

Office of the President

TO MEMBERS OF THE SPECIAL COMMITTEE ON COMPENSATION:

ACTION ITEM

For Meeting of May 17, 2006

ADOPTION OF POLICY ON VIOLATION OF UNIVERSITY POLICY OR LAW BY INDIVIDUALS WITH NEGOTIATED SEPARATION TERMS

The President recommends that the Special Committee recommend to The Regents that the Policy on Violation of University Policy or Law by Individuals with Negotiated Separation Terms ([Attachment](#)) be adopted effective immediately.

BACKGROUND

Recently there has been considerable concern expressed about the provision of leave arrangements, faculty appointment terms, or other arrangements negotiated at the time of an employee's appointment in relation to questions about the employee's compliance with University policy or applicable law during employment. Such an agreement regarding separation terms negotiated by individuals at the time of their appointment to University positions is not common, but neither is it unprecedented, given the competition in the marketplace. Objections have been raised, understandably, to making pre-negotiated payments in circumstances in which the employee may have violated University policy or law or both. However, absent some qualification in the negotiated terms, typically the University will have no choice but to make the payments to which it has committed.

The proposed Policy on Violation of University Policy or Law by Individuals with Negotiated Separation Terms provides that separation terms negotiated with an individual employee prior to the time of the employee's separation from a particular position or from University employment would be subject to reduction or elimination if the University has determined that the employee has violated University policy or applicable law. The terms of the Policy would be incorporated in agreements providing for negotiated separation terms. The Policy would not affect an employee's entitlement to retirement and similar benefits that are vested under law. Any application of the Policy to a particular employee would be subject to due process applicable to the imposition of discipline for the employee's employment category. If that process resulted in a determination that there had been a violation of University policy or law, the President would determine whether the violation was serious or substantial; in such cases, the President would recommend an appropriate forfeiture or loss of separation benefits, in whole or in part. Final action would be taken by the Chairman of the Board of Regents and the Chairman of the Special Committee on Compensation in consultation with the General Counsel.

The intention is that the proposed Policy be applied prospectively only – absent extraordinary circumstances amounting to material and intentional misrepresentation or fraud in which event The Regents would have the discretion to address the situation as the circumstances warrant.