UC RIVERSIDE UNIVERSITY OF CALIFORNIA | Academic Senate

September 18, 2012

To: Tom Morton, Chair
Committee on Academic Freedom

Timothy Close, Chair
Committee on Charges

Irving Hendrick, Chair
Committee on Faculty Welfare

Helen Henry, Chair
Committee on Privilege & Tenure

Ziv Ran, Chair
Committee on Rules & Jurisdiction

From: Jose Wudka, Chair
Riverside Division

Re: Systemwide Review of Proposed Changes to APM 700

Attached for your review is a proposed revision to APM 700. The revisions are in response to campus requests to address the need for a presumptive resignation policy.

Please discuss with your committee and submit your response by Friday, November 9, 2012.

Enclosure

UNIVERSITY OF CALIFORNIA

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OFFICE OF THE VICE PROVOST --
ACADEMIC PERSONNEL

OFFICE OF THE PRESIDENT
1111 Franklin Street, 11th Floor
Oakland, California 94607-5200

August 31, 2012

COUNCIL OF VICE CHANCELLORS
LABORATORY DIRECTOR ALIVISATOS
ACADEMIC COUNCIL CHAIR POWELL
ANR VICE PRESIDENT ALLEN-DIAZ

Dear Colleagues:

Re: Systemwide Review of Proposed Revised APM - 700, Leaves of Absence/General, Presumptive Resignation

Enclosed for Systemwide Review are proposed revisions to APM - 700, Leaves of Absence/General. The proposal is responsive to campus requests to address the need for a presumptive resignation policy.

This policy is proposed to address circumstances under which an academic appointee chooses not to return to his/her University appointment following the expiration of a leave of absence, or if he/she chooses to be absent from that appointment without obtaining approval for a leave. The presumptive resignation policy is designed to prompt an appointee under these circumstances to take affirmative steps to counter the University's presumption that the appointee's intention is to resign the University appointment.

The policy is intended to address resignation from an appointment due to absence from duty: it does not address dismissal procedures; it does not apply when it is established that an academic appointee is

absent due to intersession, illness, injury or disability; and it does not address disciplinary matters or academic competency matters.

Key concepts in the policy cover advance written notice of the intent to presume resignation as well as the appointee's right to respond to the notice, to return to service, to appeal any decision, and to request a hearing before the appropriate governing body. The appointee continues on pay status during the notice period, and pay status terminates on the response deadline date.

The proposed policy applies to academic- and fiscal-year faculty and academic appointees. Absence from duty is defined as a period of thirty (30) days following the expiration of an approved leave or 30-day absence from academic duty without approval. Instances of neglect of academic duty that do not meet this standard will be handled according to applicable academic personnel policies, including but not limited to APM - 015, The Faculty Code of Conduct, APM - 016, University Policy on Faculty Conduct and the Administration of Discipline, APM - 150, Non-Senate Academic Appointees/Corrective Action and Dismissal, and APM - 075, Termination for Incompetent Performance.

Proposed draft language describes the process of providing written notice by which the campus would implement good faith efforts to locate the absent appointee, the content of such notice, to whom the appointee would respond, and the date the response is due. It requires that the Chancellor confer with the

Chair of the Privilege and Tenure Committee should a faculty member fail to respond to the initial written notice within sixty (60) days. Communications between the Chancellor and the Privilege and Tenure Committee Chair must be documented.

Systemwide Review is a public review distributed to the Chancellors and Executive Vice Chancellors requesting that they inform the general University community, affected employees and unions about the policy proposals. Systemwide Review also includes a mandatory, three-month full Senate review.

Employees should be afforded the opportunity to review and comment on the revisions, which are available online at: http://www.ucop.edu/acadpersonnel/apm/review.html. Enclosed is a model communication which can be used to inform non-exclusively represented employees affected by these proposals.

This letter and enclosures anticipate that you will begin Systemwide Review of the proposed draft and submit comments no later than **November 30, 2012**. Please send comments on the proposed policy to ADV-VPCARLSON-SA@ucop.edu. Questions may be directed to Janet Lockwood at Janet.Lockwood@ucop.edu or (510) 987-9499.

Sincerely,

Susan L. Carlson
Vice Provost
Academic Personnel

Enclosures: *Draft revised policy APM - 700*
Model Communication

cc: President Yudof
Chancellors
Provost Dorr
Executive Vice President Brostrom
Senior Vice President Vacca
Vice President Beckwith
Vice President Duckett
Vice Provosts – Academic Personnel
Academic Personnel Directors
Executive Director Fox
Executive Director Rodrigues
Executive Director Tanaka
Executive Director Winnacker
Deputy General Counsel Birnbaum
Senior Counsel Van Houten
Systemwide Policy Director Capell
Assistant Director Ernst
Manager Lockwood
Human Resources Analyst Bello
Senior Administrative Analyst Rupert
Administrative Officer Abbott

700-0 Policy

The basic policy for academic leaves of absence is set forth in Standing Order 100.4(e) of The Regents.

