



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

November 2, 2022

**DOUGLAS HAYNES, VICE PROVOST
ACADEMIC PERSONNEL & PROGRAMS**

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

Dear Vice Provost Haynes:

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

We acknowledge that the revisions respond to recommendations from the UC Office of Ethics, Compliance, and Audit Services, following a systemwide audit that noted increased federal government concern about foreign influence in academia, including efforts by foreign governments to influence and capitalize on U.S. research. The revisions put forward in this second systemwide review also respond to feedback received during an initial review in winter 2022.

We understand the policy revisions expand approval and reporting responsibilities for all "Category I" outside professional activities for faculty holding appointments at or above 50%, regardless of whether the activities are related to the training and expertise that qualify the faculty member for a UC appointment. The revisions also clarify that participation in or application to talent recruitment programs sponsored by a foreign government agency is a Category I activity. Finally, they clarify that non-faculty academic appointees have to comply with federal funding agency laws and policies governing research and grant disclosures if participating in a federally funded research project, and if they are deemed to be key personnel or senior personnel by the Principal Investigator or funding agency.

The Senate appreciates efforts to improve the policy in response to Senate feedback from the first systemwide review. In particular, we support the elimination of subcategories for foreign activities and entities, the narrowing of application of the requirements to faculty with greater than 50% appointments, and the removal of postdoctoral scholars from the range of academic employees subject to reporting requirements. However, these improvements did not go far

enough to address the full scope of Senate feedback. Faculty are still concerned about the additional administrative burdens the new requirements will impose, the potential of the policy to stifle research collaborations and restrict academic freedom, and its lack of clarity regarding implementation, compliance, and enforcement. I summarize the main concerns below, but we encourage you to read the full packet of responses for more details to inform additional revisions.

A primary concern is that the new prior-approval and reporting process outlined in the policy is onerous and unnecessary for many of the activities that faculty normatively engage in. Despite the narrowing of requirements to faculty with greater than 50% appointments, the second-round revisions increase both the number of categories of University employees who will be required to file annual reports on their activities and also the range of Category I activities requiring prior approval. These expansions are unreasonable and will impose substantial new burdens on faculty and research staff.

Of particular concern is the policy's broadened definition of Category I "outside activities" that require pre-approval—from activities that fall within a faculty member's area of professional expertise, to activities that "may or may not fall" within the area of expertise. It is impractical and unreasonable to require faculty to seek prior approval for every form of employment they attempt to undertake outside the University of California. Many faculty participate in paid activities unrelated to their professional expertise that are completely benign and impose no conflict of commitment. And in a professional context, faculty are frequently invited to participate in small engagements as visiting professors or in an honorary and uncompensated capacity. These requirements will affect routine faculty activities; infringe upon academic freedom; delay research activity; harm productivity; impede international collaborations, global health activities, and recruitment and retention; and discourage academic discourse and collaboration. The policy should specify a more reasonable subject-matter threshold for an outside activity to be a Category I activity. We recognize that a broad net will capture all instances that are of concern to conflicts of commitment—but that same broad net will capture many more instances of normative faculty life. It is critical that compliance policies restrict only as necessary to achieve the desired goal. Doing more than that can be fundamentally harmful to the institution.

Another concern is that the policy does not provide sufficient detail about the expanded definitions of reported compensation to include in-kind contributions. The time and effort to quantify, document, and report such compensation places an undue burden on faculty and the delay in receiving permissions can negatively impact research and scholarly collaboration. The Senate comments give a number of examples where small gifts (e.g., a pen) could trigger this requirement.

The policy also lacks sufficiently detailed guidance about processes related to compliance, responsibility for enforcement, and timely policy implementation. Rather than place the compliance burden on faculty members alone, the University should provide support and resources, including knowledgeable staff who can respond in a timely manner to inquiries from academic appointees and work with faculty members to achieve compliance.

We are also concerned that the policy will result in a substantial increase in costs as the existing prior approval system does not have the capacity to address the substantial increase in prior approval requests. We reiterate our request for UCOP to provide an analysis of administrative

costs associated with the increased workload incurred as a result of compliance. Finally, many faculty have difficulty using the UC Outside Activity Tracking System (OATS). Processing times for receiving permission for Category I activities are already unnecessarily slow and using the OATS for annual reporting takes substantial faculty and staff time for even the most minor of reporting situations.

In sum, the proposed policy seems overly broad for the issues it is designed to address. We hope UCOP will explore alternative compliance mechanisms that meet minimal federal requirements. We appreciate the opportunity to comment. Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan Cochran', with a stylized flourish at the end.

Susan Cochran, Chair
Academic Council

Cc: Academic Council
Campus Senate Executive Directors
Executive Director Lin

Encl.



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 18, 2022

SUSAN COCHRAN
Chair, Academic Council

*Subject: Second Systemwide Review of Draft Revised APM-025 and APM-671
(Conflict of Commitment of Outside Activities)*

Dear Chair Cochran:

On October 10, 2022, the Council of the Berkeley Division (DIVCO) discussed the *Draft Revised APM-025 and APM-671 (Conflict of Commitment of Outside Activities)*, informed by written comments from the Committees on Academic Planning and Resource Allocation (CAPRA); Budget and Interdepartmental Relations (BIR); Faculty Welfare (FWEL); Research (COR); and Rules and Elections (R&E). DIVCO strongly opposes the proposed revisions.

DIVCO's primary objection to the draft revision was the broad definition it seems to adopt of "outside activities" that require pre-approval. The proposed text for APM 025-4a (Definitions) now stipulates that Category 1 outside activities "are defined as those activities that may or may not fall are within a faculty member's area of professional, academic expertise and that may advance or communicate that expertise through interaction with industry, the community, or the public" (emphasis added). This is a major change from the current definition of Category 1 outside activities, and from the first round of revisions, both of which understood reportable outside activities as limited to those that fell within the faculty member's area of expertise.

It is possible that the second half of the sentence ("that may advance or communicate that expertise...") intends to narrow the scope again, suggesting that reportable Category 1 activities are those that will communicate the faculty member's field-specific expertise to the outside world even if the activity itself lies beyond their expertise. If so that meaning was missed by all the Berkeley Senate committees who reviewed the proposed text. If, as seemed more likely to us, the intention is actually to require faculty to seek prior approval for every form of employment they undertake outside the university, DIVCO objects strongly. Even if Category 1 activities are limited to those that involve "employment outside of the university" (per APM 025-10-1b), activities requiring reporting and pre-approval could still include a faculty member's work on weekends refereeing children's soccer games, teaching yoga, and beekeeping. This broad construal of Category 1 suggests that the University can claim all of a faculty member's time and energy and implies that anything the faculty member does, including on weekends, evenings, and vacations, may constitute a conflict of commitment. This is an intrusion into private lives of faculty and imposes an unreasonable reporting burden.

Some DIVCO members also felt that the Outside Activity Tracking System (OATS) website is so complicated to use that it is counterproductive.

In other respects, DIVCO found these proposed revisions to be an improvement on the first round. We appreciate the removal of the pre-approval requirement for all international activities and the removal of postdoctoral scholar from the job categories required to report.

DIVCO also noted that the rationale for the proposed revisions is not clear enough. There is an attempt to explain it in the cover letter from UC Provost and Executive Vice President for Academic Affairs Michael Brown. That explanation focuses on foreign influence (which is no longer directly addressed in this set of revisions) and on tracing the outside activities of academic appointees with less than 100% appointments who may be leads on federal grants.

In conclusion, we would like to reiterate a comment from the first review, “These decisions should do the minimum to comply with the federal law” and directs your attention to the recommendation in the letter from Berkeley’s Committee on Academic Planning and Resource Allocation that “the Office of the President... consider simply requiring that faculty ‘comply with federal funding agency laws and policies governing grant disclosures (e.g., conflicts of commitment and affiliations including, but not limited to, participation in non-U.S. talent recruitment programs and accepting visiting and honorary appointments at outside institutions of higher education and research) if participating in a federally funded research project and if deemed to be key personnel or senior personnel by the PI or the funding agency.’ ”

Please see the attached letters for more information. Thank you for the opportunity to comment on this important matter.

Sincerely,



Mary Ann Smart
Professor of Music
Chair, Berkeley Division of the Academic Senate

Enclosures

cc: Maximilian Auffhammer, Vice Chair, Berkeley Division of the Academic Senate
Jocelyn Surla Banaria, Executive Director, Berkeley Division of the Academic Senate
Holly Doremus, Chair, Committee on Academic Planning and Resource Allocation
Hannah Ginsborg, Chair, Committee on Budget and Interdepartmental Relations
Thomas Leonard, Co-Chair, Committee on Faculty Welfare
Nancy Wallace, Co-Chair, Committee on Faculty Welfare
Lia Fernald, Chair, Committee on Research
J. Keith Gillespie, Chair, Committee on Rules and Elections
Sumei Quiggle, Associate Director staffing Committee on Rules and Elections
Deborah Dobin, Senate Analyst, Committee on Academic Planning and Resource Allocation
Courtney MacIntyre, Senate Analyst, Committee on Budget and Interdepartmental Relations
Patrick Allen, Senate Analyst, Committees on Faculty Welfare and Research



October 3, 2022

PROFESSOR MARY ANN SMART
Chair, Berkeley Division of the Academic Senate

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

At its September 28, 2022, meeting, CAPRA discussed the latest proposed revisions to APM Sections 025 and 671. This proposal reworks changes to these sections circulated last academic year and roundly opposed by the Senate, at Berkeley and systemwide.

CAPRA is pleased to see that the worst parts of last year's proposal, the ill-defined expansion of pre-approval requirements for international activities and inclusion of post-docs in the approval and reporting requirements, have been reconsidered. However, we still have sufficiently serious concerns with this version that we oppose its adoption. We understand that the University is concerned about compliance with federal grant funding requirements. However, we agree with DIVCO's comments last year urging that revisions be limited to "the absolute minimum [needed] to meet legal requirements." That standard is still not met.

We have two major objections to this revision.

First, it would expand Category 1 to cover activities beyond the scope of faculty members' professional commitment to the University. The proposal specifically states that "Category I activities are subject to prior approval and reporting requirements *regardless of whether they are related to the training and expertise that are the faculty member's qualification for University appointment*" (emphasis added). The scope of this change is breathtaking. It suggests that the University can claim literally all of a faculty member's time and energy, such that anything the faculty member does, including on weekends, evenings, and vacations, may constitute a conflict of commitment. That cannot be true. Given the broad definition of Category 1 activities, which include any employment outside the University, this could subject faculty to pre-approval requirements if, for example, they take on part-time work refereeing children's soccer games on weekends. No rationale is offered for this extraordinary expansion. We believe the Senate owes it to its members to insist that they do in fact have some time that belongs to them rather than to the University. And we see no link between what faculty members do with that time and the stated motivations for revision of these APM sections.

