

## **DRAFT – Salary Administration: APM - 672 – Negotiated Salary Program**

### **672-0 Policy**

The Negotiated Salary Program (NSP) provides a policy framework within which an Implementation Plan will be developed by each campus that elects to adopt an NSP. The Implementation Plan must be consistent with this policy and reviewed by the appropriate division Academic Senate Committee, approved by the Chancellor, and reviewed by the Provost/Executive Vice President prior to implementation.

In developing the Implementation Plan, the participating campus, after discussion and comment by the appropriate Academic Senate committee(s), may include provisions that are more, but not less, restrictive than those outlined herein.

### **672-2 Purpose**

The purpose of the Negotiated Salary Program is to provide a mechanism for campuses to augment faculty compensation on a temporary basis according to the competitive requirements of academic disciplines. Undergraduate, graduate, and postdoctoral education and support remain an essential part of the UC mission. The NSP will not reduce faculty teaching loads, mentoring duties, or the University's commitment to the UC mission. Specific goals of the NSP include:

- a. To recruit and retain outstanding faculty by leveraging external, non-state-appropriated funds;
- b. To encourage and recognize significant contributions to the University mission; and
- c. To offer negotiated compensation to participating general campus faculty.

### **672-4 Definitions**

#### **a. Contingency Plan**

The Campus Implementation Plan shall require the establishment of a Contingency Plan. The purpose of the Contingency Plan is to provide the funds necessary for the agreed-upon compensation to each NSP participant in the event that the current year income is unexpectedly insufficient to do so. If the funds that support the Contingency Plan are insufficient, the Chancellor may seek support from another non-State account(s) within the department, school, or campus. If such support is not forthcoming, then the campus will reduce the participant's Negotiated Salary Component in accordance with any fund source restrictions across the school, department, or division, as determined by the Chancellor.

Although funds may be transferred from one account to another in accordance with University accounting and budgeting policies and procedures, accounts on each campus shall be maintained as financially independent for administrative purposes.

**b. Base Salary**

Base Salary is the on-scale or above-scale salary established by rank and step on an academic-year or fiscal-year salary scale and, if applicable, the existing off-scale increment. The Base Salary is covered under the University of California Retirement Program (UCRP) up to the amount permissible by Internal Revenue Code (IRC) provisions and in accordance with UCRP provisions and regulations.<sup>1</sup>

**c. External Funding**

External funds derived from sources that are not state appropriations or University of California General Funds, such as (but not limited to) endowment or gift income, professional degree fees, self-supporting degree fees, contracts and grant support, royalties, and licensing fees. The Campus Implementation Plan will detail which external funding sources can be used in support of this program. The external funds should represent additional fund sources for the University, to which the faculty member has access due to their research, teaching, or outreach activities. The funds may not be drawn from tuition paid by students in state-supported projects or discretionary funds associated with the department, school, college, or campus and that are fungible for other purposes, because these funds are not generated by the faculty member and should not be repurposed to support negotiated salary.

**d. Negotiated Salary Component**

The Negotiated Salary Component cannot exceed 30% of the Base Salary defined in APM - 672-4-b that was in effect on July 1 of the proposed participation year. Negotiations will be conducted annually to determine a faculty member's Total UC Salary Rate for the following NSP period; these discussions begin with the participating faculty member and the Department Chair and recommendations are forwarded to other reviewers as outlined in APM - 672-6.

The Negotiated Salary Component is not part of the Base Salary and is not covered compensation under UCRP. All compensation paid by the University under the NSP will be subject to Federal and State withholding and reported on a W-2 form as wages in accordance with IRS regulations and University policies and procedures.

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<sup>1</sup>Base salary is distinct from Total UC Salary Rate and Institutional Base Salary (see APM - 672-4-e, footnote 2).

e. **Total UC Salary Rate**

The Total UC Salary Rate includes the on-scale or above-scale Base Salary (for rank and step, plus any off-scale component) and a Negotiated Salary Component.

Review of the Total UC Salary Rate is determined according to campus policy and practice and may include review by the appropriate Academic Senate Committee (Committee on Academic Personnel or equivalent committee), in accordance with the campus Implementation Plan.<sup>2</sup>

**672-6 Responsibility**

a. **Role of the Provost/Executive Vice President**

The Provost/Executive Vice President shall review Implementation Plans for those campuses electing participation in the NSP, as well as proposed exceptions to campus Implementation Plans other than summer salary requirements.

b. **Role of the Chancellor**

The Chancellor shall have operational authority over the development and – subsequent to review and approval by the Provost/Executive Vice President – implementation and monitoring of the campus Implementation Plans, including establishing a campus maximum percent of Base Salary, as defined in APM - 672-4-b, for the Negotiated Salary Component and the Contingency Plan.

