

AGENDA

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Meeting: 3:30 p.m., Tuesday, May 11, 1999
Glenn S. Dumke Conference Center

Ralph R. Pesqueira, Chair
William D. Campbell, Vice Chair
Laurence K. Gould, Jr.
Eric C. Mitchell
Michael D. Stennis
Anthony M. Vitti
Stanley T. Wang

Consent Items

Approval of Minutes of Meeting of March 16, 1999

Discussion Items

1. Proposed Revision of Title 5 Regulations—Probationary Period of Academic Employees; MOU, *Action*
2. Revision of Title 5, California Code of Regulations, Section 42909, Vacation Accumulation and Carry-Over, *Action*
3. Executive Compensation, *Action*

**MINUTES OF MEETING OF
COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL**

**Trustees of The California State University
Glenn S. Dumke Conference Center
400 Golden Shore
Long Beach, California**

March 16, 1999

Members Present

Ralph R. Pesqueira, Chair
William D. Campbell, Vice Chair
Laurence K. Gould, Jr.
Eric C. Mitchell
Michael D. Stennis
Charles B. Reed, Chancellor, ex officio
Stanley T. Wang

Members Absent

Anthony M. Vitti

Other Trustees Present

Martha C. Fallgatter
Bob Foster
Harold Goldwhite
Joan Otomo-Corgel
Ali C. Razi

Chancellor's Office Staff

Richard P. West, Executive Vice Chancellor and Chief Financial Officer
Douglas X. Patiño, Vice Chancellor, University Advancement
Christine Helwick, General Counsel
Samuel A. Strafaci, Interim Senior Director, Human Resources

Presidential Liaisons

Robert L. Caret, President, San Jose State University, present
Norma S. Rees, President, California State University, Hayward, present

Chair Pesqueira called the meeting to order at 5:11 p.m.

Approval of Minutes

The minutes of the September 15, 1998, meeting were approved as submitted.

Chairman Pesqueira presented an action item recommending salary adjustments for the chancellor, the executive vice chancellor and chief academic officer, and the executive vice chancellor and chief financial officer, effective April 1, 1999. The action item also confirms that the official presidential residence of California State University, Northridge is 9740 Calvin Avenue, Northridge, and that Dr. Blenda Wilson continue to be required to occupy that residence as a condition of her employment.

The committee recommended approval of the proposed resolution (RUF 03-99-01).

Adjournment

The meeting adjourned at 5:14 p.m.

BRIEF

Action Item

Agenda Item 1
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Proposed Revisions of Title 5 Regulations—Probationary Period of Academic Employees; MOU

Presentation By

Samuel A. Strafacci, Interim Senior Director
Human Resources

Summary

Proposed Revision to Section 43560

The Title 5 regulation regarding the length of the probationary period is currently in conflict with the status quo under the expired collective bargaining agreement. The proposed amendment to Section 43560 would remove the conflict in favor of maintaining the status quo as required by HEERA.

Proposed Revision to Section 43825

Current Section 43825 states that where an existing MOU is in conflict with a provision of Title 5, the MOU governs. It does not cover the situation where the collective bargaining agreement has expired and the parties have not yet reached agreement on a successor contract. During such periods, certain provisions of the expired MOU continue as the status quo by operation of law (unless in conflict with a statute that is no longer superseded by the MOU or unless pertaining to a matter requiring mutual agreement of the parties). The proposed change clarifies that when a term or condition of the expired contract that continues as status quo by operation of law, or that has been implemented by the trustees in accordance with HEERA, is in conflict with a Title 5 provision, such term or condition, not the provision of Title 5, governs.

Recommended Action

Approval of the resolutions.

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Agenda Item 1
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Proposed Revisions of Title 5 Regulations—Probationary Period of Academic Employees; MOU

Proposed Revisions to Section 43560

Title 5 regulations regarding the length of the probationary period are currently in conflict with the status quo under the expired collective bargaining agreement. The proposed amendment to Section 43560 would remove the conflict in favor of maintaining the status quo as required by HEERA.

Academic employees have been subject to a six-year probationary period since 1983, when the California State University and its faculty entered into their first collective bargaining agreement. Section 43560 predates collective bargaining, however, and, in its current version, imposes a shorter four-year probationary period. The proposed amendment is intended to update this section, making it consistent with the terms of the expired collective bargaining agreement.

In addition to the six-year probationary period, the proposed amendment would update Section 43560 to allow a maximum of two years' credit toward tenure when a faculty member voluntarily transfers from one campus to another. It would also eliminate the current subdivision (f) which, in effect, imposes a two-year probationary period for academic employees initially appointed at the rank of professor. Finally, the proposed amendment revises subdivision (g), renumbers it as subdivision (e), and provides circumstances under which the president may grant an early award of tenure. Each of these proposed amendments are consistent with the collective bargaining history between the parties, and would allow the university to maintain the status quo as required by HEERA.