Second, the proposed revisions would include as Category 1 activities acceptance of any institutional appointment at a non-UC institution (Category 1(e)). We worry that this language sweeps more broadly than may be intended; invited distinguished lectures, for example, which are currently considered Category 3 activities, may come with an honorary designation that could bring them into this category without increasing the demand on the faculty member's time or the potential for significant conflict of commitment. At minimum, we see this as increasing requirements for approval, with their attendant resource costs, and anxiety among faculty.

In the spirit of DIVCO's comments on the last round of proposed revisions, we urge the Office of the President to consider simply requiring that faculty "comply with federal funding agency laws and policies governing grant disclosures (e.g., conflicts of commitment and affiliations including, but not limited to, participation in non-U.S. talent recruitment programs and accepting visiting and honorary appointments at outside institutions of higher education and research) if participating in a federally funded research project and if deemed to be key personnel or senior personnel by the PI or the funding agency." That language is already included in proposed revised APM 025-14(a). It seems sufficient to address the legal concerns that UCOP cites as driving these revisions. We do not understand why anything more is necessary.

Thank you for the opportunity to comment.

With best regards,

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

Holly Doremus, Chair
Committee on Academic Planning and Resource Allocation

September 29, 2022

CHAIR MARY ANN SMART
BERKELEY DIVISION OF THE ACADEMIC SENATE

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

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

As with the first set of revisions to APM-025, on which we commented in our memo of January 11, 2022, to Ronald C. Cohen, then-Chair of the Berkeley Division, this second set of revisions entails a significant increase in

- 1) the number of categories of employees who will be subject to annual reporting, and
- 2) the range of activities for which employees must seek prior written authorization.

Unlike the first set of revisions, this second set of revisions makes no distinction between activities that do or do not involve “foreign entities.” It also differs from the first set of revisions in that postdoctoral scholars are no longer included in the range of academic employees subject to reporting requirements. This means that some of our concerns about the first set of revisions are not applicable to this set. However, some of the same concerns raised in our memo regarding the first set of revisions continue to apply to the present revisions, and these revisions also raise new points of concern. We also note that, as with the first revisions, these revisions are presented with minimal detail on the motivation for the proposed changes. According to the cover letter, the initial set of revisions was intended to address concerns identified in a “systemwide audit of foreign influence”; the present set is intended to address these same concerns “without undue imposition of enormous administrative burdens or introduction of complexity that is disproportionate to the risks resulting from failure to disclose outside activities.” However, it is not at all clear how the new set of revisions is intended to address these concerns, nor how they

avoid the imposition of administrative burdens that are disproportionate to the risks that are to be avoided.

We turn now to more specific comments.

1) As with the first set of revisions, this proposed revision significantly increases the number of categories of University employees who will be required to file annual reports on their activities, even though one category included in the first set of revisions, that of postdoctoral scholars, is excluded from this set. We are glad to see that postdoctoral scholars are no longer included, but we continue to believe that, as noted in our previous memo, it would be desirable to understand how many employees would be covered and the extent of the increase in the administrative burden.

2) As stated in the cover letter, the proposed revision expands Category I activities (those for which prior approval must be sought) to include “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.”

a. We are pleased to see that there is no longer any specific mention of “activities involving foreign entities” as requiring prior approval. However, this new expansion of activities requiring prior approval is both unclear and problematic. Depending on how “outside professional activities” is understood, this expansion threatens an unwarranted intrusion on faculty members’ private lives. Faculty may, without compromising their commitment to their University responsibilities, use their free time to engage in a range of skilled activities, for example playing in a band, bee-keeping, coaching a science or sports team at their children’s school, teaching yoga, or substituting as a church organist, for which they receive modest compensation, either financial or in the form of meals or plane tickets. Are these to be considered “professional activities”? It would be highly intrusive, as well as enormously burdensome from an administrative point of view, for faculty to have to receive prior written authorization for all activities of this kind. APM 025-4a states that “outside professional activities are distinct from non-professional activities, *i.e.*, activities that are part of the faculty member’s private life,” so perhaps the kinds of examples given here would be counted as “non-professional.” However, it is very hard to see how to draw the line between “outside professional activities [not] related to the training and expertise that are the qualification for a faculty member’s University appointment” and “activities that are part of the faculty member’s private life”; at the very least, there needs to be clarification on this point. An additional unintended consequence of this expansion, and potentially dangerous corollary of this type of overreach, is a disincentive for faculty to pursue new areas of study beyond their current training and expertise relevant to their University obligations. The additional barriers created by this situation could lead to a curtailment of academic freedom and limit the intellectual growth of members of the University.

b. As noted above, the rationale stated in the cover letter for the revisions is to address concerns regarding “foreign influence.” It is completely unclear how the expansion of Category I is intended to meet that rationale. There could be an independent rationale in

the form of concerns that some faculty members are devoting too much of their time to activities that take them away from their University responsibilities and hence failing to fulfil those responsibilities. However, this would be a poor rationale, since concerns of this kind are already addressed through the faculty merit-review process, which assesses faculty members' effectiveness in fulfilling their various responsibilities to the University. So the proposed expansion of Category I activities strikes us as completely unmotivated.

3) As an additional concern, we note that the revisions broaden the definition of "compensation" to include, not just remuneration but also "in-kind contributions such as office/laboratory space, equipment supplies, or employees or students supported by an outside source." By expanding the scope of reporting in this manner, the suggested revisions, as written, add barriers to initiating and maintaining collaborations with external institutions, again disincentivizing faculty from pursuing new areas of study beyond their immediate expertise and potentially limiting their academic freedom. This situation is particularly troubling when the research output of such collaborations is largely published in the open literature and presented at conferences and other meetings. It is common practice to have academic collaborations where data are collected in multiple locations by multiple researchers and published together in a joint format. In this scenario, if a laboratory from another institution generates data for a figure in a shared publication where all researchers are co-authors, does a faculty member then have to report salary information for the researchers (which, if they are at a private institution, should be confidential), as well as costs for supplies, space, and equipment for all collaborators' laboratories for each individual publication or project? Moreover, this suggested revision has unintended consequences for academic-industrial partnerships. For example, how will this affect campus entrepreneurship, in particular Berkeley Research Infrastructure Commons and the Faculty Lab eXceptional-use for Innovation & Entrepreneurship (FLEXIE) program (<https://ipira.berkeley.edu/ric-flexie>)?

4) A final point is that some unsalaried appointments, such as honorific titles associated with honorary positions, or distinguished fellowships which include an invitation to visit another academic institution, are considered awards that are bestowed in recognition of academic achievements. In many cases such awards are announced without prior knowledge on the part of the faculty recipient, and many of them are accompanied by a financial prize. The distinction between such academic recognition and compensated appointments at external institutions should be clarified.

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



Hannah Ginsborg
Chair



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

September 30, 2022

CHAIR MARY ANN SMART
Academic Senate

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

Dear Chair Smart,

On September 26, 2022, the Committee on Faculty Welfare (FWEL) reviewed and discussed the proposed second draft revision to APM- 025, Conflict of Commitment Outside Activities of Faculty Members, and APM -671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

Several FWEL members, from different disciplines, spoke as one: the Outside Activity Tracking System (OATS) website is so complicated, it is counterproductive. Pop-ups and guidance do not help, they said, and encourage inaccuracies. Multiple staff specialists share this burden, wasting time and resources. One suggestion for streamlining:

Whenever faculty would like to engage in Category 1 activity, they should submit a request to specific office(s) using a simple template that describes the activity, a month in advance.

We appreciate the opportunity to weigh in on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas C. Leonard'.

Thomas Leonard, Co-Chair
Committee on Faculty Welfare

A handwritten signature in black ink, appearing to read 'Nancy S. Wallace'.

Nancy Wallace, Co-Chair
Committee on Faculty Welfare

TL/NW/pgs



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 4, 2022

CHAIR MARY ANN SMART
Academic Senate

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

Dear Chair Smart,

On September 8, 2022, the Committee on Research (COR) reviewed and discussed the proposed second draft revision to APM- 025, Conflict of Commitment Outside Activities of Faculty Members, and APM -671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants.

COR had submitted comments regarding concerns with the original draft back on January 18, 2022. Overall, the Committee is satisfied with the changes presented within the second draft revisions to APM Sections 025 and 671 and have no further concerns to comment on.

We appreciate the opportunity to weigh in on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lia Fernald'.

Lia Fernald, Chair
Committee on Research

LF/pgs



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

October 4, 2022

MARY ANN SMART
Chair, Berkeley Division

Re: Proposed revision 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) (second Systemwide review)

Dear Chair Smart,

At its meeting on September 15, the Committee on Rules and Elections reviewed proposed revisions to APM 025 and APM 671. No issues falling under R&E's jurisdiction were identified.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Keith Gilles'.

J. Keith Gilles
Chair, Committee on Rules and Elections

JKG/scq



DAVIS DIVISION OF THE ACADEMIC SENATE
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DAVIS, CALIFORNIA 95616-8502
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October 18, 2022

Susan Cochran
Chair, Academic Council

RE: Second Review of Revisions to APM-025 and APM-671

Dear Susan,

Davis Division leadership reviewed the second iteration of APM-025 and APM-671. Given the extremely short turnaround time at the beginning of the committee year, we were unable to distribute the policy for appropriate committee review.

In the first review, our committees understood the motivation for the revisions but expressed concerns about the workload and financial burdens the revisions could create. We also relayed a list of specific text questions and suggestions to consider.

The second iteration appears to have reduced the scope of proposed revisions and therefore addresses our concerns. We have no further comments at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Ahmet Palazoglu".

Ahmet Palazoglu
Chair, Davis Division of the Academic Senate
Distinguished Professor of Chemical Engineering
University of California, Davis

c: Monica Lin, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

October 18, 2022

Susan Cochran, Chair
Academic Council

Re: Second Systemwide Review of Draft Revised APM-025 & APM-671

Dear Chair Cochran,

The Irvine Division discussed the draft revised APM-025 and APM-671 at its Cabinet meeting on October 18, 2022. The Council on Planning and Budget (CPB) and the Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) also reviewed the revisions. The committees' feedback is attached for your review.

