

Approved

COMMITTEE ON COMPENSATION
COMMITTEE ON FINANCE
November 20, 2008

TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

1. **AMENDMENTS TO THE POLICY ON SETTLEMENT OF LITIGATION,
CLAIMS AND SEPARATION AGREEMENTS**

The Committees recommend that the proposed amendment to the *Policy on Settlement of Litigation, Claims and Separation Agreements* be approved as shown in Attachment 1. The amendment will increase the authority of the President to approve certain settlements of claims and separation agreements and will increase the authority of the General Counsel to approve settlements of litigation and claims in order to conserve the time of the Regents to address the most significant matters and to further streamline the Board's practices and procedures. Approvals by the Chairman of the Board and the Chairman of the Committee on Finance would be required at the \$500,000 level. Approval by the full Board would be required at the \$1 million level.

ATTACHMENT 1

Deletions shown by ~~strikeout~~; additions shown by underscore

POLICY ON SETTLEMENT OF LITIGATION, ~~AND NON-EMPLOYEE CLAIMS, AND~~ SEPARATION AGREEMENTS

~~That~~ The Regents adopt, ~~effective October 1, 1995,~~ the following Policy on Settlement of Litigation, Claims and Separation Agreements ~~Litigation~~ establishing the settlement authority of The Regents, the President, and the General Counsel and requirements with respect to reporting of settlements and separation agreements.

(1) As used in this Policy, the following terms shall have the meaning specified:

a. "Claim" shall refer to any demand for payment from an entity or individual, including other ~~than~~ a University employee, which is disputed in whole or in part and is made other than through litigation. Commercial negotiations to adjust amounts payable under a contract shall not be treated as "claims."

b. "Litigation" shall refer to legal proceedings in the form of a lawsuit, arbitration proceeding, or internal or external administrative proceeding.

c. "Separation Agreement" shall refer to an agreement with a University employee by which the employee separates from University employment, but which does not involve a "claim" or "litigation," as defined above.

d. "Consideration" shall refer to a monetary commitment on the part of the University, whether in the form of a lump sum cash payment, or compensation for services for a specified term, or individually-negotiated payments for benefits (e.g., COBRA), or a non-monetary commitment on the part of the University; it excludes payments for salary and benefits previously earned by the employee (e.g., earned vacation leave) or continued employment on the same terms as existed prior to the agreement. When consideration is received by the University, it can also be monetary or non-monetary.

(2) Settlement Authority of the President

The President shall have authority to settle claims and to enter into separation agreements when the consideration paid or received by the University ~~shall have~~ has a value ~~not in excess of \$100,000~~ of \$500,000 or less. Settlement of claims or separation agreements when the consideration paid or received by the University exceeds ~~\$50,000~~ \$100,000 shall require the concurrence of the General Counsel. The release provisions of all settlements of claims and separation agreements, regardless of the amount of consideration, shall be in a format approved by the General Counsel. Settlement of claims and separation agreements by the President shall be subject to appropriate funding.

(3) Settlement Authority of the General Counsel

The General Counsel shall have authority to settle claims and litigation when the consideration paid or received by the University ~~shall have~~ has a value ~~not in excess of \$250,000~~ of \$500,000 or less. All litigation settlements shall be reviewed and approved by the General Counsel. Settlement of claims or litigation by the General Counsel shall be subject to appropriate funding.

(4) Reporting of Settlements and Separation Agreements ~~Actions~~

~~The following reports of settlement actions shall be submitted to The Regents:~~

a. Annually by the ~~President~~ General Counsel, all settlements of claims and litigation, and all separation agreements, when the consideration paid or received by the University has a value greater than \$50,000.

b. At each regular meeting of The Regents, ~~by the General Counsel~~ The Regents shall receive a report from the General Counsel of all settlements of claims and litigation, and all separation agreements, when the consideration paid or received by the University has a value ~~between~~ greater than \$50,000 \$100,000 and ~~up to \$250,000~~ \$500,000.

c. At each regular meeting of The Regents, ~~by the General Counsel~~ The Regents shall receive a report of all settlements of claims and litigation and all separation agreements approved by the Chairman of the Board and the Chairman of the Committee on Finance pursuant to section 5a. hereof.

(5) Settlement Actions Reserved to The Regents

The following proposals for settlements of claims or litigation or for separation agreements shall be submitted to the Chairman of the Board and the Chairman of the Committee on Finance or to The Regents for prior approval:

a. To the Chairman of the Board and the Chairman of the Committee on Finance, ~~settlements~~ when the consideration to be paid or to be received by the University has a value ~~between~~ greater than \$250,000 \$500,000 and ~~up to \$500,000~~ \$1,000,000.

b. To The Regents, ~~settlements~~ when the consideration to be paid or to be received by the University has a value in excess of ~~\$500,000~~ \$1,000,000.

c. To The Regents, settlements or separation agreements of any amount involving significant questions of University policy.

d. To The Regents, settlements or separation agreements of any amount with Officers of the University (Standing Order 100.1(a)) and Officers of the Regents (Bylaw 20.1).

All settlement and separation agreement proposals which require approval by either the Chair of the Board and the Chair of the Committee on Finance, or by the full Board, shall be accompanied by the recommendation of the General Counsel and a statement of the applicable fund source.

With regard to faculty members with tenure or security of employment, in the event that a faculty member's resignation and severance compensation is deemed by the President to be in the best interests of the University, pursuant to Standing Order 103.7, any resulting separation or settlement agreement shall be subject to this policy.