



OFFICE OF THE VICE PROVOST --
ACADEMIC PERSONNEL AND PROGRAMS

OFFICE OF THE PRESIDENT
1111 Franklin Street, 10th Floor
Oakland, California 94607-5200

September 1, 2022

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

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

Dear Colleagues:

Enclosed for second systemwide review are proposed revisions to APM - 025, Conflict of Commitment and Outside Activities of Faculty Members, and APM - 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

From late October 2021 to early March 2022, the Office of Academic Personnel and Programs initiated a comprehensive review of APM - 025 and APM - 671. Systemwide comments reflected general disapproval of the proposed revisions, which were intended to respond to management corrective actions resulting from a systemwide Office of Ethics, Compliance and Audit Services (ECAS) audit described in more detail below. We are now circulating revised APM - 025 and APM - 671 for another systemwide review.

Context for Policy Revisions

In accordance with the 2019-20 University of California (UC) audit plan, the systemwide Office of Ethics, Compliance and Audit Services 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 Audit Influence Report*, issued in February 2021. The report noted increased concern regarding foreign influence in academia within the federal government and UC's peer institutions, including concerns about efforts by foreign governments to unduly influence and capitalize on U.S.-conducted research. 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 and established an initial deadline of April 30, 2022, for completion of the proposed revisions and systemwide review:

- 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 met four times over the course of two months and 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. Systemwide review comments reflected a widespread lack of support for the proposed revisions based on the absence of a compelling rationale for such extensive changes; the undermining of academic freedom and anticipated damage to University research, entrepreneurship, and international collaborations; conflation of conflict of interest and conflict of commitment; and the heavy administrative burden and costs associated with the revisions.

Following consultation with UC Legal and ECAS, APP revised the policies to more narrowly address the recommendations for corrective action from the systemwide audit of foreign influence. Summarized below are the revised key revisions that are now being distributed for a second systemwide review.

Key Policy Revisions

The following proposed revisions position the University to address the concerns identified in the systemwide audit of foreign influence without undue imposition of enormous administrative burdens or introduction of complexity that is disproportionate to the risks resulting from failure to disclose outside activities.

- For faculty holding appointments at or above 50% effort the policy revisions include:
 - Expanding Category I prior-approval and annual reporting requirements to all outside professional activities, regardless of whether they are related to the training and expertise that are the qualification for a faculty member's University appointment. The revised policies propose to eliminate the distinction – within Category I – between activities that are related and unrelated to the training and expertise that are the qualifications for University appointment. Pursuant to the existing definition of conflict of commitment in APM - 025 and APM - 671, a conflict of commitment occurs when a faculty member's outside activities

interfere with the faculty member's professional obligations. Whether the outside activities are related to the training and expertise that are the qualification for the faculty member's University appointment is not relevant to whether the outside activities will interfere with the faculty member's professional obligations to the University.

- Clarifying that current or pending acceptance of an honorary, visiting, adjunct, or other institutional appointment (either compensated or uncompensated) at an outside 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. Although this requirement exists in current policies, the revised policies propose to clarify that compensated and uncompensated appointments at non-UC institutions are considered Category I activities requiring prior approval and annual disclosure.
- 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. Although this requirement exists in current policies, the revised policies propose to clarify that faculty members must seek prior approval for application to or participation in talent recruitment programs specifically designed to recruit science and technology professionals or students.
- Clarifying 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. This is an existing reporting obligation required by federal funding agencies.
- For faculty holding appointments at less than 50% effort and Designated Other Academic Appointees, the policy revisions require compliance with federal funding agency laws and policies governing research grant disclosures if participating in a federally funded research project and if deemed to be key personnel or senior personnel by the Principal Investigator or funding agency. The reporting requirements from the federal funding agency laws and policies include reporting on non-U.S. outside professional activities.

The following are the policy-covered non-Senate titles covered by APM - 025:

Agronomist Series
Astronomer Series
Coordinator of Public Programs
Professional Research Series
Project Scientist Series
Specialist Series
Specialist in Cooperative Extension Series

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

Systemwide Review

This second systemwide review is intended to address concerns identified during the first systemwide review. Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. A second systemwide review also includes a 60-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policies, available on the [Academic Personnel and Programs website](#). Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than **November 1, 2022**. Please submit your comments to VP-ACADEMICPERSONNEL@ucop.edu. If you have any questions, please contact Rebecca Woolston at Rebecca.Woolston@ucop.edu.

Sincerely,



Michael T. Brown, Ph.D.
Acting Vice Provost
Academic Personnel and Programs

Enclosures:

- 1) Proposed Revised APM - 025 (clean copy)
- 2) Proposed Revised APM - 025 (tracked-changes copy)
- 3) Proposed Revised APM - 671 (clean copy)
- 4) Proposed Revised APM - 671 (tracked-changes copy)
- 5) Model Communication

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
Vice President Lloyd
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