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.