The Chancellor shall be responsible for establishing campus data collection and reporting to monitor the effectiveness and equity of the campus Implementation Plan.

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<sup>2</sup>Relevance for Federal Awards Subject to the Federal Uniform Guidance Terms and Conditions: The Total UC Salary Rate constitutes the “Institutional Base Salary (IBS),” used in determining the amount of faculty salary costs that can be charged to federal awards for work performed under those awards (see Uniform Guidance at 2 CFR §§ 200.0 & 200.430(h)(2)). Under the Uniform Guidance, Institutional Base Salary is defined as the annual compensation paid by the University for the individual's appointment regardless of whether that individual's time is spent on research, instruction, administration, or other activities. This definition is consistent with the calculation of the Total UC Salary Rate. Another factor supporting the treatment of the Total UC Salary Rate as equivalent to the Institutional Base Salary is the fact that Total UC Salary Rate is determined in advance, and once a Total UC Salary Rate has been implemented for the fiscal year, it must be maintained for that period regardless of the receipt or loss of federal awards or other fund sources.

The Chancellor shall be responsible for assuring that affected NSP participants and the appropriate division Academic Senate committee(s) shall be afforded the opportunity to review and comment on the proposed Implementing Procedures.

This authority may be redelegated.

**c. Role of the Academic Senate**

The Provost/Executive Vice President shall consult with the appropriate Academic Senate committee(s) concerning proposed revisions of this policy.

The appropriate division of the Academic Senate and other committee(s) shall be provided the opportunity to review and comment on any campus Implementation Plan and proposed exceptions to the campus Implementation Plan which the Chancellor intends to submit to the Provost/Executive Vice President for review.

**d. Role of the Campus Executive Vice Chancellor/Provost**

Executive Vice Chancellors/Provosts or their designees are responsible for making the final decision regarding faculty proposals to participate in the NSP.

This authority may be redelegated.

**e. Role of the Vice Provost/Vice Chancellor for Academic Personnel**

Vice Provosts/Vice Chancellors who oversee academic personnel are responsible for developing the campus-level Implementation Plan in consultation with other administrators, the campus-level Academic Senate, and the Office of the President (Academic Personnel and Programs).

**f. Role of the Dean**

Deans are responsible for establishing the deadline for submission of proposals within the School, College, or Division. Deans are also responsible for reviewing proposals forwarded by Department Chairs, endorsing individual proposals, and for ensuring that appropriate resources are available to support the Total UC Salary Rate. The Dean is responsible for assessing whether a faculty member is in Good Standing based on input from the Department Chair and the faculty member. Any faculty member who is determined not to be in Good Standing must be provided with written information regarding how to return to Good Standing.

**g. Role of the Department Chair**

Department Chairs are responsible for evaluating faculty proposals and for verifying that:

- faculty members are in Good Standing;
- appropriate and sufficient fund sources exist to support the proposal;

- Contingency Plan requirements are met.

Department Chairs are also responsible for reviewing and endorsing individual proposals and for forwarding endorsed proposals to the Dean. If the Chair does not recommend a faculty member's proposal, the Chair should meet with the faculty member to see if a mutually agreeable solution can be reached.

#### **h. Role of the Faculty Member**

Faculty members are responsible for remaining in Good Standing and for generating suitable non-state-appropriated funding to augment their salaries on a temporary basis above their Base Salary as defined in APM - 672-4-b. To participate, faculty members are required to submit a proposal to the Department Chair.

### **672-10 Standards/Criteria/Qualifications**

#### **a. Good Standing Criteria**

Written Good Standing Criteria shall be established at the campus level and shall be included in the Campus Implementation Plan. Good Standing Criteria must include: 1) a definition of Good Standing; 2) a description of the administrative review process that occurs when a faculty member is determined to be out of Good Standing; 3) consequences for not being in Good Standing; and 4) the process by which a faculty member may return to Good Standing.

