

Office of the President

TO MEMBERS OF THE COMMITTEE ON COMPENSATION:

ACTION ITEM

For Meeting of March 29, 2012

UNIVERSITY OF CALIFORNIA RETIREMENT PLAN – CLARIFICATION OF STATUS OF PROGRAM LINKED TO COMPENSATION CAP

EXECUTIVE SUMMARY

In 1999, an alternative benefit program was proposed for the University of California Retirement Plan (UCRP or “Plan”). It was designed to restore pension benefits reduced by the compensation limit established by the Internal Revenue Code (“Program”). Implementation of the Program was conditioned upon the occurrence of two events: first, receipt of a favorable determination letter from the Internal Revenue Service (IRS) regarding the effect on UCRP’s tax-qualified status if the Plan were to be amended to incorporate the Program and second, the concurrence of the President, together with the Chairman of the Regents and the Chair of the Committee on Finance, to go forward with the implementation of the Program.

The IRS issued the requested determination in late 2007, but in light of the economic challenges then facing the University and UCRP, the President and the Chairs decided not to implement the Program. The President recommends that the Regents affirm that the Program has not been implemented and, therefore, no Program benefits have been accrued or paid to date nor in any event will Program benefits accrue or be paid in the future.

RECOMMENDATION

The President recommends that the Committee on Compensation recommend that the Regents:

- (1) Rescind their 1999 conditional authorization of an alternative benefit formula proposed for the University of California Retirement Plan, a restoration program (“Program”) that was designed to restore pension benefits reduced by the compensation limit established by the Internal Revenue Code and delegation of authority to the President (with the concurrence of the Chairman of the Regents and the Chair of the Committee on Finance) to implement the Program.

- (2) Affirm that the President (with the concurrence of the Chairman of the Regents and the Chair of the Committee on Finance) has never implemented the Program and, therefore, no benefits have accrued under the Program.
- (3) Affirm that since the conditional authorization of the Program is being rescinded, no benefits can accrue in the future under the Program.
- (4) As an exception to policy, that these actions be effective immediately upon adoption.

BACKGROUND

At their February 18, 1999 meeting, the Regents delegated to the President the authority to implement two benefit restoration programs, provided the President obtained the concurrence of the Chair of the Regents and the Chair of the Committee on Finance. Both programs were described as critical to the University's retention and recruitment efforts.

The first program, the 415(m) Restoration Plan, was implemented effective January 1, 2000 to replace benefits that otherwise would be lost by the cap on annual benefits that may be paid from a tax-qualified plan such as UCRP. The 415(m) Restoration Plan is separate from UCRP and its trust fund. It is designed to make up the difference between the benefit calculated under the standard UCRP formula and the maximum annual benefit that can be paid under the limit set by Section 415(b) of the Internal Revenue Code (currently \$200,000). Locations are assessed for the 415(m) Restoration Plan costs.

In contrast, the Program, the second of the two restoration programs brought forward in 1999, was designed as part of UCRP to restore benefits of designated members that otherwise would be lost by the application of the compensation limit established by Section 401(a)(17) of the Internal Revenue Code. At the time of the Regents' action, UCRP had a funded level of 132 percent and did not require contributions by the employer funding source or by employees. The President's authority to implement the Program approved in concept by the Regents was conditioned on obtaining a favorable determination letter from the IRS that incorporating the Program into UCRP would not have a negative effect on the Plan's tax-qualified status, and on the concurrence of the two Chairs. The Program was submitted to the IRS for review as Appendix E to UCRP.

Soon after UCRP was submitted for a determination in 1999, the IRS imposed a moratorium on all plans that had a cash balance feature, such as UCRP's Capital Accumulation Payment program. Thus, the University did not receive the requested determination until late 2007 by which time the Regents were evaluating the need to restart contributions to UCRP in order to maintain the Plan's actuarial soundness.

As a result of the changed economic circumstances of UCRP and the University, the President and the Chairs have not taken the steps necessary to implement the Program. Thus, the Program has not been implemented and accordingly no Program benefits have accrued or been paid. At this time, due to the decline in the Plan's funded status and the challenging budgetary situation

currently facing the University, the President recommends that the Regents rescind their 1999 conditional authorization of the Program. Further, the President recommends that the Regents affirm that the Program has never been implemented and thus no benefits have been accrued under the Program, and in all events no benefits will accrue under the Program in the future. The President's recommendation is consistent with a January 28, 2009 Academic Council resolution not to implement the Program at a time when major financial challenges are facing UCRP and the University.