The Division notes that several significant concerns raised during the first review are yet to be addressed, especially those about administrative overreach. We look forward to receiving further revisions that sufficiently respond to remaining concerns.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Georg Striedter, Chair
Academic Senate, Irvine Division

Enclosures: CPB, CFW memos

Cc: Arvind Rajaraman, Chair Elect-Secretary
Jisoo Kim, Executive Director
Gina Anzivino, Associate Director



October 12, 2022

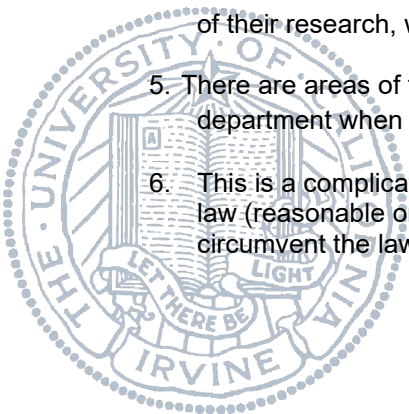
**GEORG STREIDTER, CHAIR
ACADEMIC SENATE – IRVINE DIVISION**

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

Systemwide Senate Chair Susan Cochran distributed for a second systemwide review a draft revised APM-025 (Conflict of Commitment and Outside Activities of Faculty Members) and APM-671 (Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants) to address concerns identified during the first systemwide review.

The Council on Faculty Welfare, Diversity, and Academic Freedom (CFW) discussed the draft policy at its meeting on October 11, 2022. The Council submits the following comments:

1. The policies are overreaching. It is not likely they will be applied equally and consistently. UCI runs the risk of massive exodus of faculty. The policy is unclear and may violate labor laws. The University of California does not own faculty, and what faculty do in their free time is outside the purview of university business.
2. The letter from Academic Council Chair Horowitz spells out quite clearly most of the major problems with the draft. Specifically to UCOP, to "provide an analysis of administrative costs and to explore alternative compliance mechanisms that meet minimal federal requirements." Given the budget issues and the diminishing of some academic programs because of the budget cuts, the council agrees that disclosure of administrative costs is important for our shared governance.
3. Administrative obstacles to working with "foreign entities" contradicts what we as faculty are expected to do which is to have national and international profile and impact. In most situations this means collaboration and interdisciplinary research.
4. The policies as written are confusing. The council requests a list of comparable policies with other university systems. There seems to be contradiction on working with entities outside the U.S., which is concerning given there is a lot of international research that could be affected by a misapplication of such policies. Similarly, the language and drafting seem very focused on business and STEM fields, which leaves out some of the complexities that come from the work of the social sciences, arts and humanities. If someone wants to conduct a research study that involves engaging community groups outside of the university, where does that fit in? If a researcher works closely with elected officials or business leaders in another country as part of their research, where would that fit in the policy?
5. There are areas of the policy that appear reasonable (such as getting permission from department when using student workers).
6. This is a complicated issue. On one hand, the University of California has to comply with the law (reasonable or unreasonable) regarding foreign influence. A foreign government could circumvent the law by compensating a faculty member for activities unrelated to their



profession. On the other hand, the University of California should not do more than the minimum to help enforce unreasonable rules, and faculty should be free to do activities unrelated to their profession without interference. The larger concern is that this is the University of California's effort to protect itself at the expense of faculty civil liberties. While Council members recognize there are arguments to be made for cases where outside activities may be a conflict of interest and of concern to the university, the Council members strongly expressed that is not the University of California's business what faculty do in their free time and what sort of compensation they may receive for activities unrelated to their employment by the university.

7. There is no justification as to why prior approval and annual disclosure of compensated and uncompensated appointments at non-UC institutions are necessary. If something isn't approved, then there is nothing to disclose. If something is approved, then why disclose again? If uncompensated research is not approved, then what are faculty supposed to do? Would they be expected to stop conducting research?
8. Major concern was expressed that the policies for pre-approval will delay research projects for all faculty and have a negative effect on their merit and promotion process.
9. How would these policies apply to non-tenured faculty?

Sincerely,

A handwritten signature in cursive script that reads "Lisa Naugle".

Lisa Naugle, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom

C: Jisoo Kim, Executive Director
Academic Senate

Gina Anzivino, Associate Director
Academic Senate

Stephanie Makhoul, Cabinet Analyst
Academic Senate

October 14, 2022

**GEORG STRIEDTER, CHAIR
ACADEMIC SENATE, IRVINE DIVISION**

RE: Second Systemwide Review: Draft Revised APM 025 & APM-671 Conflict of Commitment and Outside Activities of Faculty Members and APM 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

At its October 12, meeting, the Council on Planning and Budget (CPB) conducted a second review of proposed revisions to APM 025 and 671, Conflict of Commitment and Outside Activities of Faculty Members and Health Sciences Compensation Plan Participants.

Background

In the Council's initial review of the draft, CPB identified policy language that required clarification and expressed concerns that the policy does not appropriately consider that assessing foreign ownership is often difficult or problematic for faculty. The Council also observed a lack of information regarding financial implications of the increased workload incurred as a result of compliance with the policy.

Key Policy Revisions

- For faculty holding appointments at or above 50%:
 - o Expand 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.
 - o Clarify that current or pending acceptance of honorary, visiting, adjunct, or other institutional appointment (whether compensated or uncompensated) at an outside institution of higher education, non-U.S. government, or other outside entity is a Category I activity requiring prior approval and annual disclosure.
 - o Clarify 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.
 - o Clarify that in-kind contributions such as office/laboratory space, equipment, or employees or students supported by an outside source constitute compensation for outside professional activities.
- For faculty holding appointments at less than 50% effort and Designated Other Academic Appointees:
 - o Require compliance with federal funding agency laws and policies governing research grant disclosures, including reporting on non-U.S. outside professional activities, 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.
- Remove Appendices B, C, and D, as all campuses use the UC Outside Activity Tracking System (OATS) for prior approval and annual reporting processes.



The Council offers the following comments:

- Although members acknowledge the need for transparent reporting, CPB found that the revisions continue to overcomplicate and impose undue administrative burdens on faculty.
- The Council observed that the policy would benefit from articulating specific examples of noncompliance. Without specifics, the current language may have unintended consequences and may formalize administrative overreach.
- It was noted that the previous draft was designed to address concern regarding academic foreign activities. This new revision has excised most of this consideration.
- Under Definitions, the phrase “certain activities” is unreasonably vague. Activities ought to be listed explicitly to make it possible to verify compliance. While members understand that an explanation for foreign engagement is needed, this language appears to permit the University to demand details of Category I activities that may be of a personal nature. A boundary needs to be articulated. There must be a simpler way to inform faculty on disclosure requirements that does not infringe on personal privacy. (025-4 Definitions/a. Outside Professional Activities and 671-4 Definitions/a. Outside Professional Activities)
- The definition of non-compliance is exceedingly broad and open to interpretations. (025-26 Authority/b. Non-compliance/Consequence for Non-compliance and 671-26 Non-compliance/b. Consequences for Noncompliance)
- The term “pending” is too ambiguous. It seems unreasonable to require formal reports of activity before it happens. Faculty may plan to engage in a project that is far from being realized or those plans may fall through. (025-10 Guidelines/ a. Types of Outside Activity/1. Category I and 671-10 Guidelines/a. Types of Outside Professional Activity/1. Category I)
- “In-kind contributions” need further consideration. It would be helpful to know whether the value of the contribution needs to meet a certain threshold. The current language may include something as innocuous as pens. If an entity decides to buy equipment for a lab, is that something that is covered by this? (025-4/Definitions/f. Compensation and 671-4 Definitions/f. Compensation)
- On non-US talent recruitment programs, it is critical to be specific here because this can be dangerous at the faculty/staff level. If the concern is foreign espionage, this needs to be made clear. (025-6 Responsibility/b. Faculty/2. And 671-6 Responsibility/b. Faculty/10.)
- There is a typo in the Revision History Date. It is indicated as July 1, 2024.

The Council appreciates the opportunity to comment.

On behalf of the Council,

A handwritten signature in dark ink, reading "Alyssa A. Brewer". The signature is written in a cursive, flowing style.

Alyssa Brewer, Chair
Council on Planning and Budget

CC: Jisoo Kim, Executive Director, Academic Senate
Gina Anzivino, Associate Director, Academic Senate
Michelle Chen, CPB Analyst
Stephanie Makhoul, Cabinet Analyst

October 18, 2022

Susan Cochran
Chair, UC Academic Senate

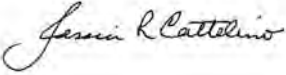
Re: (Second Systemwide Senate Review) Proposed Revisions to APM 025 and APM 671

Dear Chair Cochran,

The divisional Executive Board, councils, and committees appreciated the opportunity for a second review of the proposed revisions to APM 025 and APM 671. The Executive Board (EB) reviewed the proposal at its meeting on September 29, 2022.

EB members voted to endorse generally the proposed policy. They recognize the University's responsibility to respond to the National Institutes of Health (NIH), National Science Foundation (NSF), and other federal funding agencies, but shared concerns about the proposed policy seeming overly broad for the issues it is designed to address. While generally supportive of the revised proposal, members emphasized the importance of addressing ongoing questions about the broader context and implications of this policy with regard to both international research and xenophobia. Members also recommended an implementation that would minimize the administrative burden on individuals tasked with reporting such matters per the revised policy.

Sincerely,



Jessica Cattelino
Chair
UCLA Academic Senate

Encl.

Cc: April de Stefano, Executive Director, UCLA Academic Senate
Andrea Kasko, Vice Chair/Chair Elect, UCLA Academic Senate
Monica Lin, Executive Director, UC Academic Senate
James Steintrager, Vice Chair, UC Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate

October 14, 2022

To: Jessica Cattelino, Chair
Academic Senate

Re: **(Second Systemwide Senate Review) Proposed Revisions to APM 025 and APM 671**

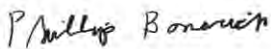
Dear Chair Cattelino,

At its meeting on October 11, 2022, the Faculty Welfare Committee (FWC) reviewed and discussed the Second Systemwide Senate Review Proposed Revisions to APM 025 and APM 671. Members offered the following comments.

The committee continues to feel that no specific justification is given for the increased paperwork required of the faculty when engaged in international scholarly activities. International research should be encouraged, not discouraged. Instead of a specific justification. The Policy elusively states: "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". What problems are these changes meant to solve?

Thank you in advance for your consideration and the opportunity to opine. If you have additional questions, please do not hesitate to contact me at bonacich@soc.ucla.edu or via the Committee analyst, Renee Rouzan-Kay, at rrouzankay@senate.ucla.edu.