Good Standing criteria will include but are not limited to:

1. the faculty member is meeting expectations with regard to carrying out faculty duties as commonly understood;
2. the faculty member has advanced in rank or step in their last academic personnel review (or has undergone an equivalent satisfactory review);
3. the faculty member is up to date on their mandatory training requirements;
4. the faculty member is in compliance with all applicable University policies;
5. the faculty member is not the subject of/respondent in a current or ongoing investigation of possible violation of [APM - 015](#);
6. there has been no substantiated finding of misconduct as defined by Section 015 of the Academic Personnel Manual ([APM - 015](#)) or proposed/imposed discipline in the period since the faculty member was last determined to be in Good Standing;
7. the faculty member is not currently under a disciplinary sanction imposed by a formal disciplinary process or an informal agreement with the University of California in lieu of formal disciplinary action. A disciplinary action, as permitted by [APM - 016](#), is cause for

cancelling current and/or denying future participation in the NSP. As a measure agreed to via an Early Resolution in lieu of formal discipline (as defined in and encouraged by [Senate Bylaw 336](#)), a faculty member can agree that they are ineligible to participate in the NSP for a defined period of time.

**b. Implementation Plan**

An Implementation Plan must be developed and approved for each campus that elects to adopt the NSP. The Implementation Plan must be in accordance with all UC policies and regulations, including any new provision of this policy governing NSPs. An Implementation Plan may include differences between individual schools.

The UC Office of the President should communicate to the campuses in a timely manner any changes in UC policies and regulations that might require the campuses to modify their NSP Implementation Plan.

Implementation Plans will be evaluated by the Office of the President to ensure their compliance with applicable UC policy and regulations, granting agency restrictions, and applicable federal and state law.

An Implementation Plan will provide details regarding the following:

1. Permitted funding sources.
2. Limit on the maximum percent of Base Salary, as defined in APM - 672-4-b, for the Negotiated Salary Component.
3. Good Standing criteria and process of appeal/reconsideration of a determination that a faculty member is not in Good Standing.
4. Process for consulting with the faculty regarding the development of Good Standing criteria.
5. Criteria by which proposals will be assessed.
6. Process and timing for soliciting, receiving, and reviewing faculty proposals, including requests not to take the maximum summer salary and for implementing the Negotiated Salary Component if the July 1 salary depends on the outcome of an academic personnel action that is not known as of July 1. Proposals must include evidence or promise of contributions to diversity, equity, inclusion, and equal opportunity, if such evidence is available.
7. Method for predicting and maintaining the stability of the program, as well as strategies for broadening program participation. These methods should include strategies for senior program participants to mentor junior faculty to explore funding opportunities, so that they are positioned to participate in the program in the future if they wish to do so.

8. Management of the Contingency Plan that supports the NSP and how shortfalls in funding will be handled in a manner that does not impact State funds.
9. Approval hierarchy.
10. Notification and documentation process.
11. Restrictions articulating what constitutes misuse of funds.
12. Consequences for noncompliance with the Implementation Plan.
13. What data will be collected beyond that required in Appendix A, and who will be responsible for its collection.
14. Metrics and process for assessing the impact of the NSP on the campus in the areas of faculty recruitment and retention, as well as research, teaching, and service.

**c. Determination of the Total UC Salary Rate**

The Total UC Salary Rate for each faculty member, as defined in APM - 672-4-e, will be recommended by the appropriate Dean after consultation with the Department Chair and before or after consultation with the appropriate Academic Senate Committee (on campuses where the campus Academic Senate has input into salary recommendations).

The funding must be derived from a stable source, paid in accordance with any related fund source restrictions, and sufficient to include the related benefits costs. The funding source(s) must either be secured according to the Implementation Plan or committed by June 30 of the year prior to implementation of the Total UC Salary Rate.

**d. Maintenance of the Total UC Salary Rate**

The Total UC Salary Rate is effective for a one-year period corresponding with the University fiscal cycle of July 1 – June 30. Once a Total UC Salary Rate has been implemented it must be maintained for that period. An academic appointee may receive an increase in their Base Salary, as defined in APM - 672-4-b, as a result of a general scale increase, a merit increase, a promotion increase, or an off-scale increase; however, no changes to the Total UC Salary Rate may be approved. A Negotiated Salary Component cannot be put in place retroactively. Even when State funds are released and effort is supported by external funds, in no case will a faculty member's Base Salary be permanently reduced as a result of participation in this Program. Early withdrawal from the Program is allowed only upon separation or retirement from the University; as a result of a determination that a participant has fallen out of Good Standing; as a result of an official disciplinary action as described in [APM - 015](#), [APM - 016](#), and [Senate Bylaw 230](#); due to an increase in Base Salary that subsumes the Negotiated Salary Component; or upon appointment to an ineligible administrative appointment.

e. **Regular Duties**

Participation in this program may not disrupt the required balance in duties or otherwise negatively impact a faculty member's regular research, teaching, or service obligations.

