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May 21, 2009

Mary Croughan, PhD
Chair, Academic Senate
University of California Office of the President
1111 Franklin St., 12th Floor
Oakland, CA 94106

Re: Review of the Proposed Amendment to Standing Order 100.4 – Duties of the President and Draft Furlough/Salary Reduction Guidelines

Dear Chair Croughan:

In the San Francisco Division of the Academic Senate, the Coordinating Committee, the Committee on Academic Personnel, the Committee on Academic Planning and Budget and the Committee on Faculty Welfare reviewed the Proposed Amendment to Standing Order 100.4 – Duties of the President and Draft Furlough/Salary Reduction Guidelines, distributed on April 27, 2009. Their concerns focused on the following issues, further elaborated below.

- **Extramural Funding including Federal Stimulus Funding**
- **Furlough versus Salary Cut and Implementation**
- **Consultation with Campus Constituencies, including the Academic Senate**
- **Allowing Each Campus to Decide**
- **Definition of a Financial Emergency and its Endpoint**
- **Further Study Advised**

Extramural Funding including Federal Stimulus Funding

The issue of extramural funding must be considered and resolved in the proposed policy. The goal of any response to reductions in state funding is clearly to save resources equivalent to these cuts. Since more than 85% of the faculty on the UCSF campus receive their salaries from non-state funds, any salary cuts and/or furloughs that are not limited solely to state funds must be carefully considered. It does not make sense to reduce salaries through direct cuts or furloughs if such reductions will not save anything in state funds. They should only be implemented if they actually mitigate the budget shortfall. One suggestion has been that to the extent that faculty members in the In Residence, Clinical X and Health Sciences series draw a portion of their salaries from state funds, that fraction should be subject to appropriate reduction.

While a provision is made to consult with CEOs of Health Centers, there does not seem to be any consideration of faculty and staff who are supported by extramural funding (non State). UC could potentially worsen a fiscal crisis if individuals who are being paid by extramural sources are furloughed or have salary cuts. It is not clear that unexpended salary funds in extramural accounts

can be retained by UC, particularly if the furloughs and salary cuts reduce productivity of these activities. In addition extramural funds pay for health insurance and other benefits in proportion to salary and effort; the consequences of the proposed actions on funding of these benefits should be considered.

There are important legal considerations regarding state vs. non-state sources of support. Agreements with industry and federal government sources of research support (ranging from clinical trials to basic discovery projects) are contracts and are signed off by the Dean. Therefore, a reduction of effort on these contracts constitutes default on good faith fulfillment of the objectives of the contract by the University. Furthermore, if the faculty are fully funded through the contract, furloughs would act to diminish the success of these projects and might prejudice future negotiations with industry. In spite of a "fairness doctrine", the fact that the investigators in question have been able to attract full funding must be considered. To the extent that a proportion of the investigator's salary comes from state sources, that fraction could be reduced proportionately.

Furthermore, as the Federal Government has been pouring stimulus funding into new and existing grants, and UC should determine how they might respond to having California furlough or cut the salaries of people who benefit from the Federal stimulus funding.

Furlough versus Salary Cut and Implementation

While neither furloughs nor salary cuts are desired at UCSF, the faculty expressed a preference for furloughs based on the understanding that they are more easily reversed than salary cuts. UCSF faculty clinical and academic responsibilities may preclude most UCSF faculty from taking time off, however with a furlough faculty and staff may be able to benefit from the time off. Faculty may be able to benefit from the time off to engage in professional activities that could compensate for the loss of income incurred by the furlough. Furthermore Salary cuts are not favored because they would have cause a greater detriment to benefits and retirement income.