Sincerely,



Phillip Bonacich, Chair
Faculty Welfare Committee

cc: Andrea Kasko, Vice Chair/Chair-Elect, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Committee Analyst, Faculty Welfare Committee
Members of the Faculty Welfare Committee

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

October 4, 2022

To: Jessica Cattelino, Chair, UCLA Academic Senate

From: James Bisley, Chair, Graduate Council

Re: (Second Systemwide Senate Review) Proposed Revisions to APM 025 and APM 671

At its meeting on September 30, 2022, the Graduate Council reviewed and discussed the *(Second Systemwide Senate Review) Proposed Revisions to APM 025 and APM 671* and offers the following observations for the Executive Board's consideration:

Members appreciated that postdoctoral scholars were removed from the policy document in the second round of revisions and that additional clarification was made regarding professional activities.

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

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE ACADEMIC SENATE
PATTI LIWANG, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

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

October 17, 2022

To: Susan Cochran, Chair, Academic Council

From: Patti LiWang, Chair, UCM Divisional Council

Re: [Second Systemwide Review of Proposed Revisions to APM 025 and APM 671](#)

The second systemwide review of the proposed revisions to APM 025 and APM 671 was distributed for comment to the Merced Division Senate Committees and the School Executive Committees. We have received comments from the Graduate Council (GC). They are summarized below and appended to this memo.

GC endorsed the proposed revisions and would like to offer the following comment from their initial review in December 2021 for your consideration. **APM 025-06-b - Responsibility** introduces reporting lines involving Department Chairs; however, responsibilities of this sort are not explicitly assigned to UC Merced Department Chairs. GC suggests adding a section to APM 025-06 outlining Department Chairs' responsibilities. Additionally, a reference to such responsibilities should be added to **APM 245-6 - Responsibility**.

Divisional Council reviewed the GC's comments via email and supports the various points and suggestions.

The Merced Division thanks you for the opportunity to comment on the proposed revisions.

CC: Divisional Council
Monica Lin, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
UCM Senate Office



ACADEMIC SENATE, MERCED DIVISION
GRADUATE COUNCIL (GC)

UNIVERSITY OF CALIFORNIA, MERCED

September 28, 2022

To: Patti LiWang, Chair, Academic Senate

From: Michael Scheibner, Chair, Graduate Council (GC)

Re: [Proposed Revisions to APM-025 and APM-671 \(2nd Review\)](#)

GC reviewed the proposed revisions to APM-025 and APM-671. GC is pleased to endorse the proposed revisions and would like to offer the following comment from their initial review in December 2021 for your consideration. Last year's comments are provided on page 2 of this memo.

APM 025-06-b - Responsibility introduces reporting lines involving Department Chairs; however, responsibilities of this sort are not explicitly assigned to UC Merced Department Chairs. GC suggests adding a section to APM 025-06 outlining Department Chairs' responsibilities. Additionally, a reference to such responsibilities should be added to **APM 245-6 - Responsibility**.

GC appreciates the opportunity to opine.

Cc: Graduate Council
Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

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SANTA BARBARA • SANTA CRUZ

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

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

DECEMBER 3, 2021

TO: LEROY WESTERLING, CHAIR, DIVISIONAL COUNCIL

FROM: ERIN HESTIR, CHAIR, GRADUATE COUNCIL

RE: PROPOSED REVISIONS TO APM SECTIONS 025 AND 671

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

APM 025

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

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

APM 025 and 671

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

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

Graduate Council appreciates the opportunity to opine.

CC: Graduate Council
Senate Office



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

SANG-HEE LEE
PROFESSOR OF ANTHROPOLOGY
RIVERSIDE, CA 92521-0217
TEL: (951) 827-4390
EMAIL: SANG-HEE.LEE@UCR.EDU

October 12, 2022

Susan Cochran, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Second Systemwide Review: Draft Revised APM-025 and APM-671

Dear Susan,

The Riverside Executive Council discussed the subject APM revisions during their October 10, 2022 meeting and had no additional comments to add to those in the attached memos from Divisional committees.

Sincerely yours,

A handwritten signature in cursive script, reading "Sang-Hee Lee".

Sang-Hee Lee
Professor of Anthropology and Chair of the Riverside Division

CC: Monica Lin, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office

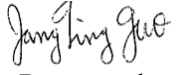


Academic Senate

COMMITTEE ON ACADEMIC PERSONNEL

September 22, 2022

To: Sang-Hee Lee, Chair
Riverside Division Academic Senate

From: Jang-Ting Guo, Chair 
Committee on Academic Personnel

Re: [Systemwide Review] Proposed Revisions to APM 025 and APM 671

CAP discussed the draft revised APM 025 and APM 671; and was in general support of their revisions, particularly on the policy expansion to cover faculty holding appointments at less than 50% effort and Designated Other Academic Appointees. In addition, the committee would like to provide further comments as follows:

- The definition of **Compensation** in section 025-4-f (p. 8 of 85) needs to be clarified, specifically regarding "... in-kind contributions such as office/laboratory space, equipment, supplies, or employees or students supported by an outside source that have immediate or potential financial value". If these in-kind items are under direct control of non-UC research/professional collaborators through academic collaboration, should they still be counted as compensation towards the UC faculty member's outside professional activities? The same comment applies to **Compensation** in section 671-4-f (p. 49 of 85).
- The abbreviation "OPA" in section 025-8-c **Summer Months** (p. 11 of 85) appears only once in the entire document, thus it should be replaced with "outside professional activities".
- The description for **Types of Outside Professional Activity, Category I** in section 025-10-a-(1) (p. 13 of 85) appears to be too board to yield unwarranted confusion and/or misunderstanding. In accordance with section 025-4-a **Outside Professional Activities, Definitions** (p. 8 of 85), CAP proposes the following revisions: "... 1) they are *certain* activities performed for a third party, and 2) they require significant professional commitment" (italics indicating the proposed changes). The same comment applies to **Types of Outside Professional Activity, Category I** in section 671-10-a-(1) (p. 54 of 85). In addition, since "related to the training and expertise that is the individual's qualification for University appointment" is now removed from sections 025-10-a-(1) and 671-10-a-(1) of the revised draft, it seems that a clarification on the definition of "professional" for "outside professional activities" would be helpful.



Academic Senate

September 30, 2022

To: Sang-Hee Lee, Chair
Riverside Division

From: Weixin Yao, Chair
Committee on Research

Re: 22-23. Systemwide Review: Second Systemwide Review: Draft Revised APM - 025 and APM - 671

The committee on research reviewed the proposal and had two comments listed below:

1. In 025-10-b (1), I would recommend that the document specifically state whether the prior approval is needed for Categorical I activities that were conducted by academic-year faculty during summer months (any difference of requirements between receiving or not receiving university compensation).
2. In 025-10-b (2), the file states that Categorical I and II activities are required to be reported during summer months when receiving University compensation. I would recommend that the file also states explicitly whether such reporting is required during summer months when NOT receiving University compensation.

September 27, 2022

TO: Sang-Hee Lee, Ph.D., Chair, Academic Senate, UCR Division

FROM: Marcus Kaul, Ph.D., Chair, Faculty Executive Committee, UCR School of Medicine

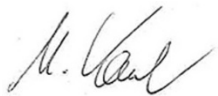
SUBJECT: Response to [Systemwide Review] Proposed Revisions to Academic Personnel Manual (APM):
Second Systemwide Review: Draft Revised APM - 025 and APM - 671

Dear Sang-Hee,

The SOM Faculty Executive Committee has reviewed the Proposed Revisions to Academic Personnel Manual (APM) – 2nd Review of Revised APM - 025 and APM – 671.

It was noted that the same policy was rejected by the SOM FEC before Sept 2019. However, there are no further suggestions for changes to the current version and the FEC has no additional comments.

Yours sincerely,



Marcus Kaul, Ph.D.
Chair, Faculty Executive Committee School of Medicine



OFFICE OF THE ACADEMIC SENATE

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

October 14, 2022

Professor Susan Cochran
Chair, Academic Senate
University of California
VIA EMAIL

Re: Second Divisional Review of Revisions to APM 025 and APM 671

Dear Professor Cochran,

The proposed revisions to APM 025, Conflict of Commitment and Outside Activities of Faculty Members, and APM 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants, were discussed at the October 10, 2022 Divisional Senate Council meeting. Noting how important it is to the University's welfare that conflicts of commitment are reported and given that this version is better than the current policy, Senate Council endorsed the proposal and offered the following comments for consideration.

Council was pleased to see that some of the concerns identified during the first review of the policy were resolved, such as the elimination of subcategories for foreign activities. Some Council members expressed concern that the policy is becoming too broad since it now includes all outside professional activities, even those that do not relate to the faculty member's expertise or training. Some Council members noted that it feels as if the University is trying too hard to control all aspects of faculty members' lives, and felt that it will be an extra burden for faculty to report even more activities. In addition, it was also noted that there is a fundamental issue with the self-reporting nature of this process. Even with training, most faculty do not know how to classify their activities so they must seek advice from their Department Chair or equivalent. However, it is not clear what training the Department Chairs have been provided in order for them to gain expertise in this area. If the Department Chair advises them incorrectly, then the faculty member could be incorrectly reporting their activities. Therefore, changes in the policy need to be communicated clearly and detailed training resources should be available for any person involved in the process. With the inclusion of additional academic series ("Designated Other Academic Appointees"), Council members noted confusion with the reporting requirements for those series, especially for appointees who may only be partially federal funded. There was also confusion about who might be considered key personnel.

Due to the review schedule, there was insufficient time to distribute the review materials to all standing committees for formal review. The materials were shared informally with the Senate committees involved in the initial review and their comments were discussed at Senate Council.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Grey Postero".

Nancy Postero
Chair
San Diego Divisional Academic Senate

cc: John Hildebrand, Vice Chair, San Diego Divisional Academic Senate
Lori Hullings, Executive Director, San Diego Divisional Academic Senate
Monica Lin, Executive Director, UC Systemwide Academic Senate

Office of the Academic Senate
500 Parnassus Ave, MUE 230
San Francisco, CA 94143-0764
Campus Box 0764
tel.: 415/514-2696
academic.senate@ucsf.edu
<https://senate.ucsf.edu>

Steven W. Cheung, MD, Chair
Steve Hetts, MD, Vice Chair
Pamela Ling, MD, Secretary
Kathy Yang, PharmD, Parliamentarian

October 19, 2022

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

Re: UCSF Comments on the 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 Susan:

The San Francisco Division of the Academic Senate recently conducted its second review of the revisions to the 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). Academic Planning and Budget (APB), the Committee on Faculty Welfare (CFW), and Graduate Council (GRAD), and the School of Medicine Faculty Council (SOMFC) all provided comments. While we appreciate that this revised policy is much less onerous than the one we reviewed in January 2022, there are still several issues that we still have a number of significant comments on the Policy's approval guidelines and transparency, policy coverage, and compliance guidelines that we wish to communicate.