**672-14 Eligibility**

UC Senate faculty members in units that have been approved for participation in the NSP shall be eligible to participate in the NSP if they are not members of another compensation plan (e.g., Health Sciences Compensation Plan) and they hold a University appointment at or greater than 50 percent time that is constituted by one or more of the following title series:

- Professor
- Professor In Residence
- Professor of Clinical \_\_ (e.g., Optometry)
- Lecturer with Security of Employment
- Acting appointees in one of the above eligible faculty titles

Faculty who hold appointments in a Health Sciences school, college, or department with a Health Sciences Compensation Plan are not eligible to participate in the NSP.

Academic Senate members who hold a concurrent job title may participate in NSP in both titles even if the concurrent job title is not a Senate title (e.g., Professor/Agronomist).

Participation in NSP is not granted as a matter of individual right. Faculty participants in the NSP must be in Good Standing, make significant contributions to the mission of the University, meet all other conditions of the campus plan, and be approved for participation.

To be eligible for NSP, candidates who hold academic-year Senate appointments must take the maximum amount of summer salary (summer ninths) available to them. Summer salary from all sources may not exceed 3 ninths for academic-year appointees (see [APM - 600](#)). Campus Implementation Plans may include provisions that allow a participant to take fewer than 3 ninths if the participant teaches in Summer Session (which counts toward a participant's total summer salary) or if they opt to take personal time during their off-duty period in the summer. Each ninth taken by a participant must be taken at the rate of the Total UC Salary Rate, subject to fund-source limits. Campus Implementation Plans shall address the process by which a participant may request an exception to the summer ninths requirement for a purpose other than teaching in Summer Session or taking personal time off during the off-duty period in the summer.



Individuals in the Senior Management Group (SMG), those who are full-time Deans (as defined by [APM - 240](#)), or those who are full-time faculty administrators (as defined by [APM - 246](#)) are not eligible to participate in the NSP.

Faculty who hold part-time faculty administrative appointments may participate in the NSP on a pro-rated basis that corresponds with the percentage of appointment in an eligible faculty title as long as participation would not disrupt the individual's fulfilling of their duties.

### **672-16 Limitations**

External consulting and other externally compensated activities are permitted in accordance with [APM - 025](#), Conflict of Commitment and Outside Activities of Faculty Members.

The Chancellor must establish a campus or school maximum percent of Base Salary, as defined in [APM - 672-4-b](#), for the Negotiated Salary Component and any requirements to establish the Contingency Plan. The Negotiated Salary Component may not exceed 30% of a faculty member's Base Salary as defined in [APM - 672-4-b](#).

If a faculty member transfers from one UC campus to another, the faculty member must renegotiate their salary according to the Implementation Plan at the new campus.

To minimize risk to the University, the fund source(s) that will be used to pay the Negotiated Salary Component must (a) be secured according to the Implementation Plan at the time of the negotiation and (b) must be in a form that would permit the Negotiated Salary Component to be paid evenly over the year. Funds must either be expendable across the year or have provisions that would permit smoothing.

### **672-20 Paid Leave**

NSP participants are eligible for leaves as defined in [APM Section V – Benefits and Privileges](#).

NSP participants who are eligible for sabbatical leave or other paid leave will be granted such leave paid at the Total UC Salary Rate defined in [APM - 672-4-b](#). In the event of a funding shortfall, the campus will resolve the funding shortfall through implementation of the Contingency Plan.

A NSP participant who leaves University service or transfers from a vacation-accruing title to a non-accruing title shall be paid for accrued vacation at the NSP participant's Total UC Salary Rate at the time of separation.

### **672-24 Authority**

The Chancellor has authority to determine whether the campus will participate in the Negotiated Salary Program after consultation with the campus Academic Senate and Executive Vice Chancellor/Provost. The Chancellor's authority may be redelegated.

The Chancellor has authority to approve exception requests not to take the maximum summer salary. The Chancellor's authority may be redelegated.

The Chancellor shall submit the NSP Implementation Plan to the Provost/Executive Vice President for approval. Such authority may not be redelegated.

The Chancellor shall submit revisions to the NSP Implementation Plan to the Provost/Executive Vice President for approval. Such authority may not be redelegated.

**672-80 Annual Notification**

Once per fiscal year, each NSP participant shall be provided a written notification of their Total UC Salary Rate. This notification shall include:

- a. The amount of Base Salary; and
- b. The amount of the Negotiated Salary Component.