Proposed Revisions to Section 43825

Current Section 43825 states that where an existing MOU is in conflict with a provision of Title 5, the MOU governs. It does not cover the situation where the collective bargaining agreement has expired, impasse procedures have been completed, and the parties have not yet reached agreement on a successor contract. During such periods, certain provisions of the expired MOU continue as the status quo by operation of law (unless in conflict with a statute that is no longer superseded by the MOU or unless pertaining to a matter requiring mutual agreement of the parties). The proposed change clarifies that when a term or condition of the expired contract that continues as status quo by operation of law, or that has been implemented by the trustees in accordance with HEERA, is in conflict with a Title 5 provision, such term or condition, not the provision of Title 5, governs.

Proposed Resolutions

The following resolutions are recommended for adoption:

RESOLVED, By the Board of Trustees of the California State University, acting under the authority prescribed herein and pursuant to Section 89030.1 of the Education Code, that the board hereby amends its regulations in Article 13 of Subchapter 7, Chapter 1, Division 5 of Title 5 of the California Code of Regulations, as follows:

§ 43560. Probationary Period and Award of Tenure

Decisions with respect to the award or denial of tenure to a probationary academic employee as defined in Section 42700, subdivision (1), appointed pursuant to Article 2, Article 2.5, or both, shall be on the basis of full-time service in accordance with the procedures established pursuant to Section 42701 and pursuant to the following provisions:

(a) The normal pattern of awarding tenure, except as modified below, shall involve the assessment of a faculty member's performance over a period of ~~four~~ six successive academic years, and for those not awarded tenure but who have served a minimum of three probationary years, a terminal year.

~~(b) The president may determine to award a fifth probationary year appointment. Should it be considered by the end of that year that more time is still necessary to evaluate the probationary academic employee for tenure purposes, the president may award a final sixth probationary year appointment. For those denied tenure following the final probationary year, a terminal year shall be awarded as provided in Subdivision (c) of Section 43561. A probationary academic employee shall not serve more than seven successive full-time years.~~

~~(c)~~(b) If the academic employee transfers from an existing campus to a newly established campus under the provisions of Education Code Section 89545, the employee shall be accorded such tenure rights at the newly established campus as the employee had acquired at the existing campus.

~~(d)~~(c) If a tenured academic employee transfers from one campus to another campus and such transfer is not under the provisions of Education Code Section 89545, the employee may be appointed with tenure or with such up to two years' credit towards tenure as the president of the campus to which the employee transfers shall determine.

~~(e)~~(d) If a probationary academic employee transfers from one campus to another campus, and such transfer is not under the provisions of Education Code Section 89545, the employee may be appointed with such up to two years' credit toward tenure as the president of the campus to which the employee transfers shall determine.

~~(f) If the academic employee is initially appointed to the rank of professor, the employee may be considered for tenure during his or her first academic year, and, not later than June 1 of the employee's second year, he or she shall be notified by the president or designee that the employee will either receive tenure or a terminal year.~~

~~(g)~~(e) Notwithstanding any provision in this article to the contrary, the president ~~in special circumstances~~ may award tenure to any probationary academic employee earlier than the normal probationary period otherwise provided in this section. ~~when, following an evaluation of the performance of the faculty member at the campus, the president finds that such early award of tenure is advantageous to the institution.~~ Any deviation from the normal probationary period shall be the decision of the president following his or her consideration of recommendations from the department or equivalent unit and appropriate administrators.

~~(h)~~(f) Except as provided in subdivision ~~(c), (d) and (g)~~ (b), (c), and (e) of this Section, whenever tenure is awarded to an academic employee, the tenure shall be effective when the academic employee enters upon his or her duties at the same campus at the beginning of the academic year next succeeding the year during which tenure is awarded.

~~(i)~~(g) If the academic employee is promoted to the rank of assistant professor during his or her probationary period, he or she shall be credited with consecutive probationary years already served at the campus at the rank of instructor.

NOTE: Authority cited: Sections ~~66600~~, 89030, ~~89035~~, and 89500, Education Code. Reference: Section 89500, Education Code.

and, be it further

RESOLVED, By the Board of Trustees of the California State University, acting under the authority prescribed herein and pursuant to Section 89030.1 of the Education Code, that the board hereby amends its regulations in Article 21 of Subchapter 7, Chapter 1, Division 5 of Title 5 of the California Code of Regulations, as follows:

§43825. Memorandum of Understanding.

(a) Notwithstanding any other provision of this subchapter, if a Memorandum of Understanding entered into pursuant to the Higher Education Employer-Employee Relations Act is in conflict with the provisions in this subchapter, the terms of the Memorandum of Understanding and not the provisions of this subchapter shall govern as to those employees covered by the Memorandum of Understanding.

