances, a professor on leave without pay who requests a second year of leave which is denied, is returned to payroll effective July 1 in anticipation of a return to campus for normal teaching and research in the fall. When the professor chooses not to return, two or three months pay has already been received.

If the Senate feels that RSO 103.9 must be interpreted to provide for a hearing before the University can remove a professor who refuses to return from a leave and remains on the payroll during the dismissal hearing, I suggest we ask the Regents for an interpretation of that RSO. I don't believe that RSO 103.9 applies in this case. It is not a termination, rather it is an election by

the Professor to resign by not coming to work. The UCFW discussed the possibility of not paying a professor during the period he has refused to return to work and before a hearing is completed. However, not paying someone is validating that they are on leave without pay, just what was requested and refused in the first place. If the Academic Council accepts the UCP&T opinion, I will recommend that we take this policy to the Regents for interpretation or as a revision to RSO 103.9 for further clarification.

Both UCAP and UCFW made excellent suggestions for minor modifications in the policy language to make the intent more clear, but both committees endorsed the concept. Based on their feedback, we plan to add a stipulation that the Chancellor personally sign the notice of intent as well as the final written decision, without delegation of authority. This suggestion appeared to relieve some of the committee member's concerns that this action could be taken under inappropriate circumstances by a department chair.

UCP&T also commented that APM 080-3 - the policy on medical separation does not specify that the right to a hearing should be one constituted by the Academic Senate. However, APM 080-3 explicitly provides for "the right to a hearing under Regents Standing Order 103.9." This RSO 103.9 provides for the opportunity for a hearing by "as properly constituted advisory committee of the Academic Senate." Perhaps the UCP&T is suggesting that we quote the RSO itself in APM 080-3.

Finally, UCP&T made a comment about sabbatical accrual during leaves of absence. The proposed change to the 710-42 is wrong - several reviewers have caught this (thank you reviewers!). It's probably best to make no change to current language.

710-42 should read: **Sabbatical Leave Credit** - Sabbatical leave credit is not accrued during a leave of absence with pay for one quarter or semester or more or for a leave of absence without pay (see APM - 740-11-h(3) and (4)).

I'm happy to discuss any of these issues with you in more detail.

Ellen

María Bertero-Barceló
Executive Director
Assembly of the Academic Senate
1111 Franklin Street, Room 12308
Oakland, CA 94607-5200
mbertero@ucop.edu
(510) 987-9458/9143(office)
(510) 763-0309 (fax)
<http://www.universityofcalifornia.edu/senate>

--



[UCPT.APM700.0510061.doc](#)



Office of the Chair
Telephone: (510) 987-9303
Fax: (510) 763-0309
Email: george.blumenthal@ucop.edu

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

August 3, 2005

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

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

Dear Ellen:

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

Other Comments on APM 700-16: Presumptive Resignation

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

APM 710: Sick Leave

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

APM 080: Medical Separation

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

Long-Term Disability Leaves

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

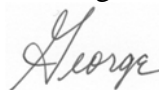
In addition to the above comments, UCFW reported that you and your staff have agreed to the following modifications, which Council will expect to see included in the revised drafts:

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

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

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

Best regards,



George Blumenthal, Chair
Academic Council

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

Copy: Academic Council
María Bertero-Barceló, Executive Director

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)

John Oakley, Chair
jboakley@ucdavis.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-0155
Fax: (510) 763-0309

July 15, 2005

GEORGE BLUMENTHAL, CHAIR ACADEMIC COUNCIL

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

Dear George:

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

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

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

Cordially,

/s/

John Oakley, Chair

University Committee on Faculty Welfare

Copy: UCFW



UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY (UCEP)
JOSEPH KISKIS, CHAIR
kiskis@physics.ucdavis.edu

The Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9467
Fax: (510) 763-0309

April 25, 2005

GEORGE BLUMENTHAL, CHAIR
ACADEMIC COUNCIL

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

Dear George,

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

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

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

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

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Joe Kiskis". The signature is fluid and cursive, with the first name "Joe" being more prominent than the last name "Kiskis".

Joe Kiskis
Chair, UCEP

JK/ml

cc: UCEP members
Executive Director Bertero-Barceló



Office of the Academic Senate
2300 Berkeley Place South
Irvine, CA 92697-1325
(949) 824-2215 FAX

June 3, 2005

George Blumenthal, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

**RE: Informal Review of Proposed Revision to System-wide Academic
Personnel Policies Related to Absences/Sick Leave, Medical Separation
and Leaves of Absence/General (APM 710, 080, and 700)**

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

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

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

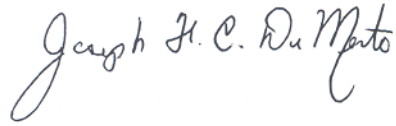
We have no comments on APM 710.

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

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

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

We appreciate the opportunity to comment on this important matter.

A handwritten signature in cursive script that reads "Joseph F.C. DiMento". The signature is written in a dark ink and is positioned above the printed name.

Joseph F.C. DiMento, Senate Chair



OFFICE OF THE ACADEMIC SENATE

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

May 9, 2005

PROFESSOR GEORGE BLUMENTHAL, Chair
Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

SUBJECT: Informal Review of Systemwide Academic Personnel Policies Related to Absences/Sick Leave,
Medical Separation, Leaves of Absence/General:
APM 700, Leaves of Absence/General
APM 080, Medical Separation
APM 710, Leaves of Absence/Sick Leave/Reasonable Accommodation for Academic Appointees
with Disabilities

Dear George:

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

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

Sincerely,

Donald F. Tuzin, Chair
Academic Senate, San Diego Division

cc: J.B. Minster
ChronFile



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

May 23, 2005

GEORGE BLUMENTHAL
Chair, Academic Senate

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

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

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

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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Knapp". The signature is fluid and cursive, with the first name "Robert" and last name "Knapp" clearly distinguishable.

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

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



OFFICE OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
TELEPHONE: (530) 752-2231

May 6, 2005

George Blumenthal, Chair
Academic Senate
University of California
1111 Franklin St., 12th Floor
Oakland, CA 94607-5200

Dear George,

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

Sincerely,



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



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY COLLEGE BUILDING
ROOM 225
TEL: (951) 827-5530
FAX: (951) 827-5545
EMAIL: Senate@ucr.edu

MANUELA MARTINS-GREEN, PhD
BIOLOGY OF WOUND HEALING LABORATORY
DEPT. CELL BIOLOGY AND NEUROSCIENCE
2210 SPIETH HALL
RIVERSIDE, CA 92521-0217
TEL: (951) 827-2585 LAB 3891
FAX: (951) 827-4286
E-MAIL: Manuela.martins@ucr.edu

June 9, 2005

George R. Blumenthal
Professor of Astronomy & Astrophysics
Chair, UC System wide Academic Senate
1111 Franklin St., 12th Floor
Oakland, CA 94607

RE: Informal Review of Proposed Revisions to System wide Academic Personnel Policies Related to Absences/Sick Leave, Medical Separation and Leaves of Absence--- APMs 710, 080, and 700
(<http://www.universityofcalifornia.edu/senate/underreview/apm.700.080.710.pdf>)

Dear George:

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Manuela", is written over a horizontal line.

Manuela Martins-Green
Chair, Riverside Division