Regarding the implementation of furloughs or salary cuts, the faculty made the following suggestions:

- Campuses should make contingency plans to insure that furloughs and or salary cuts do not impair clinical care, result in loss of vital research or interfere with other essential activities. Where training and expertise exist and in the case of need, clinical faculty should be able to assume duties in essential clinical services in place of furloughs.
- To address issues of fairness, the type of "work" that can and cannot be furloughed should be categorized.
- Faculty salary sources and work are not always aligned. For example, teaching, committee service and administrative responsibilities are not always compensated, even when "essential". (e.g. Quality assurance committees in the medical center, clinical teaching on the ward services, academic senate committees). Thus, there is the concern that furloughs might affect revenue-generating activity (e.g. those linked to professional fees) in order to preserve other essential mission-related activities, resulting in a loss of income.
- The effect that furloughs might have on essential teaching, particularly in intensive two-to-three year programs, and how this will affect students' time to completion must be considered.
- The policy of re-hiring retirees (recently revised as of January 2009) and the financial impact of the continued employment of many retirees. The policy on furloughs for non-retired faculty should not be instituted while retirees are still on call-back. Perhaps the re-employment policy should be revised to state that employment can be suspended immediately in the case of a financial emergency. Non-retired faculty would have the option to assume the responsibilities of the retiree in lieu of furlough.
- CAP is concerned about how merits and promotions of faculty will be handled in the event of a "financial emergency." If they will continue to be funded in a normal manner, there is no problem. If not, however, CAP must continue to perform its responsibilities in this regard and there must be written assurances that all merits and promotions made during the course of such an emergency declaration must be funded at its conclusion.

- There should be a provision to “hold harmless” faculty so service credit, retirement, insurance coverage and benefits will not be adversely affected if proposed furlough or salary reduction policies are enacted.
- Furloughs should not limit the days or hours that faculty can gain access to labs and offices.

Consultation with Campus Constituencies, including the Academic Senate

On page 2, Section A.1. the policy needs to define what circumstances will prevent the President or Chancellor from consulting with the Academic Senate and how this condition will be rectified in expedient fashion. It is important that this not be viewed as complete without Senate consultation.

On page 2, Section A.2. the policy should define the “appropriate non-represented staff and non-Senate academic employees”. Since these are not organized bodies, President should articulate how s/he will guarantee that all individuals in these groups will be provided with the ability to provide input through consultation.

Allowing Each Campus to Decide

Individual UC campuses must be given flexibility to deal with reductions in state funds caused by the President’s declaration of a financial emergency. No “one size fits all” solution exists for all UC campuses.

Definition of a Financial Emergency and its Endpoint

Any request from a campus Chancellor for a declaration of financial emergency (section III) should comply with the Higher Education Employer Employee Relations Act and should require consultation with the academic senate of that campus similar to section III A, and where applicable, consultation with the Medical Center Director.

On page 1.III. of the document a specific time line should be defined for review of whether the salary reductions or furloughs should continue or be reversed. A decision should be made at each of these junctures, documented in writing and disseminated to the campus community with an explanation if necessary. The reduction in salary should continue for no longer than is absolutely necessary. There should be no impact of either of these maneuvers on the calculation of base salary for the retirement system. Reversal of the furlough policy should have a defined time period for compliance (employees may plan based on anticipated furlough dates – there should be an opportunity to substitute vacation time for furlough dates if reversal occurs).

Further Study Advised

In order to optimally formulate policy, the UCOP should conduct simulations for varied scenarios, that assessed the cost savings versus losses for furlough and salary cut policies with various mixes of clinical revenue, extramural funding and State funding.. Faculty recommend that UCOP compile and analyze literature about the impacts of furloughs and salary cuts, particularly with regard to clinical care, teaching, research, public perceptions, campus/faculty morale, etc.. Furthermore, if one of these scenarios are implemented, faculty encourage UCOP to monitor the outcomes to foster proactive, well-informed changes to the policies as needed.

The negative effect furlough or pay cut policies may have on non-State revenues as well as on academic and clinical accreditation requirements should be evaluated carefully before enacting them. The potential impact of furloughs on research productivity, compliance with contracts and/or granting agency requirements, and the ability of the faculty to obtain future contracts and grants must also be considered.

Should you have questions or need more information, please contact me at dgardner@diabetes.ucsf.edu.

Sincerely,



David Gardner, MD
Chair, UCSF Academic Senate