



OFFICE OF THE VICE PROVOST --
ACADEMIC PERSONNEL AND PROGRAMS

OFFICE OF THE PRESIDENT
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CHANCELLORS
ACADEMIC COUNCIL CHAIR SUSAN COCHRAN
LABORATORY DIRECTOR MICHAEL WITHERELL
ANR VICE PRESIDENT GLENDA HUMISTON

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

Dear Colleagues:

I am formally transmitting revised Academic Personnel Manual Section 025, Conflict of Commitment and Outside Activities of Faculty Members and Designated Other Academic Appointees (APM - 025), and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM - 671). Each of the policies is to be implemented by July 1, 2024.

Background

In accordance with the 2019-20 University of California (UC) audit plan, the systemwide Office of Ethics, Compliance and Audit Services (ECAS) performed a systemwide audit of foreign influence. ECAS conducted this audit in coordination with the internal audit departments at all UC campuses and the Lawrence Berkeley National Laboratory. The results of the audit were published in the *Systemwide Foreign Influence Audit Report*, issued in February 2021. The report noted increased concern regarding foreign influence in academia within the federal government and UC's peer institutions, including concerns about efforts by foreign governments to unduly influence and capitalize on U.S.-conducted research. Since 2018, the National Institutes of Health (NIH) and the National Science Foundation (NSF) have expanded their efforts to increase awareness of foreign influence risk as well as to increase compliance enforcement. The report, which recognizes the critical importance of preserving federal funding for research within UC, contained two systemwide recommendations for corrective action related to policies on conflict of commitment:

- Systemwide Academic Personnel should update APM - 025 and APM - 671 to specify that they apply to all academic appointees listed as key personnel on proposals submitted by the University, regardless of faculty series or appointment percentage.

- Systemwide Academic Personnel should consider modifying APM - 025 and APM - 671 such that all foreign activities are Category I activities which require prior approval.

In June and July 2021, the Office of Academic Personnel and Programs (APP) convened a systemwide working group to consider the ECAS recommendations. The working group included representatives from six campus Academic Personnel Offices, the UC Academic Senate, UC Outside Activity Tracking System (OATS) Governance Board, UC Legal - Office of the General Counsel, and APP. The working group submitted its final report in August 2021. A subgroup of campus Academic Personnel representatives and UCOP APP staff met to draft the proposed policy revisions in September 2021, based on the Working Group recommendations.

The first systemwide review comment period for proposed revisions to APM - 025 and APM - 671 ended on March 1, 2022. Systemwide review comments reflected a widespread lack of support for the proposed revisions based on the anticipated damage to University research, entrepreneurship, and international collaborations; conflation of conflict of interest and conflict of commitment; undermining of academic freedom; and the heavy administrative burden and costs associated with the revisions.

Following consultation with UC Legal and ECAS, APP revised the policies to limit the impact on University research, international collaborations, and academic freedom while still responding to the recommendations for corrective action from the systemwide audit of foreign influence. The proposed policy revisions were distributed for a second round of systemwide review in September 2022, with the comment period ending in November 2022. Systemwide review comments reflected compelling objections to the proposed expansion of the definition of Category I outside professional activities and ongoing concerns regarding compliance and implementation. APP engaged in further consultation with UC Legal and ECAS and made additional revisions to the policy language, particularly regarding the definition of Category I outside professional activities, in response to systemwide review comments.

Summarized below are the key revisions that have been incorporated into the final policy language.

Key Policy Revisions

- **Retaining the current definition of Outside Professional Activities.** The revised policies preserve the distinction between activities that are related and unrelated to the training and expertise that are the qualifications for University appointment.
- **Clarifying that current or pending acceptance of an honorary, visiting, adjunct, or other institutional appointment (either compensated or uncompensated) at an outside institution is a Category I activity.** Current policies already classify employment outside the University as a Category I activity. The revised policies provide clarification that current or pending acceptance of an honorary, visiting, adjunct, or other institutional appointment (either compensated or uncompensated) at an institution of

higher education, research institute, or medical center affiliated with an outside institution of higher education, non-U.S. government, or other outside entity is a Category I activity.

- **Clarifying that participation in or application to talent recruitment programs sponsored by a government agency of a nation other than the United States is a Category I activity.** This requirement already exists in current policies but is not clearly articulated. The revised policies make explicit the requirement that faculty members seek prior approval for application to or participation in talent recruitment programs specifically designed to recruit science and technology professionals or students.
- **Expanding the definition of Compensation to include in-kind contributions.** The revised policies articulate that in-kind contributions, such as office/laboratory space, equipment supplies, or employees or students supported by an outside source constitute compensation for outside professional activities. If the time commitment or dollar value is not readily ascertainable, reasonable estimates should be provided. Compensation does not include training awards, prizes, or gifts. Gifts are resources provided where there is no expectation of anything (*e.g.*, time, services, specific research activities, money, etc.) in return. An item or service given with the expectation of an associated time commitment is not a gift and is instead compensation and must be reported as such. This is an existing reporting obligation required by federal funding agencies.
- **For faculty and Designated Other Academic Appointees, requiring compliance with federal funding agency laws and policies governing grant disclosures if participating in a federally funded research project and if deemed required to disclose per funding agency policy, grant terms & conditions, and/or federal law.** Reporting requirements from federal funding agency laws and policies currently include reporting on conflicts of commitment and affiliations including, but not limited to, participation in non-U.S. talent recruitment programs and acceptance of visiting and honorary appointments at outside institutions of higher education and research.
- **Removing Appendices B, C, and D.** The revised policies delete Appendices B, C, and D, as all campuses currently use the UC Outside Activities Tracking System (UC OATS) for APM - 025 and APM - 671 prior approval and annual reporting processes.

I wish to thank all those involved in the consultation regarding the revisions to these important APM policies. Your contributions are deeply appreciated.

Sincerely,



Michael T. Brown, Ph.D.
Provost and
Executive Vice President for Academic Affairs

Enclosures

cc: President Drake
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Executive Vice President Byington
Senior Vice President and Chief Compliance Officer Bustamante
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Chief of Staff Peterson
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