

From: Cindy Palmer
To: ["Genie Elizabeth Mulari \(genie.mulari@ucr.edu\)"](mailto:Genie.Elizabeth.Mulari@ucr.edu)
Subject: Proposed Revised APM - 080
Date: Friday, October 03, 2014 3:41:00 PM
Attachments: [Draft APM - 080 9-19-14 \(clean copy\).pdf](#)
[Draft APM - 080 9-19-14 \(redline\).pdf](#)

Please see the attached APM revision for review by Faculty Welfare, CAP, CODEO, P&T and the College/School Executive Committees. Please submit committee responses by November 14, 2014

A summary of the revision is offered below:

APM - 080, Medical Separation

The intent of APM - 080 remains a non-disciplinary method to medically separate a faculty member or other academic appointee who has exhausted eligible leave and who remains unable to perform the essential functions of his/her position or another vacant position for which the appointee is qualified, due to a disability or medical condition. Proposed revisions are intended to 1) bring APM - 080 into conformance with Regents Standing Order 101.1(b), Employment Status, 2) clarify authority to medically separate faculty with and without tenure or security of employment and appointees who are not members of the Academic Senate, and 3) revise language so that it is congruent with Americans with Disabilities Act (ADA) requirements. Additionally, the proposal is responsive to campus administrator and faculty requests to clarify the medical separation review process and to delineate the required consultation with the Disability Management Office, the written notice of intent to separate, the written notice of medical separation, and the appropriate approval authority.

Summarized below are some of the recommendations from Management Consultation (April- June 2014) that have been incorporated in the Systemwide Review draft:

