

Office of the President

TO MEMBERS OF THE COMMITTEES ON FINANCE AND COMPENSATION:

ACTION ITEM

For Meeting of July 15, 2009

AMENDMENT OF STANDING ORDER 100.4 – DUTIES OF THE PRESIDENT

RECOMMENDATION

The President recommends that the Committees on Finance and Compensation recommend to the Regents that:

1. ~~Service of Notice be waived~~ Pursuant to Bylaw 7.3, the requirements of Standing Order 130.1 be suspended for purposes of this item.
2. Standing Order 100.4 be amended as shown in **Attachment A**.

BACKGROUND

This item, presented to the Regents for discussion at the May 2009 meeting, is part of a policy framework under which the University may implement furloughs and/or salary reductions in circumstances of extreme financial emergency, a framework that does not presently exist. Article IX section 9 of the California Constitution provides the University with broad authority, subject to applicable legal requirements such as the Higher Education Employer-Employee Relations Act and the Fair Labor Standards Act, to create and implement appropriate personnel policies and procedures regulating the workforce. This includes the ability to create and implement emergency measures to protect the University and maintain its mission. While the University has rarely resorted to furloughs or pay cuts, such actions are not unprecedented. Most recently, in 1992, the University imposed a systemwide temporary pay cut plan to meet a budgetary crisis.

Current University human resources policies do not provide a clear and uniform mechanism for imposing furloughs or pay reductions across the University workforce. This Standing Order – and the related Furlough/Salary Reduction Guidelines, a Presidential Policy – creates such a mechanism. To that end, the Standing Order supplements current authority in the following respects:

- The Standing Order clarifies the President’s authority to implement furloughs and/or salary reductions, consistent with applicable legal requirements, on terms that the

President deems necessary, for some or all categories of University employees, upon a Declaration by the Regents of Extreme Financial Emergency. (subsection (2))

- “Extreme Financial Emergency” for purposes of this Standing Order shall mean any event(s) or occurrence(s) creating an imminent and substantial deficiency in available University financial resources which could reasonably be expected to jeopardize the ability of the University, campus, or multiple campuses, to sustain its current or future operations in a manner which would allow it to fulfill its tripartite mission consistent with past practices. (subsection (1))
- A Declaration of Extreme Financial Emergency cannot be declared unless the emergency conditions underlying the Declaration and their effects on University operations are described in writing. (subsection (3))
- A Declaration of Extreme Financial Emergency cannot be declared unless the expected duration of the emergency is described in writing. (subsection (3))
- No Declaration of Financial Emergency may extend beyond one year. (A new Declaration may be recommended in any subsequent year, if appropriate.) (subsection (3))
- No Declaration of Financial Emergency may be declared unless a summary plan for implementing furloughs or salary reductions and the expected outcome of such plans are described in writing. (subsection (3))

The Standing Order amendment also requires a consultation and review process with University and campus administrative leadership, the Academic Senate, and representatives of staff and non-Senate academics concerning the matters to be included in the request for approval of a Declaration of Extreme Financial Emergency prior to submitting the request to the Board of Regents and before any furloughs or pay reductions may be imposed. (subsection (4))

Because current human resources policies differ in the precise manner and circumstance under which furloughs (or the equivalent) might be imposed, the Standing Order Amendment allows the President to suspend temporarily certain human resource policies that are inconsistent with an emergency furlough or salary reduction plan. For example, some current policies allow for furlough days (or the equivalent) for budgetary reasons, but also allow employees to use vacation or other paid leave during those days off of work. In times of extreme financial emergency the University may need to capture the immediate salary savings from unpaid furlough days; accordingly, under the Standing Order amendment, a current policy that allows for use of vacation or other paid time during a furlough day could be temporarily suspended. (subsection (2)) As a further protection to the employee workforce, once the emergency is over, any current policy that was temporarily suspended, will regain full force and effect.

As a companion to this Standing Order Amendment, the President is establishing Furlough/Salary Reduction Guidelines as a Presidential Policy to prescribe the type of

consultation process ordinarily required of campuses or of the University as a whole, before a Declaration of Extreme Financial Emergency will be presented to the Regents and for creating a furlough/salary reduction plan for implementation. The Draft Guidelines were presented to the Regents for discussion at the May 2009 meeting, and are referenced as [Attachment B](#) for context.

Highlights of the Guidelines are that:

- They require advance consultation with the Academic Senate as well as with representatives of both academic and non-academic staff representatives. The Guidelines specifically acknowledge the University's obligations under the Higher Education Employer-Employee Relations Act, such that, if a proposed plan affects the terms and conditions of work for represented employees, those matters would be subject to bargaining.
- They require that planning procedures be followed for purposes of developing campus or systemwide furlough/salary reduction plans, including participation from administration, Academic Senate, legal, human resources and, as appropriate, representatives of staff.
- They require that any plan discuss
 - Why the plan is necessary and appropriate under the circumstances;
 - How operational issues will be addressed related to police, fire, clinical and animal care, research and teaching and custodial services;
 - How the plan will be implemented in a fair and compassionate way to the entire University workforce.
- Whether the plan is campus-based, multi-campus, or systemwide, it is expected that the President will establish guidance and parameters by which the plan can be implemented to ensure consistency, fairness, optimized savings, and avoiding the effects of unintentionally penalizing classes of employees or campus locations.

Prior to the May Regents meeting and following, the draft Standing Order amendment and Presidential Guidelines were circulated to the entire University community through appropriate channels. The Standing Order amendment and Presidential Guidelines each incorporate the substantive comments and thoughtful edit suggestions received in response, including from the Chair of the Committee on Compensation, chancellors, the systemwide and divisional Academic Senate membership and employee staff. Three repeated substantive comments emerged and are incorporated into the final version of both documents. The Standing Order now has a clear sunset provision (one year), is limited to conditions of extreme financial emergency and not other major events or natural disasters, and the section outlining adoption by interim action has been removed.

Normal process for amending a Standing Order requires that the draft amendment be presented at the prior meeting. This proposed amendment was presented to the Regents at the May 2009 meeting but with the proviso that it might change following receipt of comments and feedback

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from Regents, campus administration, the Academic Senate and staff. This proposed amendment incorporates those comments as described above. Given the extreme financial circumstances facing the University and need to act quickly to establish appropriate budgetary measures, and that a substantially similar amendment draft was presented at the past meeting, it is recommended that the notice period for amending a Standing Order be waived in this case.