Prior Approval Guidelines and Transparency for Type 1 Activities (APM 671). CFW, GRAD, and APB have concerns with the current "prior approval" process for Category I with respect to its lack of transparency and lack of standards and guidelines. These committees recommend that the University make efforts to ensure that campuses guarantee timely, transparent, and efficient processes for obtaining prior approval for outside activities. Otherwise, faculty may be discouraged from engaging in outside activities to avoid a potentially complex prior approval process that increases administrative burden and time required of faculty.

Pursuant to the comments from APB, CFW, and GRAD above, UCSF's SOMFC laments and expounds upon the confusion that will likely arise over pre-approval for Type 1 activities covered by the new language in APM 671. In the current version of APM 671-10a(1), Category I activities must be "related to the training and expertise which is the individual's qualification for University appointment[.]" Thus, any activities unrelated to faculty members' appointments are currently outside the scope of APM 671. This interpretation is consistent with APM 671-10b, which describes "Other Activities" that do not count toward the earnings approval threshold or toward time limits. Other Activities includes "[i]ncome from a profession unrelated to the training and experience which is the individual's qualification for University appointment." This clarity is lost in the proposed revisions to APM 671. The proposed versions of APM 671-10(a) and APM 671-10(b) are inconsistent and confusing. With this in mind, SOMFC jocularly remark that under the new revisions, it is unclear whether a faculty member could have a garage sale, which is unrelated to a faculty's appointment, without getting prior approval. In all seriousness, the UCSF Senate is not concerned about garage sales, but we are concerned that the proposed revisions inadvertently expand Category I activities far beyond what is reasonable and what was intended.

With this in mind, the UCSF Senate strongly recommends that the University maintain some type of subject-matter threshold for an outside activity to be a Category I activity. As a less desirable alternative, SOMFC members recommend that APM 671-10(a) and APM 671-10(b) be consistent. The current proposed revisions make these two sections contradictory.

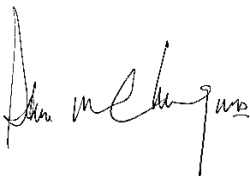
Policy Coverage. The policy fails to apply to staff in addition to academics, postdoc, and students. If there are significant concerns about outside influence and conflict commitment among staff who may not be bound by APM policies, we suggest that similar policies and procedures apply to staff who are initiating and leading external collaborations (CFW).

Compliance Guidelines. CFW is concerned with the policies' compliance guidelines and suggests that guidance on how to comply with the policies should be included, i.e., specific steps faculty should take to comply and resources available to help expediently review potential activities for liabilities. If faculty inadvertently fail to comply with the policies, there should be a safe harbor for faculty to address compliance issues without consequence.

Furthermore, GRAD finds the language in the policies discourage faculty from working with any sector outside the University, including corporations and other (domestic and foreign) institutions to make significant impact(s).

Honorary, Visiting, Adjunct, or other Institutional Appointments (APM 671). We also recommend that the proposed revisions be modified to provide more details about the new language that would make "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 entity" a Category I activity (SOMFC). For instance, is this intended to only apply to all outside institutions, both foreign and domestic? Is it intended to apply to all lectures and activities? Indeed, faculty are frequently invited to participate in small engagements as visiting professors or in an honorary capacity. It is impractical and unreasonable to have faculty seek prior approval for these activities, and the existing prior approval system does not have capacity to support such a mandate. Thus, the UCSF Senate would prefer that the University remove the proposed language making all appointments at other institutions Category I activities. Alternatively, SOMFC members recommend refining the revisions to impose a reasonable threshold for seeking prior approval.

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



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

Enclosures (4)

Cc: Jennifer Grandis, Chair, UCSF Academic Planning & Budget Committee
Jenny Liu, Chair, UCSF Committee on Faculty Welfare
Bjoern Schwer, Chair, Graduate Council
Mia Williams, Chair, School of Medicine Faculty Council

Committee on Academic Planning and Budget
Jennifer Grandis, MD, Chair

October 19, 2022

Steven Cheung, MD
Division Chair
UCSF Academic Senate

Re: Outside Activity and Conflict of Commitment

Dear Steve:

We appreciate this opportunity to comment on the proposed revisions to APM 025 and APM 671.

UCSF Academic Planning and Budget (APB) has identified the Health Science Compensation Plan (HSCP) as a policy that is germane to the business and interest of the committee. As such, revisions to APM 025 and APM 671, which relate to the HSCP, are a matter of interest to APB.

The proposed revisions will expand the types of activities that require prior approval (i.e., Category I).

We appreciate that the implementation of APM 025 and APM 671 ensures that faculty have the capacity to fulfill their professional obligations to the University per the terms of their appointment under the APM. However, we are concerned that these revisions would establish an overly broad category of activities that require prior approval. This policy change could have unintended outcomes by increasing the administrative burden and time required of faculty.

We respectfully request that UCOP crafts the final policy to balance the employer's need to ensure faculty honor their duties per the APM while also ensuring terms of employment that encourage and support collaboration and team science. '

In addition, we note that in the prior revision, there were two major changes to which there was substantial opposition from the Academic Senate:

1. New requirements would apply to all academic appointees listed as key personnel on proposals submitted by the University, regardless of faculty series or appointment percentage.
2. All foreign activities would be considered Category I activities which require prior approval.

During the prior review, the Senate opposed these changes:

- 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
- Heavy administrative burden and costs associated with the proposed revisions

In the most recent revision, the major changes from the previous proposal largely address most concerns from the prior round.

- **Regarding 1, above:**

The new requirements apply only to faculty with >50% appointments.

They do not apply to faculty with <50% appointments or other academic appointees listed as Key or Senior Personnel—for these individuals, responsibility is limited to complying with federal funding agency laws and policies governing research and grant disclosures. Further, postdocs are no longer included among appointees governed by these regulations.

- **Regarding 2, above:**

The updated revisions no longer reflect inclusion of all foreign activities in Category 1. Rather, there are two relatively narrow revisions to Category 1 activities-

1. 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 entity.
2. Current or pending participation in, or application to, talent recruitment programs (specifically designed to recruit science and technology professionals or students) sponsored by a government agency of a nation other than the United States (“non-U.S. government”).

The first point seems relatively innocuous and shouldn’t pose a particularly large reporting burden on faculty. However, it seems rather broad and it’s unclear what is driving the necessity of this change, particularly when the position is uncompensated.

The second point seems to narrowly focus on the issue surrounding foreign entities, to address recommendations in the University of California Ethics, Compliance, and Audit Services Systemwide Foreign Influence Audit Report, and seems reasonable, particularly relative to the prior broad stroke revisions.

We have identified these additional issues:

- For Category I, outside professional activities now include certain activities performed for a non-University of California party *regardless of whether they fall within a faculty member’s area of training or professional expertise.*

This seems overly broad and potentially invasive. For example, Category 1c) is “Assuming a founding/co-founding role of a company.” If this is entirely unrelated to a faculty member’s area

of expertise, why is it necessarily the business of UC? For example, if a faculty member, along with family, is involved in opening a restaurant, is this a conflict of commitment? It's unclear what is driving the change from the longstanding specificity around training and areas of expertise.

- "Compensation" now includes: in-kind contributions such as office/laboratory space, equipment, supplies, or employees or students supported by an outside source.

This is a very broad definition of compensation and seems somewhat hard to quantify. How will such things be reported? To what extent and how will this be applied to restrictions on compensation? What kind of supporting documentation will be required, and what kind of burden will that be on faculty?

We appreciate this opportunity to review the proposed revisions and look forward to engagement from UCOP with respect to these issues.

Sincerely,

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

Jennifer R. Grandis, MD
Committee on Academic Planning & Budget

Committee on Faculty Welfare

Jenny Liu, PhD, MPP Chair

October 12, 2022

Steven Cheung, MD
Division Chair, UCSF Academic Senate

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

Dear Chair Cheung:

The Committee on Faculty Welfare (CFW) writes to comment on the second systemwide review of the Proposed Revisions to Academic Personnel Manual Sections 025 and 671, Conflict of Commitment and Outside Activities of Faculty Members. The revised policy is much less onerous than the version reviewed in January 2022. CFW appreciates that the University took faculty concerns and comments into consideration in revising the policy, and CFW has more limited comments for this second review.

First, CFW raises the question of whether campuses will have inconsistent outcomes for prior approval requests without more guidelines and/or standards for campuses to support faculty who have outside collaborations. CFW recommends that the University make efforts to ensure that campuses seek to ensure timely, transparent, and efficient processes for obtaining prior approval for outside activities.

Second, CFW is concerned that the proposed revisions only apply to academics, including postdocs and students, and not staff. If there are significant concerns about outside influence and conflict of commitment among staff who may not be bound by APM policies, CFW suggests similar policies and procedures apply to staff who are initiating and leading external collaborations.

Last, CFW does not believe that the Outside Activities policies provide enough support to enable faculty to understand the policies and comply with them. The policies should include guidance to faculty on how to comply with the policies, including specific steps faculty should take to comply and resources available to help expediently review potential activities for liabilities. If faculty inadvertently fail to comply with the policies, there should be a safe harbor for faculty to address compliance issues without consequence.

Thank you for the opportunity to comment on this review. Please contact me or our Senate analyst Kristie Tappan if you have questions about CFW's comments.

Sincerely,



Jenny Liu, PhD, MPP
Committee on Faculty Welfare Chair

October 5, 2022

Steven Cheung, MD, Chair
UCSF Academic Senate

Re: Second Systemwide Review: Draft Revised APM – 025 and APM – 671

Dear Chair Cheung:

Graduate Council writes to comment on the Second Systemwide Review of Revised APM – 025 and APM – 671.

Graduate Council would like to comment that although it is important and essential to be transparent for outside activities, including work with corporations and other institutions, etc., the current “prior approval” process for Category I activities is usually not very timely and somewhat non-transparent. There is concern that this lengthy and less transparent prior approval could cause the loss of some faculty within UC. This process can be overlooked because not many members of the faculty are engaged in outside activities, and they can even be afraid of engaging in them due to the potential complexities to get prior approval for Category I activities. Graduate Council members expressed that UC as a public institution should encourage its faculty to work with any sector of the public, including corporations and other (domestic and foreign) institutions to make impact; however, both the current policy and proposed policy are not very supportive of this.

Thank you for the opportunity to comment on the revisions to this policy.

Sincerely,



Bjoern Schwer, MD, PhD
Chair, UCSF Graduate Council, 2022-2023

School of Medicine Faculty Council

Mia Williams, MD, MS, Chair

October 18, 2022

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

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

Dear Chair Cheung:

The School of Medicine Faculty Council (SOMFC) writes to share comments from some of its members on the second systemwide review of proposed revisions to APM 025 and APM 671 regarding conflict of commitment and outside activities of faculty members. The SOMFC's comments will focus on APM 671 because faculty at UCSF are overwhelmingly on the Health Sciences Compensation Plan.