- The proposed process regarding the interaction of the department chair and the dean has been streamlined by having the dean alone forward the recommendations of both the dean and the department chair to the chancellor.
- Some reviewers noted that the disability management officer (or equivalent) is appropriately involved in the medical separation process early on as advisory to the department chair and dean. Proposed language reflects that the disability management officer (or equivalent) will review and comment on the medical separation file before the file is submitted to the chancellor, and not afterward.
- Changes have been made in response to reviewers' assertion that the appointee has the right to review the medical separation file and to challenge the accuracy of the statements before submission to the Chancellor and, in cases requiring The Regents' approval, before submission to the President.
- A section is added to insure and to define adequacy of notice to the appointee regarding the intent and the action to medically separate.

~~~~~

**CONFIDENTIALITY NOTICE:** This e-mail communication and any attachments may contain confidential and privileged information for the use of the designated recipients named above. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify UCR Academic Senate Office immediately by telephone at (951) 827-6154 or by email at [cynthiap@ucr.edu](mailto:cynthiap@ucr.edu) and permanently delete all copies of this communication and any attachments.

**Cindy Palmer**  
**Executive Director**  
Academic Senate  
University of California, Riverside  
221 University Office Building  
Riverside, CA 92521  
Phone - (951) 827-6154  
Fax - (951) 827-5545

080-0 **Policy**

Medical separation will be considered only in cases where a disability or medical condition occurs that cannot be reasonably accommodated. Prior to medical separation, the University will engage in an interactive process in accordance with the provisions of APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities. If, after a reasonable period of leave, defined on a case by case basis, and/or other accommodation(s), an academic appointee holding an appointment that is not self-terminating is still unable to return to work and/or perform the essential functions of the academic position, a medical separation review may be initiated.

An appointee's inability to perform the essential assigned functions of the position or another vacant position on campus for which the appointee is qualified, with or without reasonable accommodation, due to a disability or medical condition, will constitute a good cause for separation, and an appointee may be separated after the required review is completed.

**080-10 Procedures for Medical Separation Review**

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

- a. After consultation with the Disability Management office (or equivalent), and discussion with the appointee, if possible, the Department Chair, Dean, or unit head may determine that a medical separation review should be initiated.

A medical separation review may also be initiated following notice to the University of approval, for the appointee, of disability income from a retirement system to which the University contributes, such as the University of California Retirement Plan (UCRP) or Public Employees' Retirement System (PERS), or the approval of benefits from University long-term disability insurance and in addition a written review by the Disability Management office (or equivalent) showing a determination that there is no reasonable accommodation available.

- b. To initiate a medical separation review, the Department Chair, Dean, or unit head will prepare, in coordination with the Disability Management office (or equivalent), a medical separation review file describing the essential functions of the position, those functions that the academic appointee is unable to perform, the interactive process that took place to consider possible reasonable accommodations, why reasonable accommodations were not possible or were unsuccessful, and containing any other pertinent documentation. (See APM - 210-1-d or other academic personnel policy relevant to the appointee's title series in determining essential job functions; see APM - 711-5 and APM - 711-80 concerning the interactive process and reasonable accommodation)
  
- c. After the Department Chair or unit head and the Disability Management office (or equivalent) have reviewed the file and provided recommendations, written notice shall be sent to the appointee transmitting the medical separation review file and providing the appointee with the opportunity to respond within 30 (thirty) calendar days of the date of the notice, prior to the Deans' submission of the file to the Chancellor. Any subsequent written response of the appointee shall be added to the review file.
  
- d. For cases involving faculty with tenure or security of employment, there is an additional step. Prior to making a determination of medical separation for faculty with tenure or security of employment, the Chancellor, in accordance

with Regents Standing Order 101.1(b), shall consult with the Chair of the Committee on Privilege and Tenure who shall respond in writing to the Chancellor within 15 (fifteen) business days. The Chancellor shall then determine whether to proceed with a medical separation. The authority to make this determination for faculty rests with the Chancellor and may not be redelegated.

**080-20 Notice of Intent to Separate and Notice of Action**

If determining to proceed with a medical separation, the Chancellor shall provide written notice to the appointee of the intention to separate, stating (1) the reason for medical separation, and (2) that the appointee has the right to respond either orally or in writing, to a designated person, within 30 (thirty) calendar days of the date of the notice. The notice shall include the name of the person to whom the appointee should respond. Accompanying the notice of intent to separate will be a copy of the materials in the review file upon which the Chancellor relied. Any subsequent written response of the appointee shall be added to the review file.

**a. Faculty with Tenure or Security of Employment**

(1) For faculty with tenure or security of employment, the notice of the intent to separate shall also state that the faculty member has the right

to a hearing before the properly constituted advisory committee of the Academic Senate under [Regents Standing Order 103.9 and Academic Senate Bylaw 337](#).

- (2) The Chancellor shall decide, based on the file and any hearing record, whether to recommend medical separation. If so recommending, the Chancellor shall forward a recommendation with the medical separation file to the President for a decision whether to recommend medical separation to The Regents for approval in accordance with [Regents Standing Order 101.1\(b\)](#).

**b. Faculty without Tenure or Security of Employment**

- (1) For faculty without tenure or security of employment, the notice of intent to separate shall also state that the faculty member may request in writing, within 30 (thirty) days of the date of the notice of intent, a hearing before the properly constituted advisory committee of the Academic Senate under [Regents' Standing Order 103.9 and Academic Senate Bylaw 337](#).

Within 60 (sixty) calendar days following a hearing, or its waiver by the failure to request it within 30 (thirty) calendar days from the date of notice, the Chancellor shall decide, based on the file and any hearing

