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January 9, 2017

Director Michael Cohen
Department of Finance
915 L Street
Sacramento, California 95814

Chair
c/o Peggy Collins
Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, California 95814

Dear Director Cohen and Chair:

Pursuant to Item 6440-001-0001 of the 2016 Budget Act, Provision 4.3 (SB 826, Chapter 23, Statutes of 2016), enclosed is the University of California's report to the Department of Finance and the Legislature on *Senior Management Group Outside Professional Activities Policy Amendments*.

If you have any questions regarding this report, Interim Associate Vice President David Alcocer would be pleased to speak with you. He can be reached by telephone at (510) 987-9113, or by email at David.Alcocer@ucop.edu.

Yours very truly,


Janet Napolitano
President

Enclosure

cc: Senate Budget and Fiscal Review
Chair, Senate Budget and Fiscal Review Subcommittee #1
(Attn: Ms. Anita Lee)
(Attn: Ms. Cheryl Black)
Chair, Assembly Budget Subcommittee #2
(Attn: Mr. Mark Martin)
(Attn: Ms. Katie Koerber)
Ms. Peggy Collins, Joint Legislative Budget Committee
Mr. Danny Alvarez, Secretary of the Senate

Ms. Tina McGee, Legislative Analyst's Office
Ms. Amy Leach, Office of the Chief Clerk of the Assembly
Mr. Jim Lasky, Legislative Counsel Bureau
Mr. E. Dotson Wilson, Chief Clerk of the Assembly
Mr. Jeff Bell, Department of Finance
Mr. Christian Osmena, Department of Finance
Ms. Maritza Urquiza, Department of Finance
Ms. Tina McGee, Legislative Analyst's Office
Mr. Mac Taylor, Legislative Analyst's Office
Mr. Jason Constantouros, Legislative Analyst's Office
Provost and Executive Vice President Aimée Dorr
Executive Vice President and Chief Financial Officer Nathan Brostrom
Executive Vice President and Chief Operating Officer Rachael Nava
Senior Vice President Nelson Peacock
Vice President Dwaine Duckett
Interim Associate Vice President David Alcocer
Deputy to the Chief Financial Officer Kieran Flaherty
Executive Director Jenny Kao
Executive Director Dennis Larsen
Manager Bruce Kennedy

Senior Management Group Professional Activities Policy Amendments

Legislative Report

January 2017



UNIVERSITY *of* CALIFORNIA

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Senior Management Group Outside Professional Activities Policy Amendments (Approved and Implemented on July 21, 2016)

The University submits this report as requested by Item 6440-001-0001 of the 2016 Budget Act. The report confirms that the following concerns expressed by officials have been properly and fully addressed by the University and Regents. Item 6440-001-0001 of the 2016 Budget Act, Provision 4.3 (SB 826, Chapter 23, Statutes of 2016):

“No later than January 1, 2017, the Regents of the University of California shall do both of the following:

- (a) Review the policies and procedures governing outside employment by university executives and senior management.
- (b) Report to the Director of Finance and the Legislature, in conformity with Section 9795 of the Government Code, any changes to policies and procedures related to outside employment that were discussed or approved, including any changes to:
 1. Require that outside employment does not create conflicts of interest or conflicts of commitment, whether those are actual or perceived.
 2. Require that outside employment is properly approved.
 3. Require that outside employment is consistent with, and furthers, the public mission of the university.
 4. Specify appropriate consequences for violations of policies and procedures.
 5. Report outside employment publicly on an annual basis.
 6. In cases of outside employment for executives, require annual public discussion and approval.”

The following provides a summary of the Regents’ Policy 7707 policy amendments that were approved by the Regents in their meeting of July 21, 2016 and were effective upon approval.

Disclosure, Review, Justification and Approvals: In the former Outside Professional Activities (OPA) policy, the Approving Authority is defined as the person or office to whom an individual reports. The change added another, higher level of approval so that the requestor’s manager would review the proposed activity, and if appropriate, sign off on the request, passing it to the next higher level manager for further review and approval. As some Senior Management Group (SMG) members report to another SMG member who reports to the Chancellor, Laboratory Director, or President, the Chancellor, Laboratory Director or President will always be included in the review and approval process under this change.

- For SMG members who report to another SMG member who reports to the Chancellor, Laboratory Director or President, the immediate manager and the Chancellor (for campus SMG members), the Laboratory Director, or the President will be the Approving Authorities.