SOMFC members have serious concerns about the proposed expansion of Category I activities that require prior approval, and SOMFC members recommend that the University not adopt the proposed changes as written.

Can a faculty member have a garage sale without prior approval?

The new revisions to APM 671 make it unclear whether a faculty member could help their parents have a garage sale and split the profits without prior approval. In the current version of APM 671-10a(1), Category I activities must be "related to the training and expertise which is the individual's qualification for University appointment[.]" Garage sales are unrelated, so they are currently outside the scope of APM 671. This is consistent with APM 671-10b, which describes "Other Activities" that do not count toward the earnings approval threshold or toward time limits. Other Activities includes "[i]ncome from a profession unrelated to the training and experience which is the individual's qualification for University appointment." This clarity is lost in the proposed revisions to APM 671. The proposed versions of APM 671-10(a) and APM 671-10(b) are inconsistent and make it unclear whether a family garage sale would need prior approval.

SOMFC members are not concerned about garage sales, but SOMFC members are concerned that the proposed revisions inadvertently expand Category I activities far beyond what is reasonable and what was intended.

In the first systemwide review, the proposed revisions added a distinction between Category I activities related to US-owned entities and foreign-owned entities. After considering comments made in the first systemwide review, the University dropped the proposed distinction between US-owned and foreign-owned entities. Now, the University suggests eliminating the distinction between activities related to the subject matter of one's University appointment and other activities. Whether the activity is weekend Uber-driving, illustrating children's books for a publishing company, or work for a foreign government's defense department, the requirements are, at best ambiguous, and at worse the same.

SOMFC members strongly recommend that the University maintain some type of subject-matter threshold for an outside activity to be a Category I activity. As a less desirable alternative, SOMFC members recommend that APM 671-10(a) and APM 671-10(b) be consistent. The current proposed revisions make these two sections contradictory.

Can a faculty member visit Minneapolis to teach for three days without prior approval?

The SOMFC also recommends that the proposed revisions be modified to provide more details about the proposed language that would make “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 entity” a Category I activity. Is this intended to apply to all outside institutions, both foreign and domestic? Is it intended to apply to all lectures and activities? SOMFC members could not answer these questions with confidence after reading the policy and explanatory materials accompanying the proposed revisions.

SOMFC members understand and agree that a faculty member should seek prior approval for a one-year visiting professorship outside the country, but SOMFC members do not believe a faculty member should seek prior approval for a three-day trip to Minneapolis where a faculty member would speak at grand rounds as a visiting professor. SOMFC members are concerned that if faculty members are required to seek prior approval for all kinds of academic activities at outside institutions it will adversely impact recruitment and retention and discourage academic discourse and collaboration with other institutions. The proposed revisions elevate paperwork over partnerships and should be reconsidered.

SOMFC members recommend that the University remove the proposed language making all appointments at other institutions Category I activities. Alternatively, SOMFC members recommend refining the revisions to impose a reasonable threshold for seeking prior approval. Faculty are frequently invited to participate in small engagements as visiting professors or in an honorary capacity. It is impractical and unreasonable to have faculty seek prior approval for these activities, and the existing prior approval system does not have the capacity to address the substantial increase in prior approval requests this would prompt.

Thank you for the opportunity to comment on this systemwide review. Please contact me or Faculty Council Chair Mia Williams if you have any questions.

Sincerely,



Kristie Tappan, JD, MPH

Senate Analyst for the School of Medicine Faculty Council

cc: Todd Giedt, UCSF Academic Senate Executive Director
Olivia Herbert, UCSF School of Medicine Associate Dean, Chief of Staff, Dean's Office
Sophia Root, UCSF Academic Senate Analyst
Mia Williams, UCSF School of Medicine Faculty Council Chair



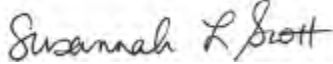
UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

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

October 19, 2022

To: Susan Cochran, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division 

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

The Santa Barbara Division distributed the proposed Academic Personnel Manual revisions to the Council on Research and Instructional Resources (CRIR), Council on Faculty Welfare, Academic Freedom, and Awards (CFW), Committee on Diversity and Equity (CDE), Committee on Academic Personnel (CAP), Committee on International Education (CIE), Committee on Privilege and Tenure (P&T), and the Faculty Executive Committees (FECs) of the College of Letters and Science (L&S), College of Engineering (COE), Gevirtz Graduate School of Education (GGSE), and Bren School of Environmental Science and Management (BREN). P&T and the L&S and BREN FECs opted not to opine.

The Santa Barbara Division understands that the APM must be revised in order to properly respond to the recent systemwide audit, and multiple reviewers found the latest iteration of the policy to be more inclusive and an improvement. Nevertheless, significant issues persist and are summarized below. The individual council and committee responses are attached for your reference.

Reviewers continue to express concern about the potential impact of the revised policy on faculty. CFW feels that the opacity of these policies cast an overall chilling effect on existing and potential research collaborations. They express unease about how the policy might infringe upon academic freedom and impede both individual faculty productivity and research partnerships. CDE notes the potential for the policy to be misused and politically weaponized. CRIR raises specific concerns about the broadening of the definition of Category I outside professional activities, which now include activities that "may or may not fall within a faculty member's area of professional, academic expertise." The Council anticipates that faculty will struggle with identifying whether or not a particular activity qualifies under the different categories, triggering the need for approval and/or reporting.

Another topic of concern is the challenge likely to be faced by faculty in trying to understand, navigate, and comply with these policies. Both CFW and CRIR find that the details regarding compliance and enforcement are vague, with the former stating that “the burden is being placed on faculty members to essentially police themselves, using criteria that are neither clear nor straightforward.” This is problematic from both a faculty welfare and a compliance perspective. The two councils point to the need for support from staff who are well-versed in interpreting and administering the policies, and efforts to ensure that faculty are aware of the available resources. Further, they recommend robust and consistent support measures in the form of communication initiatives and Q&A sessions in order to promote faculty understanding and compliance, and prevent unintentional missteps. CAP members expressed concern about the vagueness of what constitutes “influences or activities that may interfere with learning consistent with the goals and ideals of the University,” which might go beyond the intended scope of the policy and/or add ambiguity to student supervision.

The reviewers also suggest the following specific modifications in wording:

- To aid in the clarification of Category I activities, the CRIR recommends that the guiding language on the identification of outside professional activities on p. 8 be moved to an earlier point in the document.
- APM 025-10-a-1-e (Category I)
CAP strongly recommends the removal of the words “honorary” and “uncompensated.” The committee noted that an honorary and uncompensated appointment typically only includes a single visit to campus for an activity such as commencement. It seems unusually strict to require that these honorary appointments receive approval.
- APM 025-10-a-1-f (Category I)
CAP strongly recommends the removal of the words “or application to.” The committee feels that requiring faculty to disclose to their department chair, dean, and the university their intention to submit an application to a program as being an overreach and would potentially violate the faculty member’s privacy.

October 17, 2022

To: Susannah Scott, Divisional Chair

From: David Stuart, Chair
Council on Research and Instructional Resources

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

The Council on Research and Instructional Resources (CRIR) discussed the proposed policy revisions at its meeting of September 30. The Council offers the following comments for consideration.

The Council expresses serious concerns about the broader definition of Category I “outside professional activities” which now includes activities that “may or may not fall within a faculty member’s area of professional, academic expertise.” CRIR anticipates that there will be considerable uncertainty among faculty as to whether a particular activity qualifies as Category I, for the purposes of obtaining prior approval and for reporting. With the aim of providing clarification, the Council strongly recommends that the guiding language on the identification of outside professional activities (p. 8) be moved to an earlier point in the document.

The Council also feels that the reporting procedures and adjudication process for findings of noncompliance are vague. It is essential for compliance purposes that faculty are made aware of what types of consultation are available to them, and when that consultation should take place. The Council suggests that the University undertake substantial communication and initiatives in order to promote compliance and prevent unintentional missteps.

In APM 671, the definition of Compensation states the following (p. 4):

Compensation for outside professional activities includes all types of remuneration (including stock, and stock options, and in-kind contributions such as office/laboratory space, equipment, supplies, or employees or students supported by an outside source) that have immediate or potential financial value, excluding customary honoraria, reimbursement for reasonable travel expenses, and per diem expenses.

A member suggests the addition of "including, but not limited to" at the beginning of the parenthetical in order to slightly widen the scope of potential types of compensation.

The Council also calls attention to a minor typographical error. All of the pages of the redline copies of APM 025 and 671 include a note that they were revised on 07/01/24.

We thank you for the opportunity to comment.



October 10, 2022

To: Susannah Scott, Divisional Chair, Academic Senate

From: Subhash Suri, Chair, Council on Faculty Welfare, Academic Freedom, and Awards

Re: Second Systemwide Review of Proposed Revisions to APM 025/APM 671

The Council on Faculty Welfare, Academic Freedom, and Awards (the Council) recently examined the University of California's Second Systemwide Review of Proposed Revisions to APM 025/APM 671. The Council would like to share the following feedback.

Although the Council found the revised versions of these policies to be substantially improved from the originals, there is nevertheless still a great deal of concern about the policies' impacts on faculty. Council members are uneasy with how "conflict of commitment" regulations could infringe upon academic freedom, and could subsequently impede both their individual productivity and their research partnerships. In fact, the opacity of many of these regulations casts an overall chilling effect on existing and potential international research collaborations.

Most significantly, however, the Council expressed alarm at the lack of clarity regarding compliance and enforcement. It appears to the Council that the burden is being placed on faculty members to essentially police themselves, using criteria that are neither clear nor straightforward. Faculty members naturally want to be in compliance with federal regulations, but in order to do so, their campuses need to hire staff who are trained to interpret and administer these policies. Lacking the available staff - and not knowing which offices these staff would even be affiliated with, were they hired - faculty are left with the difficult task of both interpreting and enforcing these policies themselves.

In response to these concerns, one Council suggestion is for campus Academic Personnel offices to host regular "Q&A" presentations to provide faculty with the chance to ask clarifying questions about these policies. The Council encourages these types of support measures to ensure that faculty are given consistent opportunities to understand how these policies impact their work.

The Council on Faculty Welfare appreciates the opportunity to comment on these proposed recommendations.