record, whether to proceed with medical separation. The faculty member must respond within 30 (thirty) calendar days of the date of the notice of intent to request a hearing; otherwise, the Chancellor will make the final decision as to whether to proceed with a medical separation.

- (2) If proceeding, the Chancellor shall send to the faculty member a written notice of action to medically separate, which shall state the effective date of separation and the appointee's right to file a grievance under [Academic Senate Bylaw 335](#) for Academic Senate faculty or under [APM -140-33](#), Non-Senate Academic Appointees/Grievances, for Non-Senate faculty, if the appointee did not previously elect a hearing under [Regents' Standing Order 103.9](#).

**c. Other Academic Appointees**

For other academic appointees, if having determined that a medical separation is appropriate following review of the file, the Chancellor shall issue a written notice of action to medically separate within 60 (sixty) calendar days of the date of the notice of intent. The written notice shall include the effective date of separation and the right to grieve under APM - 140-33-B, Non-Senate Academic Appointees/Grievances.

d. **Adequacy of Notice**

During the review process a documented effort to contact the appointee via phone, mail, email, and internet search shall be made. The written notice of intent and notice of action to medically separate shall be sent by registered mail to the appointee's home address on payroll file.

080-24 **Authority**

- a. For faculty with tenure or security of employment, the Chancellor has the authority to recommend medical separation to the President; this authority may not be redelegated. Authority for approving medical separation of a faculty member with tenure or security of employment rests with The Regents, upon recommendation of the President.
- b. For faculty without tenure or security of employment, the Chancellor has the authority to approve medical separation in accordance with this policy and after appropriate due process. This authority may not be redelegated.
- c. For other academic appointees, the Chancellor has the authority to approve medical separation in accordance with this policy and after appropriate due process.

080-0 **Policy**

Medical separation will be considered only in cases where a ~~long-term or serious~~ disability or medical condition occurs that cannot be reasonably accommodated. Prior to medical separation, the University will engage in an interactive process in accordance with the provisions of APM - 711, Reasonable Accommodation for Academic Appointees with Disabilities. ~~After an appropriate~~ If, after a reasonable period of leave, defined on a case by case basis, and/or other accommodation(s), ~~if~~ an academic appointee holding an appointment that is not self-terminating is still unable to return to work and/or perform the essential functions of the academic position ~~within a reasonable period of time~~, a medical separation review may be initiated. ~~Thereafter, an~~

An appointee's inability to perform the essential assigned functions of the position or another vacant position on campus for which the appointee is qualified, with or without reasonable accommodation, due to a disability or medical condition, will constitute a good cause for ~~termination~~ separation, and an appointee may be separated after the required review is completed.

080-~~101~~ ~~—~~ ~~Basis~~ Procedures for Medical Separation Review

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

- a. After consultation with the Disability Management office (or equivalent), and discussion with the appointee, if possible, the Department Chair, Dean, or unit head may determine that a medical separation review should be initiated.

A medical separation review may also be initiated following notice to the University of approval, for the appointee, of disability income from a retirement system to which the University contributes, such as the University of California Retirement Plan (UCRP) or Public Employees' Retirement System (PERS), or the approval of benefits from University long-term disability insurance and in addition a written review by the Disability Management office (or equivalent) showing a determination that there is no reasonable accommodation available.

- b. ~~If after consultation with the Disability Management office (or equivalent) the chair, Dean, or unit head determines that a medical separation review may be~~

~~appropriate, the chair,~~ To initiate a medical separation review, the Department Chair, Dean, or unit head will prepare ~~written documentation, in coordination with the Disability Management office (or equivalent), a medical separation review file~~ describing the essential functions of the position, those functions that the academic appointee is unable to perform, the interactive process that took place ~~in consideration of~~ to consider possible reasonable ~~accommodation accommodations~~, why reasonable accommodations were not possible or were unsuccessful, and containing any other pertinent documentation. (See APM - 210-1-d, ~~other relevant or other~~ academic personnel policy, ~~or job description for criteria for standards of~~ relevant to the appointee's title series in determining essential job functions; see APM - 711-5 and ~~-80 for information about~~ APM - 711-80 concerning the interactive process and reasonable accommodation)

~~The chair, Dean, or unit head shall notify the appointee in writing that the file has been prepared and that it is being sent to the Chancellor for review. The file will then be reviewed by the Chancellor who, upon approval, will forward the request for a medical separation review to the campus Disability Management office (or equivalent). In cases where the Dean initiates the request for a medical separation review, the chair shall be consulted before the file is submitted to the Chancellor. In cases where the chair or unit head initiates the request for a medical separation review, the Dean must approve the request before the file is~~

~~submitted to the Chancellor. The file shall include any comments received from the Dean and/or chair and/or unit head. The Disability Management office (or equivalent) will review the statements of the chair and/or Dean and/or unit head and any other pertinent material. The Disability Management office (or equivalent) will advise the Chancellor whether or not a medical separation is appropriate. The Chancellor shall then determine whether or not to proceed with a medical separation. The authority to make this determination rests with the Chancellor, and this authority may not be redelegated.~~

~~The University may also initiate a medical separation review based on notice of approval of disability income from a retirement system to which the University contributes, such as UCRP or PERS, or approval of University long term disability insurance benefits.~~

c. After the Department Chair or unit head and the Disability Management office (or equivalent) have reviewed the file and provided recommendations, written notice shall be sent to the appointee transmitting the medical separation review file and providing the appointee with the opportunity to respond within 30 (thirty) calendar days of the date of the notice, prior to the Deans' submission of the file to the Chancellor. Any subsequent written response of the appointee shall be added to the review file.