- For SMG members who report directly to the Chancellor or Laboratory Director, the Chancellor or the Laboratory Director and the President will be the Approving Authorities.
- For SMG members who report directly to the President, the President and the Chairman of the Board of Regents will be the Approving Authorities.
- For SMG members who report directly to the Regents, the Vice Chair and the Chairman of the Board of Regents will be the Approving Authorities.

In addition, the policy has been clarified to reinforce the requirement that SMG members must obtain approval for all OPA, whether compensated or uncompensated, before s/he may engage in the activity or announce participation in the activity.

Under the former policy, there were two forms that SMG members are required to complete when seeking approval of their outside activities:

- the OPA Approval Form, and
- the Detailed Information Form

Under the new policy, these forms were expanded to capture additional information. The forms are intended to provide the necessary details of the proposed activity so that the Approving Authorities can make an informed decision and approve or deny the SMG members' request. These forms capture specific information about the service; whether the service is compensated or not; details of any compensation, equity or deferred compensation; along with the amount of time anticipated to perform the service. In addition, the Detailed Information Form collects details on newly proposed compensated activities and requires disclosure of the entity name, nature of the business and its location, as well as proposed income including payments, loans, gifts, travel and expense reimbursements. This form also requests disclosure of investments in the entity and whether it constitutes more than ten percent ownership/interest. It also requests information on possible Conflict of Interest issues and requires description of these.

In addition to these forms, the changes to policy require the SMG member to submit a statement describing the benefits that accrue to the University for any proposed OPA. This new requirement applies to all service, whether compensated or uncompensated service, or whether the service is with a for-profit or not-for-profit organization.

Another change to the policy clarifies the review and approval process and timeline, creating a separate, expedited process for new activities. New activity requests can occur at any time during the year. The SMG member would provide full disclosure of the details of the proposed service, including any compensation, the time commitment, and the benefits that accrue to the University if the service were to be approved. The request will be reviewed by an independent committee to assess the request for conflicts of interest or commitment, or the appearance of conflicts, and to advise the Approving Authorities. The turnaround time for reviewing and approving or denying any new activity will be 30 calendar days or less, from the date of receipt of a complete packet of materials.

Each year, SMG members are also required to request approval for ongoing, recurring OPA prior to the beginning of the calendar year. Reviews will be conducted for those ongoing OPA that have changed materially from the preceding year. Materiality may include changes in compensation (form or amount), time commitment, changes in organizational status, e.g., mergers, acquisitions, relationships with the University or its entities, or changes (legal or other) that affect its reputation in the community.

Reporting Requirements

Another amendment to the policy implements a mid-year report to be presented to the Regents' Committee that oversees compensation, so that Regents would receive details on new activities that were approved since January each year. The regular end-of-year report will continue to be produced and presented publicly to the Regents.

Actual or Perceived Conflicts of Interest and Reputational Risk: In Section III.D.3 of the former OPA policy, there is a description of "Actual or Apparent Conflict of Interest and/or Commitment." Instances may occur in which there may be an appearance of a conflict of interest even though the SMG member does not have a financial interest in the decision or direct involvement in decisions as defined by the Political Reform Act. SMG members are expected to conduct themselves with integrity and good judgment and must avoid the appearance of favoritism in all their dealings on behalf of the University. The responsibility for determining and disclosing whether an actual or perceived conflict of interest and/or commitment may occur rests first with the SMG member and then with his/her Approving Authorities. The amended language changes "Apparent" to "Perceived."

In addition, language has been added to the policy that addresses the potential for reputational risk, intended to address affiliations that could diminish the reputation of the institution or system. This would become one more standard to be considered in the review process for the requestor and the Approving Authorities.

Limitations on Compensated OPAs: In the former OPA policy for compensated service there is a limit of three for-profit boards that are not University entities for which s/he receives compensation and for which s/he has governance responsibilities. Under the former policy, service as a member of the Board of Directors would constitute governance responsibilities, while service on an advisory committee likely would not constitute governance responsibility.

The change limits the number of concurrent compensated activities to **two**. This limit applies to all compensated board memberships and would also include any compensated "advisory" or "consulting" activities.

Violations: Violations of the Outside Professional Activities policy will be subject to corrective action, consistent with how the University addresses any policy violations. The action taken will depend on the nature and severity of the conduct. Remedies may include,

but are not limited to, issuance of a letter in the personnel file, mandatory training, consideration in the performance review and related salary actions including loss of or reduction in a merit or equity increase, reassignment, demotion, removal from the Senior Management Group position where there is an underlying academic appointment, or termination of employment.

Contact information:
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