**Academic Senate
Santa Barbara Division**

October 11, 2022

To: Susannah Scott, Divisional Chair
Academic Senate

From: Peng Oh, Chair 
Committee on Diversity and Equity

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

At its meeting of October 3, 2022, the Committee on Diversity and Equity (CDE) reviewed the second systemwide revisions to Academic Personnel Manual (APM) 025 and 671, pertaining to conflict of commitment and outside activities of faculty members. Depending on the level of involvement of the faculty member, different kinds of pre-approvals and approvals are explicitly required. In these revisions, the standard seems to have become higher for triggering punitive measures. The Committee does not see any problems with the policy as worded, but notes the potential for this to be mis-used and politically weaponized by those with bad intentions.

CC: Shasta Delp, Executive Director, Academic Senate

ACADEMIC SENATE
SANTA BARBARA DIVISION

October 14, 2022

TO: Susannah Scott, Divisional Chair
Academic Senate

FROM: Janet Walker, Chair
Committee on Academic Personnel

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

The Committee on Academic Personnel (CAP) has reviewed Second Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) 025 - Conflict of Commitment and Outside Activities of Faculty Members (APM) 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants. Given UCSB's lack of a medical school, the focus was solely on APM 025.

CAP members appreciate the need to bring campus reporting policy in line with the expectations of federal agencies, and the initiative to change APM 025 to reflect the two main recommendations by the *Systemwide Foreign Audit Influence Report* (February 2021). CAP also appreciates the responsiveness to the suggestions and criticisms received during the first systemwide comment period that is reflected in the new set of proposed policy revisions and accompanying discussion that were circulated.

Relative to the history of this effort, CAP members expressed an overall positive response to the Proposed Revisions to Academic Personnel Manual Section 025.

Along with this overall positive response, a few members expressed some concern that interpretations of what constitutes "influences or activities that may interfere with learning consistent with the goals and ideals of the University" might go beyond the intended scope of the policy or add ambiguity to student supervision.

Thank you for the opportunity to review the proposed revisions.

For the Committee,

A handwritten signature in black ink, appearing to read 'Janet Walker', with a long horizontal flourish extending to the right.

Janet Walker, Chair

**Academic Senate
Santa Barbara Division**

October 13, 2022

To: Susannah Scott
Divisional Chair, Academic Senate

From: Spencer Smith, Chair
Committee on International Education



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

The Committee on International Education (CIE) has reviewed the “Second Systemwide Review Proposed Revisions to Academic Personnel Manual (APM) 025 and APM 671.” The committee appreciates the inclusion of recommendations by *Systemwide Foreign Audit Influence Report* issued in February 2021 as well as changes to the language in the previous review.

CIE notes that the proposed changes appear to have addressed suggestions made in the committee’s previous response. The focus on the importance of disclosing Outside Activities properly as well as the inclusion of “Designated other Academic employees” is also helpful. CIE appreciates the more inclusive application policies across various academic titles that may receive federal funding and thus subject to “federal funding agency laws and policies governing research grant disclosures (e.g., conflicts of commitment and affiliations, including, but not limited to, participation in non-U.S. talent recruitment programs and accepting visiting and honorary appointments at outside institutions of higher education and research) if participating in a federally funded research project and if deemed to be key personnel or senior personnel by the PI or funding agency.”

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

Cc: Shasta Delp, Executive Director, Academic Senate

October 12, 2022

TO: Susannah Scott
Divisional Chair, Academic Senate

FROM: Steven DenBaars, Chair
College of Engineering, Faculty Executive Committee

DocuSigned by:

274089D035704C0...

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

The College of Engineering FEC met on Tuesday, October 4th and reviewed the draft policy. While they recognize the importance of updating these regulations, these changes will have significant impacts on faculty members' opportunities to pursue work outside of the university.

The committee noted some significant concerns and made the following recommendations.

1. APM 671-10-a-1-e (Category I). The committee strongly recommends the removal of the words "honorary" and "uncompensated". The committee noted that an honorary and uncompensated appointment typically only includes a single visit to campus for an activity such as commencement. It seems unusually strict to require that these honorary appointments receive approval.
2. APM 671-10-a-1-f (Category I). The committee strongly recommends the removal of the words "or application to". The committee feels that requiring faculty to disclose to their department chair, dean, and the university their intention to submit an application to a program as being an overreach and would potentially violate the faculty member's privacy.

September 29, 2022

To: Susannah Scott, Chair
Academic Senate

From: Ty Vernon, Chair
Faculty Executive Committee, GGSE

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

The GGSE FEC reviewed the Second System Review of Proposed Revisions to Academic Personnel Manual, and is in support of the modifications and changes.



Ty Vernon, Ph.D.

Faculty Executive Committee Chair

Gevirtz Graduate School of Education

UC SANTA BARBARA



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SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

October 19, 2022

Susan D. Cochran, Chair
Academic Council

**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 Susan,

The Santa Cruz Division of the Academic Senate has completed its review of the proposed revisions to APM 025 – Conflict of Commitment and Outside Activities for Faculty Members, and APM 671 – Conflict of Commitment and Outside Activities of Health Sciences Compensation Participants.

The Committees on Academic Personnel (CAP), Faculty Welfare (CFW), and Research (COR) have provided comments. If there is one overarching concern voiced by the reviewing committees it is that the proposed policy lacks guidance on how the policy would be implemented and by whom. Further, it's unclear to whom the responsibility of enforcement should fall. The Divisional committees also provided specific recommendations, included below.

General Concerns

As reference above, the committees had general misgivings regarding the lack of guidance provided by the drafters pertaining to the implementation of this policy. COR states that it has "concerns regarding the absence of any guidance related to the implementation of this policy. Specifically, which administrative units are expected to supervise the implementation and enforcement of the policy..." CFW echoes this concern, stating: "A revised policy such as this... requires that the policy definitions, requirements and implementation process must be clearly detailed and defined."

CFW notes the policy's lack of specific definitions would make their application difficult. COR notes that given the vagueness of the policy language, it would be difficult for those units charged with enforcement to "go about characterizing foreign relationships to determine if those relationships are in violation of the policy." CFW comments that the "Senate shared concerns about the lack of guidance provided for implementation of the new approval and reporting requirements" in its

previous review,¹ and that the second iteration does little to provide clarity on what the review process will be. CAP suggested that to improve clarity and manage expectations, communication regarding these requirements should be enhanced and should “include a link to the associated APM policy on all forms that faculty complete to report associated compensation.”

Specific Recommendations

The following are specific recommendations provided by CAP:

- Clarify how expanding Category I prior-approval and annual reporting requirements (as outlined in the first bullet point under “Key Policy Revisions” as referenced in the review cover letter) will prevent sharing with foreign entities.
- Clarify what the terms “pending acceptance” and “pending participation” mean under the Category 1 Guidelines in draft APM 025-10.a.1. e. and f. Clarify how these hypothetical situations would constitute an *actual* conflict of commitment.
- Clarify whether this policy requires compliance from all non-faculty academic employees by specifying to which titles this policy applies.

The following are specific recommendations made by CFW:

- 025-10.a.1: The word “or” should be removed from Category 1 (page 8 of the tracked document) and should read “Category I activities are outside professional activities that are most likely to create a conflict of commitment because: 1) they are activities performed for a third party, **and** 2) they require significant professional commitment.”
- 025-10.1.(b): The phrase “Employment outside of the University” is overbroad since as CFW observes, “that employment at 2% of time during the summer is much more minor than 100% employment.”
- Clarify why there are different reporting requirements for Senate faculty vs. other academic appointees.

On behalf of the Santa Cruz Division, I thank you for the opportunity to provide comment on this evolving policy and hope that the comments prove helpful.

Sincerely,



Patty Gallagher, Chair
Academic Senate, Santa Cruz Division

cc: Melissa Caldwell, Vice Chair Academic Senate
Roger Schoenman, Chair, Committee on Academic Freedom

¹ Senate Chair Brundage to Council Chair Horwitz, 1/18/22, Re: Systemwide Review of Proposed Revisions to Academic Personnel Manual (APM) Section 025, Conflict of Commitment and Outside Activities of Faculty Members (APM-025) and Section 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants (APM-671)

Stefano Profumo, Chair, Committee on Academic Personnel
Alexander Sher, Chair, Committee on Faculty Welfare
Michael Hance, Chair, Committee on Research
Onuttom Narayan, Chair, Privilege and Tenure
Matthew Mednick, Executive Director, Academic Senate



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
Melike Pekmezci, Chair
Melike.Pekmezci@ucsf.edu

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

September 29, 2022

SUSAN COCHRAN, CHAIR
ACADEMIC SENATE

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 Susan,

UCAF discussed the 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) during our September 23rd videoconference. Our committee appreciates that the troubling references to “foreign influence” in the October 2021 proposed revisions of the policies have been eliminated from the current proposal. However, we offer the following comments and suggestions.

UCAF understands the goals of the APM 025 and 671 are to regulate outside activities and encourage more academic appointees to report them. However, the proposed policy continues to vest great discretion in administrators who are tasked with approving outside activities without providing clear guidelines for approval criteria and is unclear as to who will monitor compliance. Having transparent regulations for ordinary faculty activities, even if controversial, that can be reasonably followed goes to the core of academic freedom and allows faculty to pursue any scholarship without repercussions from the university. Lack of clear approval criteria and guidelines threatens to chill collaborations, including international collaborations, since faculty members may be reasonably wary of pursuing research and teaching opportunities that may be deemed non-compliant or put them at odds with administration.

We also understand the spirit of the policy language change is to protect US intellectual property and comply with the federal funding agency laws and regulations. However, in its current form policy puts the entire burden of complying with these laws and regulations on faculty members. The University should provide support and resources, including knowledgeable staff who can respond in a timely manner to inquiries from academic appointees and work with faculty members to achieve compliance. UCAF agrees that faculty members should be truthful in their disclosures, but they should also be protected against accidental misdemeanors which are violating compliance policies because academic appointees may simply not know the disclosure requirements. Otherwise, leaving faculty members entirely on their own will threaten the partnership and mutual trust between the faculty and the university, on which excellence in research and teaching heavily depends.

Furthermore, the policy proposes expansion of regulated activities including those requiring pre-approval and adds other designated academic appointees to the policy. There are staffing problems with implementing policies of this kind, but there is no information in the policy about the additional resources that will be needed and how the University will provide adequate resources to implement this policy equitably. There has been a continuous decline in staffing and administrative support for faculty and increasing staffing needs would only increase the undue burden on faculty members. Additional support staff who can provide guidance regarding university and federal regulations should be made available for faculty for consultation. The systems already in place for activity reporting are cumbersome and should be streamlined. The policy should provide specific and clear examples of the types of conflicts of commitment and affiliations which faculty are required to report in their good faith effort to comply with federal policy.