d. For cases involving faculty with tenure or security of employment, there is an additional step. Prior to making a determination of medical separation for

faculty with tenure or security of employment, the Chancellor, in accordance with Regents Standing Order 101.1(b), shall consult with the Chair of the Committee on Privilege and Tenure who shall respond in writing to the Chancellor within 15 (fifteen) business days. The Chancellor shall then determine whether to proceed with a medical separation. The authority to make this determination for faculty rests with the Chancellor and may not be redelegated.

080-~~3~~-20 Notice of Intent to Separate and Notice of Action

~~An academic appointee shall be given advance~~If determining to proceed with a  
medical separation, the Chancellor shall provide written notice ~~by~~to the  
~~Chancellor~~appointee of the intention to separate. ~~The notice shall state, stating (1)~~  
the reason for medical separation ~~and include copies of the statements of the chair~~  
~~and/or Dean and/or unit head and any other pertinent material considered.~~a. — For  
~~Academic Senate faculty~~the notice of intent to separate shall state that the faculty  
~~member,~~and (2) that the appointee has the right to respond either orally or in writing,  
to a designated person, within 30 (thirty-~~30~~) calendar days of the date of ~~issuance of~~  
~~the notice regarding the separation and the right to a hearing before the properly~~  
~~constituted advisory committee of the Academic Senate under Regents Standing~~  
~~Order 103.9.~~the notice. The notice shall include the name of the person to whom the  
appointee should respond. Accompanying the notice of intent to separate will be a

copy of the materials in the review file upon which the Chancellor relied. Any subsequent written response of the appointee shall be added to the review file.

~~The faculty member must respond within thirty (30) calendar days to request a hearing; otherwise, the Chancellor will make a final decision as to whether or not to forward the medical separation recommendation to the President. Upon recommendation of the President, the file shall be forwarded to The Regents for approval. The authority of the Chancellor to recommend medical separation to the President may not be redelegated~~

a. **Faculty with Tenure or Security of Employment**

(1) For faculty with tenure or security of employment, the notice of the intent to separate shall also state that the faculty member has the right to a hearing before the properly constituted advisory committee of the Academic Senate under Regents Standing Order 103.9 and Academic Senate Bylaw 337.

(2) The Chancellor shall decide, based on the file and any hearing record, whether to recommend medical separation. If so recommending, the Chancellor shall forward a recommendation with the medical separation file to the President for a decision whether to recommend medical separation to The Regents for approval in accordance with Regents Standing Order 101.1(b).

b. Faculty without Tenure or Security of Employment

(1) For faculty without tenure or security of employment, the notice of intent to separate shall also state that the faculty member may request in writing, within 30 (thirty) days of the date of the notice of intent, a hearing before the properly constituted advisory committee of the Academic Senate under Regents' Standing Order 103.9 and Academic Senate Bylaw 337.

~~b. For non-Academic Senate faculty the notice of intent to separate shall state that the faculty member has the right to respond either orally or in writing within thirty (30) calendar days regarding the separation and the right to a hearing before the properly constituted advisory committee of the Academic Senate under Regents' Standing Order 103.9. The notice shall include the name of the person to whom the~~  
Within 60 (sixty) calendar days following a hearing, or its waiver by the failure to request it within 30 (thirty) calendar days from the date of notice, the Chancellor shall decide, based on the file and any hearing record, whether to proceed with medical separation. The faculty member should respond. The appointee must respond within thirty (30) days 30 (thirty) calendar days of the date of the notice of intent to request a hearing; otherwise, the Chancellor will make the final decision as to whether ~~or not~~ to proceed

with a medical separation. ~~The Chancellor may not redelegate the authority to decide whether to proceed with a medical separation. If the Chancellor decides to proceed, a written notice of medical separation will be issued within sixty (60) calendar days of the notice of intent. The non-senate faculty member shall be notified of the effective date in writing and of the right to grieve under APM-140 if the appointee did not elect a hearing under Regents' Standing Order 103.9.~~

(2) If proceeding, the Chancellor shall send to the faculty member a written notice of action to medically separate, which shall state the effective date of separation and the appointee's right to file a grievance under Academic Senate Bylaw 335 for Academic Senate faculty or under APM -140-33, Non-Senate Academic Appointees/Grievances, for Non-Senate faculty, if the appointee did not previously elect a hearing under Regents' Standing Order 103.9.

c. Other Academic Appointees

~~c. — For other academic appointees the notice of intent to separate shall state that the appointee has the right to respond either orally or in writing within thirty (30) calendar days. The notice shall include the name of the~~

~~person to whom the appointee should respond. If the Chancellor determines~~ For other academic appointees, if having determined that a medical separation is appropriate following ~~the review of a timely response, if any, from the appointee, a letter of medical separation shall be issued to the appointee~~ review of the file, the Chancellor shall issue a written notice of action to medically separate within 60 (sixty-(60) calendar days of the date of the notice of intent. The ~~letter~~ written notice shall include the ~~separation~~ effective date of separation and the right to ~~file a grievance under~~ grieve under APM - 140-33-B, Non-Senate Academic Appointees/Grievances.

~~— APM - 140.~~

d. Adequacy of Notice

During the review process a documented effort to contact the appointee via phone, mail, email, and internet search shall be made. The written notice of intent and notice of action to medically separate shall be sent by registered mail to the appointee's home address on payroll file.

080-24 **Authority**

- a. ~~a.~~ For ~~Academic Senate~~ faculty with tenure or security of employment, the Chancellor ~~is authorized~~ has the authority to recommend medical separation to the President; this authority may not be redelegated. Authority for approving medical separation of ~~an Academic Senate~~ faculty member with tenure or security of employment rests with The Regents, upon recommendation of the President. ~~The authority of the Chancellor to recommend medical separation to the President may not be redelegated.~~
- b. ~~b.~~ ~~The~~ For faculty without tenure or security of employment, the Chancellor has the authority to approve ~~the~~ medical separation ~~of non-Academic Senate faculty~~ in accordance with this policy and after appropriate due process. This authority may not be redelegated.
- c. ~~The~~ For other academic appointees, the Chancellor has the authority to approve ~~the~~ medical separation ~~of other academic appointees~~ in accordance with this policy and after appropriate due process.