(b) Notwithstanding any other provision of this subchapter, in the event a Memorandum of Understanding has expired and any of its terms and conditions that continue in effect by operation of law are in conflict with the provisions of this subchapter, then such terms and conditions, and not the provisions of this subchapter, shall govern as to those employees in the bargaining unit affected.

(c) Notwithstanding any other provision of this subchapter, in the event a Memorandum of Understanding has expired and any changes in the terms and conditions of the Memorandum of Understanding that are implemented by the Trustees in accordance with HEERA are in conflict with the provisions of this subchapter, then such changes, and not the provisions of this subchapter, shall govern as to those employees in the bargaining unit affected.

Note: Authority Cited: Sections ~~66600~~, 89030, and 89500, Education Code.
Reference: Section 89500, Education Code; Section 3560, et seq., Government Code.

and, be it further

RESOLVED, That the Board of Trustees has determined that the adoption of the proposed revisions will not impose a cost or savings on any state agency; will not impose a cost or savings on any local agency or school district that is required to be reimbursed under Section 17561 of the Government Code; will not result in any cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts;

and, be it further

RESOLVED, That the Board of Trustees delegates to the chancellor of the California State University authority to further adopt, amend, or repeal these revisions if the further adoption, amendment, or repeal is required and is nonsubstantial or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

BRIEF

Action Item

Agenda Item 2
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Revision of Title 5, California Code of Regulations, Section 42909, Vacation Accumulation and Carry-Over

Presentation By

Charles B. Reed
Chancellor

Samuel A. Strafaci, Interim Senior Director
Human Resources

Summary

It is proposed that Section 42909 of Title 5 which addresses vacation accumulation and carry-over be revised to increase the maximum executive vacation accrual from 440 hours to 480 hours with the restriction that the circumstances in subdivision (b) which allow the chancellor to increase the carry-over beyond the maximum would not apply to executives which would now also include the general counsel.

Recommended Action

Adoption of the resolution.

ITEM

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Agenda Item 2
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Revision of Title 5, California Code of Regulations, Section 42909, Vacation Accumulation and Carry-Over

Background

This agenda item would revise Section 42909 of Article 4, Subchapter 7 which addresses vacation accumulation and carry-over to increase the maximum vacation accrual for executives from 440 hours to 480 hours with the restriction that the circumstances in subdivision (b) which allow the chancellor to increase the carry-over beyond the maximum would not apply to the executives, which would now also include the general counsel.

Presidents, the general counsel, vice chancellors, and the chancellor have broad and critical university responsibilities that require flexibility and accommodation in scheduling vacations. Amending Title 5 to increase the maximum accrual for executive employees from 440 to 480 hours recognizes that need for flexibility and acknowledges the difficult challenges these employees face in maintaining vacation schedules in light of the dynamic nature of their roles and responsibilities in the university community. Vacation, an important perquisite that is an attractive component of the California State University's executive compensation program, is critical to the recruitment and retention of executives. The addition of 40 hours to the maximum accrual preserves 40 hours of vacation that could potentially be forfeited.

Additionally, executive employees have complex and demanding work schedules and it is important that they know each year the amount of annual vacation that will need to be taken to avoid the loss of excess hours. Eliminating the ability to carry-over excess vacation hours provides this predictability, as executives will have advance knowledge of the maximum vacation credit accrual that will be available in any calendar year. The executive employee need not request that the chancellor consider for approval a carry-over of vacation to a subsequent calendar year. Currently, approvals for carry-over are not automatic and in practice are often turned down with excess hours forfeited. Eliminating the carry-over option removes the requirement of justifying unused vacation time and provides an incentive for executives to schedule vacation. Additionally, eliminating the carry-over option limits the university's financial exposure in the event the executive employment relationship ends. Executive employees accrue two vacation days on the first of any month following a qualifying pay period up to a current 440-hour maximum vacation credit. Vacation accrual continues beyond January 1 at two days per month. An executive employee with the current 440 maximum credit as of any January 1, who is unable to schedule vacation during the subsequent calendar year, could have up to 632 hours of vacation credit on the subsequent December 31. Eliminating the carry-over option reduces the university's potential financial liability, as the maximum credit would be reset to 480 hours on January 1 with excess hours automatically lost. Finally, the addition of general counsel to Section 42909 is "clean-up" language that reflects the fact that the university executive group has long included the general counsel.

