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To: Regent Laws & Policies Stakeholders

From: Julie Steeler, Senior Assistant University Counsel
Felicity O'Herron, Associate Vice President and Chief Human Resources Officer

Date: October 14, 2021 (Updated November 30, 2021 and December 20, 2021 for Policy 11.B)

Re: Updates to Regent Policies in Response to the Equal Pay for Equal Work Act

Background

To comply with the Equal Pay for Equal Work Act, which was implemented January 1, 2021, the University needs to update Regent Policy to reflect the language used in the new law. The specific changes to each policy are described below. Many of the changes are non-substantive and aligns with the language of the statute. However, there are a few places where there are substantive changes.

Explanation of Changes

A. Regent Policy 3.C: Searches for Administrators and Guidelines for the Appointment of Chief Officers of the University

- 1) Adds references to “applicable law” to ensure all laws are considered when complying with the terms of the policy.
- 2) Clarifies non-substantive language.
- 3) Requires a member of the campus or human resources office to be included in the search process, be a part of setting the salary range, and provide input on whether a professional search firm is necessary for a search.
- 4) Requires the search committee to prepare a written job description for the position.

These changes were reviewed by Legal, the CHROs, and Academic Affairs.

B. Regent Policy 3.E: Appointments of Officers of the University and Officers of the Administration

In compliance with the Equal Pay for Equal Work Act, the changes remove “wage rate history” from conditions that must be stated in writing prior to the appointment and replaces it with “job description and benefits.”

These changes were reviewed by Legal, the CHROs, and Academic Affairs.

C. Regent Policy 3.F: Evaluations for Officers of the University and Officers of the Administration

- 1) Provides some flexibility for merit and pay adjustments outside of performance evaluations.
- 2) Clarifies language.

These changes were reviewed by Legal and the CHROs.

D. Regent Policy 6.B: Staff recruitment

- 1) Adds references to “applicable law” to ensure all laws are considered when complying with the terms of the policy.

These changes were reviewed by Legal and the CHROs.

E. Regent Policy 6.C: Appointments of Staff

- 1) Provides flexibility for the administration to decide whether to create a policy specifying the letters of offer for each personnel group.
- 2) Clarifies the definition of at-will employee. This includes removing the language “An employee at-will shall be appointed for an indefinite period of time” from the definition of at will employment and adding “with or without cause and with or without notice” to when at will employee can be terminated. The University has a number of at-will temporary employees who only work for the university for a certain period of time (unless they decide to leave before that date or the university decides to terminate their employment before that date) and these changes reflect this reality.

These changes were reviewed by Legal and the CHROs.

F. Regent Policy 10.E: Compensation Principles

This is a complete re-write of the policy that used to be called Salary Review to Determine Inequities. Instead of providing a specific outline of how a salary review should be completed, this policy provides the overarching principles for salary equity.

These changes were reviewed by Legal, the CHROs, and Academic Affairs.

G. Regent Policy 11.B: Faculty Salary

- 1) Changes for Equal Pay Act
 - a. Last paragraph of section 11.B.2(A), removed reference to “extraordinary” merit. We don’t have anything defining extraordinary so this could lead to inequities.
 - b. In section 11.B.2(B)(2), which identifies scenarios when salaries may be decreased, added a statement to clarify that “base salaries should not be decreased to rectify salary inequities.”
 - c. In last paragraph of section 11.B.2(C)(2), rephrased wording for clarity, including removal of the phrase “extraordinary performance.” Rephrased wording to align with performance evaluation rating categories (“outstanding” or “exceeds expectations”)
 - d. In section 11.B.2(C)(3), added a statement that “the university is committed to identifying and remedying unlawful pay inequities.”

- e. Streamlined and rephased section 11.B.2(C)(3)(b) to avoid ambiguity to comply with the equal pay act.
- f. In section 11.B.2(C)(3)(c), changed reference to “basic unfairness” to “inequities” for clarity.
- g. Updated “career merit” and “merit” definitions in the glossary to ensure consistency with “merit” description in section 11.B.1(B)(1)(a), which says “merit shall be the prevailing factor in all recommended salary increases.”
- h. Updated “equity” definition to “salary equity”; updated definition with broader language regarding university’s commitment to salary equity for all faculty (“all members of the faculty” replaces “women and minorities”); clarified that periodic “equity” reviews of salary occur “in the primary unit.”
- i. Updated and streamlined “market increments” definition to ensure clarity that salary increments are given to “the primary unit” to match changes impacting a discipline/specialty or at comparable institutions.

2) Language clarity

- a. Updated “research” references to “scholarly/creative works” to align with previous changes to Regent Policy 5.
- b. In section 11.B.1(B)(1)(c), removed the word “comparative” and added reference that points to section 11.B.2 “Salary Policy” within the policy.
- c. Section 11.B.1(B)(1)(d) was moved into 11.B.1(B)(1)(b) for flow and clarity since the two are related in that they are both about merit rather than structural adjustments (structural adjustments are the subject of 11.B.1(B)(1)(c)).
- d. Updated “career merit” references throughout to instead say “career merit inequities” for clarity.
- e. Ensured alignment of lists throughout the policy (e.g., “market, career merit inequities, salary equity, and promotion...” list in section 11.B.1(B)(1)(c) is aligned with other similar mentions in the policy).
- f. Sentences that included references to “structural adjustments” were rephrased as needed for clarity.
- g. In section 11.B.2(C)(3)(b), removed “competitive” in description of “market increments”.

3) In section 11.B.2(C)(2), updated out-of-date reference to another Regent Law and Policy.

4) In section 11.B.2(D), updated timing of annual increases. Each campus does it slightly differently, so specific dates were removed.

5) In section 11.B.2(F), added reference to corresponding APS for retirement incentive agreements for clarity. Did not refer to APS by number (it’s APS 5016) to maintain precedence with other parts of regent policy.

6) Removed unnecessary examples throughout the policy.

H. Regent Policy 11.C: University Staff Salary

- 1) Cleans up language so that it aligns with language in the new statute.
- 2) Requires hiring authority to consult with the campus Human Resources offices when determining initial salary.
- 3) Adds additional factors to the list of items that can be considered when setting initial salaries.
- 4) Adds references to “applicable law” to ensure all laws are considered when complying with the terms of the policy.
- 5) Removes references to salary history as required by the new statute.
- 6) Gives the president and chancellor’s the authority to delegate decisions about hiring incentives.
- 7) Removes the date for annual salary adjustments so that the campuses can have some flexibility to make the salary adjustments at different times throughout the year depending on each campus’s budgetary needs.
- 8) Provides a more precise definition of the term “compensation.”
- 9) Clarifies language.

These changes were reviewed by Legal and the CHROs.