> The President is authorized to grant leaves of absence with or without pay, in accordance with such regulations as the President may establish.

Academic ~~year~~ appointees are expected to be present from the beginning of the Fall Semester (Quarter) through the end of the Spring Semester (Quarter)~~.~~ A~~a~~ny appointee returning after the beginning of the Fall Semester (Quarter) or leaving before the end of the Spring Semester (Quarter) should apply in advance for a leave of absence in accordance with these sections.

Fiscal-year appointees who render service throughout the calendar year (12 months) shall also apply in advance for leaves requested outside of vacation days.

700-8 Types

~~Specific~~ ~~r~~Regulations ~~have been established by The Regents and the President on~~ for certain ~~types of~~ leaves of absence~~. These~~ are as follows:

a. Sick leave (APM - 710)

b. Family and medical leave (APM - 715)

c. Holidays (APM - 720)

d. Vacation (APM - 730)

e. Sabbatical leave (APM - 740)

f. Leave for service to governmental agencies (APM - 750)

g. Military leave (APM - 751)

h. Leave to attend professional meetings or other University business (APM - 752)

i. Other leaves with pay (APM - 758)

j. Other leaves without pay (APM - 759)

k. Family accommodations for childbearing and childrearing (APM - 760)

700-30 Presumptive Resignation Policy & Procedures

If any academic appointee is absent from academic duty for 30 calendar days or more without an approved leave, or does not return to academic duty for 30 calendar days or more after an approved leave expires, the University shall presume (subject to the conditions set forth below) that the academic appointee has resigned from his or her University appointment and shall separate that appointee consistent with the timelines and provisions below.

This presumptive resignation policy does not apply to absences due to intersession nor does it apply when it is established that an academic appointee is absent due to:

- illness, injury, or disability addressed by APM - 710 (medical leave) and APM - 080 (medical separation) when medical leave is no longer approved in anticipation of medical separation; or

- discipline imposed by University APM - 015 (The Faculty Code of Conduct), APM - 016 (University Policy on Faculty Conduct and Administration of Discipline) and court action(s) including stay-away orders.

a. Written Notice of Intent to Separate the Appointee

Following a 30-day absence as described above, as well as a documented effort to contact the appointee via phone, mail, email and internet search, the Chancellor will send to the appointee's home address on payroll file a written notice of intent to deem the appointee's unapproved absence as a presumed resignation. The notice shall state that within 60 calendar days after the date of the letter if the appointee has not (a) returned to academic duty or (b) sought and been granted an appropriate leave, the appointee may be deemed to have resigned from the University effective on the 61st day after the date of the letter with a resulting cessation of pay and benefits. The written notice of intent to deem the appointee's unapproved absence a presumed resignation shall advise the appointee that s/he has a right to make an oral or written response to a named campus administrator within 60 calendar days of the date of the letter. The notice shall include the name and address of the person to whom the appointee should respond, and the date by which a response must be received.

b. Response to Written Notice of Intent

1. Subject to b.2. (below), an appointee's oral or written response that s/he is not resigning shall be followed by either (a) return to academic duty or (b) an approved leave. An appointee's failure to return to duty or to

obtain an approved leave may result in a deemed resignation effective on the 61st day after the date of the notice of intent to deem the appointee's absence as a presumed resignation, with a resulting cessation of pay and benefits.

2. An appointee's response may rebut the presumption of resignation by establishing through the provision of reliable information that, through no fault of his/her own, the leave could neither have been obtained prior to the first day of absence nor during the intervening period.

3. An appointee's response that s/he is resigning constitutes an actual, not a presumptive, resignation.

c. Written Notice of Action to Separate the Appointee

Following review of the appointee's response, if any, and written notification of the chair of the Privilege and Tenure Committee and the Committee's response, the Chancellor will make a final determination whether an appointee shall be deemed to have resigned and so notify the appointee in writing. The written notice shall advise the appointee of a right to a hearing (see APM - 700-30-d).

The authority to make the final determination rests with the Chancellor and may not be redelegated with respect to Academic Senate members. The authority may be redelegated with respect to non-Senate academic appointees.

d. Right to ~~Grieve~~ a Hearing

Academic Senate faculty members who are deemed to have resigned pursuant to this policy have the right to a hearing before the division Privilege and Tenure Committee under Academic Senate Bylaw 337. Other academic appointees who are deemed to have resigned pursuant to this policy have the right to a Step III Hearing as described in APM – 140.

700-94 Applications

Applications for certain leaves require information in addition to that included on the standard form. If additional information is required, it will be described in subsection 94 of the section covering the particular leave.