Proposed Revision

The following resolution is recommended for adoption:

RESOLVED, By the Board of Trustees of The California State University, acting under the authority prescribed herein and pursuant to Section 89030.1 of the Education Code, that the board hereby amends its regulations in Section 42909, Article 4, Subchapter 7, Chapter 1, Division 5 of Title 5 of the California Code of Regulations as follows:

§42909. Accumulation and Carry-Over

(a) An employee may accumulate credit for vacation with pay for which vacation is not taken during the calendar year. On January 1st of any calendar year, an employee covered by Section 42902 shall not have a credit for vacation with pay of more than 384 hours; an employee covered by Section 42904 shall not have a credit of more than 272 working hours for 10 or less years of qualifying service or 384 working hours for more than 10 years of such service; a Management Personnel Plan employee shall not have a credit of more than 384 working hours for 10 or less years of qualifying service or 440 working hours for more than 10 years of such service; and a campus President, General Counsel, Vice Chancellor, or Chancellor shall not have a credit of more than ~~440~~ 480 hours.

(b) Notwithstanding subsection (a) to the contrary, the president of a campus at which an employee is employed, or the Chancellor in the case of all other employees, may permit an employee to carry over more vacation credits than the prescribed maximum when the employee was prevented from taking enough vacation to reduce the credits because the employee (1) was required to work as a result of fire, flood or other similar emergency, (2) was prevented from taking vacation by work the president or the Chancellor, as the case may be, has determined to be of a priority or critical nature over an extended period of time, (3) was absent on full salary for compensable injury, or (4) was prevented by campus rule from taking vacation until December and at that time was unable to take vacation because of illness requiring use of sick leave. This subsection (b) shall not apply to vacation carry-over of a campus President, General Counsel, Vice Chancellor, and Chancellor.

When verification of past state service requires it, an employee's accumulated credit for vacation with pay shall be adjusted. In such case, any additional credit which exceeds the maximum carry-over limitation shall be used within one year following the qualifying monthly pay period in which credited.

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Agenda Item 2

May 11-12, 1999

NOTE: Authority cited: Sections 66600, 89030, 89035 and 89500, Education Code.
Reference: Section 89500, Education Code.

And, be it further

RESOLVED, That the Board of Trustees has determined that the adoption of the proposed revisions will not impose a cost or savings on any state agency; will not impose a cost or savings on any local agency or school district that is required to be reimbursed under Section 17561 of the Government Code; will not result in any cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts;

And, be it further

RESOLVED, That the Board of Trustees delegates to the Chancellor of The California State University authority to further adopt, amend, or repeal this revision pursuant to the Administrative Procedure Act if further adoption, amendment or repeal is required and is nonsubstantial or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

BRIEF

Action Item

Agenda Item 3
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Executive Compensation

Presentation By

Charles B. Reed
Chancellor

Samuel A. Strafaci, Interim Senior Director
Human Resources

Summary

Compensation for the new president at California State University, Dominguez Hills, the interim president of California State University, Northridge, and the vice chancellor of human resources will be set. An automobile allowance will be established for the vice chancellor of university advancement.

Recommended Action

Adoption of the resolution.

ITEM

2

Agenda Item 3
May 11-12, 1999

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Executive Compensation

This item recommends that Dr. James E. Lyons, Sr., shall receive an annual salary of \$185,040 effective July 1, 1999, the date of his appointment as president of California State University, Dominguez Hills. He will also receive a \$25,008 annual housing allowance. This item also recommends that Dr. Louanne Kennedy shall receive an annual salary of \$175,008 and an annual housing allowance of \$25,008 effective June 1, 1999, the date of her appointment as interim president of California State University, Northridge. Furthermore, this item recommends that Ms. Jackie R. McClain shall receive an annual salary of \$185,016 and a monthly car allowance of \$750 effective June 1, 1999, the date of her appointment as vice chancellor of human resources. Finally, it is recommended that Dr. Douglas Patiño, vice chancellor of university advancement, shall receive a \$750 monthly automobile allowance effective June 1, 1999, in recognition of his extensive travel as a result of institutional advancement responsibilities.

The following resolution is recommended for adoption:

RESOLVED, By the Board of Trustees of The California State University, that Dr. James E. Lyons, Sr., shall receive a salary set at the annual rate of \$185,040, effective July 1, 1999, the date of his appointment as president of California State University, Dominguez Hills and a housing allowance set at the annual rate of \$25,008; that Dr. Louanne Kennedy shall receive a salary set at the annual rate of \$175,008 and a housing allowance set at the annual rate of \$25,008, effective June 1, 1999, the date of her appointment as interim president of California State University, Northridge; that Ms. Jackie R. McClain shall receive a salary set at the annual rate of \$185,016 and an automobile allowance set at the monthly rate of \$750, effective June 1, 1999, the date of her appointment as vice chancellor of human resources; and that Dr. Douglas Patiño shall receive an automobile allowance set at the monthly rate of \$750, effective June 1, 1999.