

**NOVEMBER 2007
COMMITTEE ON COMPENSATION**

**ELIGIBILITY AND PAYMENTS UNDER THE SENIOR MANAGEMENT
SUPPLEMENTAL BENEFIT PROGRAM FOR TWO EMPLOYEES AT THE
BERKELEY CAMPUS**

The President recommended that the Committee on Compensation recommend to The Regents approval of an exception to the Senior Management Supplemental Benefit Program policy to allow retroactive eligibility for one employee and one retiree at the Berkeley campus. The University would like to honor the written commitment made to these individuals that they were eligible to be covered under the Severance Pay Plan (the predecessor to the Senior Management Supplemental Benefit Program). They received written confirmation of their eligibility in 1996, shortly after the policy changed making them ineligible for participation in the Severance Pay Plan by virtue of their holding dual academic appointments.

The attached chart shows the campus, employee names, titles, and summary of total dollar impact of this benefit for each.

[The compensation described above includes only the University's commitment for this program as outlined in this recommendation; this information will be released to the public immediately following execution.]

BACKGROUND

The change in policy governing the Senior Management Severance Pay Plan (SMSPP) (as it was known then) was effective July 1, 1996. This change prospectively eliminated participation in this plan for those SMG members with dual academic appointments. Up until then, SMG members with dual academic appointments were eligible to participate. Those SMG members with dual academic appointments who were participating in SMSPP as of June 30, 1996 continued to participate as long as they remained in SMG. In the case of Deans Midgley and Schell, their appointments were recommended by the campus and approved by the President prior to July 1, 1996; however, they did not begin their appointments until after July 1, 1996. The Office of the President Policy Unit was called upon to render a decision on this situation and concluded that such an employee would be eligible for SMSPP since the appointment was approved prior to July 1, 1996. However, this decision was not implemented by the campus, resulting in no contributions having been made on their behalf to the SMSPP and later to the Senior Management Supplemental Benefit Program (SMSBP).

The proposed approach of honoring the offer of eligibility contained in the benefits letter received by these individuals (given that their appointments were approved prior to July 1, 1996) is consistent with, and analogous to, the Guidelines adopted by The Regents for consideration of retroactive approval of benefits to SMG members in 2006; specifically RE 74, Guideline #A-2:

RE 74 GUIDELINE # A - 2

WRITTEN AGREEMENTS MADE AT TIME OF HIRING

All payments due employees in accordance with written "Offer Letters and/or Hiring Agreements" which contain elements which are not consistent with University, Senior Management and/or Academic Personnel policies (or where no policy addresses the matter) will be submitted to The Regents for action. Generally, the recommendation would be to honor the written agreement unless those items are specifically modified or eliminated by way of a written agreement between the University and the employee, or there were a violation of state

or federal law involved in which case immediate appropriate actions would be taken to remedy the situation.

Attachment.