UCAF appreciates the opportunity to comment on this matter. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melike Pekmezci', is written over a light blue circular stamp.

Melike Pekmezci, Chair



UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Terry Dalton, Chair
tdalton@uci.edu

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

October 24, 2022

**SUSAN COCHRAN, CHAIR
ACADEMIC COUNCIL**

RE: Second Systemwide Review: Draft Revised APM 025 and APM 671 (Conflict of Commitment and Outside Professional Activities)

Dear Susan,

The University Committee on Faculty Welfare (UCFW) has conducted its Second Systemwide Review: Draft Revised APM 025 and APM 671 (Conflict of Commitment and Outside Professional Activities), and we have several comments.

We start out with a quote from the review summary from Provost Brown: "*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.*"

Overall, UCFW did not see any improvement that came in the revisions, and we concur with this earlier statement that there seems to be no compelling need for revisions to current practices. There is no clear definition of Category I activities, and in many places the proposed 'explanations' conflict with the interests and research purview of faculty. The policy does not clarify what should be covered under Category I and what it means to be out of compliance.

We do see a need to monitor conflict of commitment (activities that interfere with regular university activities), but these are accommodated in already existing practices.

There is no explanation of the potential impact of these policies on faculty research and new administrative procedures that would impact faculty workload.

We provide below itemized feedback for particularly troubling passages in the draft.

APM 025 General University Policy Regarding Academic Appointees: APM - 025 - Conflict of Commitment and Outside Activities of Faculty Members and Designated Other Academic Appointees

Specific Concerns:

a) 025-04 f: unclear meaning of "*employees or students supported by an outside source*". Research travel in other countries is often associated with collaboration with students and other researchers that are supported by their home institutions. This is not conflict, this is recognized collaboration that is often supported by federal funding agencies. This is not an acceptable restriction on faculty rights, and on collaborations that are being supported by federal agencies. What constitutes a violation and why?

b) 025-06: why just faculty and not faculty and Designated Other Academic Appointees (minor error to be corrected)

c) 025-6 e: "*Obtaining prior approval from the Department Chair before involving a student in an outside professional activity*". This is not clear. What is the definition of 'outside professional activity'? Does this refer to research abroad, educational outreach events, participation in training workshops, or other activities that are part of a student's professional development? Are there specific examples of a conflict of commitment? Clarify or delete.

c) 025-6 f: "*participation in non-U.S. talent recruitment programs*". Non-U.S. talent recruitment is **not defined** anywhere. Faculty are regularly asked to participate as outside members in academic recruitments, often in Europe, and this may be accompanied with an honorarium. Does this now fall under Category 1? Why? There are many definitions of "talent" that without definition are meaningless.

d) 025-8 d: "*If the faculty member has, or expects to have, academic responsibility (instructional, evaluative, or supervisory) for the student, the faculty member must obtain prior written approval from the Department Chair before involving a student in an outside professional activity regardless of whether the faculty member is compensated for or has a financial interest in the activity.*" Again, what is the definition of outside professional activity? Research or outreach? Teaching workshops held in other countries? We know of no cases where this has been required before, why now? Delete.

e) 025-10a1 "Category I activities require prior approval by the Chancellor...". Is this not normally under the Dean's purview? Typical requests for a leave of absence to conduct research at another institution or through sabbatical leave are approved by the Dean. Why is there now Chancellor involvement? Is this a new policy, or has it always existed?

f) What are the perceived impacts of this document on faculty interests?

g) Revision history is dated July 1, 2024.

APM 671 Salary Administration: Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

Specific Concerns:

a) 671-4 "*and in-kind contributions such as office/laboratory space, equipment, supplies, or employees or students supported by an outside source*". None of this is clearly defined.

b) 671-6 a "*Chancellor **responsible** for... Implementing Procedures and administrative mechanisms for disclosure and, prior approval of Category I activities, and annual reporting.* Is this currently covered by OATS, and if so, is there no change in reporting with this policy?

c) participation in "non-U.S. **talent recruitment** programs". Again, unclear what this means.

d) 671-8f: a better paragraph for 025:

Involvement of students in the outside professional activities of a faculty member may, under certain conditions, offer the student potential educational benefits. However, the relationship between the faculty member and the student must be protected from influences or activities that could interfere with the student's learning and must be consistent with the goals and ideals of the University (The Faculty Code of Conduct, APM - 015). A faculty member involving a student in outside activities has the responsibility to ensure that the student's participation does not interfere with the student's academic obligations.

671-10f: "*Current or pending participation in, or application to, talent recruitment programs (specifically designed to recruit science and technology professionals or students) sponsored by a government agency of a nation other than the United States ("non-U.S. government").*" Same issue as for 025.

UCFW appreciates the need to be in compliance with federal regulations, but we hope that such a heavy-handed approach as reflected herein can be avoided.

Thank you for helping advance our shared interests.

Sincerely,

Terry Dalton, UCFW Chair

Copy: UCFW
Monica Lin, Executive Director, Academic Senate
James Steintrager, Academic Council Vice Chair



UNIVERSITY COMMITTEE ON PLANNING AND BUDGET (UCPB)
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October 13, 2022

**SUSAN COCHRAN, CHAIR,
ACADEMIC COUNCIL**

RE: SECOND SYSTEMWIDE REVIEW: DRAFT REVISED APM - 025 AND APM - 671

Dear Susan,

UCPB welcomes the opportunity to comment on the proposed revisions to APM025 and APM671. The prior revision made two changes to which there was substantial opposition from the Academic Senate. First, new requirements would apply to all academic appointees listed as key personnel on proposals submitted by the University, regardless of faculty series or appointment percentage. Second, all foreign activities would be considered Category I activities which require prior approval. Senate opposition had four components; first, the undermining of academic freedom and anticipated damage to University research, entrepreneurship and international collaborations; second conflation of conflict of interest and conflict of commitment; third; heavy administration burden and cost; and fourth, absence of a compelling rationale for imposing these burdens.

The major changes in the most recent revision largely address these concerns. First, the application of the requirements has been narrowed to faculty with greater than 50% appointments and no longer includes postdocs as appointees governed by the new regulations. Inclusion at less than 50% appointment is only as required by federal funding agency laws and policies governing research and grant disclosures. Second, the updated revisions no longer include all foreign activities as Category I but rather focus on two relatively narrow revisions to Category I activities:

1. 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 entity.
2. Current or pending participation in, or application to, talent recruitment programs (specifically designed to recruit science and technology professionals or students) sponsored by a government agency of a nation other than the United States ("non-U.S. government").

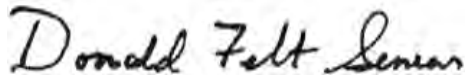
While the narrowing of the first category relieves some of the reporting burden on faculty it is still rather broad. It is unclear what is driving the necessity of this change. It is particularly unclear why an uncompensated position would trigger reporting responsibilities. The second point focuses more narrowly to address recommendations in the University of California Ethics, Compliance, and Audit Services Systemwide Foreign Influence Audit Report. This seems reasonable, particularly relative to the prior broad stroke revisions.

An additional concern is that Category I outside professional activities now include certain activities performed for a non-University of California party regardless of whether they fall within a faculty member's area of training or academic expertise. This seems overly broad and potentially invasive. For example, Category 1c) is "Assuming a founding/co-founding role of a company." It is unclear how a company unrelated to a faculty member's academic expertise is the concern of UC. The policy fails to illuminate the reason for the pivot away from a longstanding focus on training and areas of faculty expertise.

Finally, a lack of detail about the expanded definitions of compensation to include in-kind contributions also raises questions about quantifying, documenting, and reporting such compensation. The time used to report such compensation places an undue burden on faculty and the delay in receiving permissions can negatively impact collaboration.

UCPB applauds the spirit behind the revisions yet notes that the policy exceeds legal requirements, at the cost of administrative time and increased uncertainty regarding reporting.

Sincerely,

A handwritten signature in dark ink that reads "Donald Felt Senear". The script is cursive and fluid, with the first name "Donald" being the most prominent.

Donald Senear, Chair
UCPB



UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL (UCAP)
Francis Dunn, Chair
fuzzy@ucsb.edu

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October 17, 2022

SUSAN COCHRAN, CHAIR
ACADEMIC COUNCIL

RE: Second Systemwide Review: Draft Revised APM - 025 and APM – 671 (Conflict of Commitment and Outside Activities)

Dear Susan,

UCAP discussed the second version of proposed revisions to APM 025 and 671 (conflict of commitment and outside activities of faculty members) during our October 12th meeting. In reviewing the first version of proposed revisions to the APM, our committee wrote that the definition of outside activities requiring prior approval “..is very broad, and makes no distinction between different kinds of foreign-owned entities, such as universities, non-profit organizations, and companies:

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

UCAP expresses concern that requiring prior approval for all such activities involving ‘foreign-owned entities’ will impose an unacceptable administrative burden and will introduce delays in commencing a range of activities that are normal and desirable corollaries of having faculty with international reputations who are engaged in wide-ranging foreign collaborations.”

In the second version, specific references to foreign entities have been removed, but the range of categories requiring prior approval, and hence the burdens and delays for faculty members, have only increased. For example, such activities now explicitly include “current or pending acceptance of an honorary appointment.”

The cover letter for the second version notes that it was motivated by an audit of foreign influence prompted by federal government concerns. To the extent that foreign influence is a concern, the proposed revision requires “complying with federal funding agency laws and policies governing research and grant disclosures (e.g., conflicts of commitment and affiliations, including, but not limited to, participation in

non-U.S. talent recruitment programs and accepting visiting and honorary appointments at outside institutions of higher education and research) if participating in a federally funded research project and if deemed to be key personnel or senior personnel by the PI or funding agency.” This alone will satisfy the original motivation for these changes, and remainder of the proposed revisions are unnecessary.

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

Sincerely,

A handwritten signature in blue ink, reading "Francis M. Dunn". The signature is written in a cursive style with a horizontal line underneath the name.

Francis Dunn, Chair
UCAP



UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY (UCEP)
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October 4, 2022

**SUSAN COCHRAN, CHAIR
ACADEMIC COUNCIL**

RE: Second Systemwide Senate Review a Draft Revised APM 025 (Conflict of Commitment and Outside Activities of Faculty Members) and APM 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants

Dear Susan,

UCEP discussed the second set of draft 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 during our videoconference on October 3rd. The committee feels that the specific language of the statements about students in sections 025-6 b.1.e and 025-8 d are valuable protections for students. We have no further comments about the proposed revisions.

UCEP appreciates the opportunity to comment on this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Melanie Cocco". The signature is written in a cursive, flowing style.

Melanie Cocco, Chair
UCEP