AGENDA

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Meeting: **2:05 p.m., Wednesday, January 31, 2024**
Glenn S. Dumke Auditorium

Larry L. Adamson, Chair
Jean Picker Firstenberg, Vice Chair
Diana Aguilar-Cruz
Douglas Faigin
Lillian Kimbell
Jack McGrory
Yammilette Rodriguez
Lateefah Simon
Christopher Steinhauser

Consent

1. Approval of Minutes of the Meeting of November 8, 2023, *Action*

Discussion

2. Executive Compensation: Vice Chancellor for External Relations and Communications – California State University, *Action*
3. Discussion Regarding Employment Policy Governing Administrator Employees' Option to Retreat, *Information*
4. Discussion Regarding Employment Policy Governing Employee References, *Information*
5. Update on Civil Rights (Title IX and other Nondiscrimination) Programs and Services, *Information*
6. Employee Relations: Discussion Regarding Response to Other Conduct of Concern, *Information*

MINUTES OF THE MEETING OF COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Trustees of the California State University
Office of the Chancellor
Glenn S. Dumke Auditorium
401 Golden Shore
Long Beach, California

November 8, 2023

Members Present

Larry L. Adamson, Chair
Jean Picker Firstenberg, Vice Chair
Diana Aguilar-Cruz
Douglas Faigin
Lillian Kimbell
Jack McGrory
Yammilette Rodriguez
Lateefah Simon
Christopher Steinhauser

Wenda Fong, Chair of the Board
Mildred García, Chancellor

Public Comment

All public comments took place at the beginning of the meeting's open session, prior to all committees.

Trustee Larry L. Adamson called the meeting to order.

Approval of the Consent Agenda

A motion to approve the consent agenda without discussion passed. The minutes from the meeting of September 13, 2023 were approved as submitted.

Agenda Item 2, Annual Report on Outside Employment for Senior Management Employees, was approved as submitted (RUFP 11-23-17).

Agenda Item 3, Annual Report on Vice President Compensation and Executive Relocation was submitted for information.

Exemption from Post-Retirement Employment Waiting Period

Chancellor Mildred García recommended that Dr. Jolene Koester be exempt from the 180-day waiting period before returning to work as a retired annuitant. Chancellor García explained that the knowledge and experience that Dr. Koester gained while serving as president of CSU Northridge and as interim chancellor makes her uniquely positioned to provide essential and time-sensitive support to the university during this time of transition. A motion to approve the resolution passed (RUFP 11-23-18).

Annual Report on Executive Transition Assignments

Vice Chancellor for Human Resources Leora D. Freedman briefly explained the executive transition programs available to CSU executives and provided an update on transition assignments. During the 2022-2023 fiscal year, four former executives in the previous Executive Transition II program concluded their transition programs (Timothy White, Joseph Castro, Mary Papazian, and Judy Sakaki). The new Executive Consulting program and updated Transition II program (available to executives appointed prior to 2022) requires that transition assignments be reported on the board's discussion agenda at the time they occur and annually. Vice Chancellor Freedman reported that no former executives are in the Executive Consulting program and two former presidents (Thomas Cropper and Framroze Virjee) entered the Transition II program; she highlighted their duties and accomplishments to date.

Discussion Regarding Employment Policy Governing Administrator Employees' Option to Retreat

Vice Chancellor for Human Resources Leora D. Freedman discussed recommended revisions to the Employment Policy Governing Administrator Employees' Option to Retreat based on feedback received from the California State Auditor (CSA) and the Joint Committee on Legislative Audit (JLAC). Vice Chancellor Freedman provided background information and shared developments that have taken place since the adoption of the policy. Recommended revisions will make clear the conditions under which an administrator will not be eligible to retreat, and language will be proposed that all administrators, including campus presidents and other executives, are subject to the retreat policy. Attachment A of Item 6 highlights the key provisions identified by the CSA and JLAC. Staff will seek stakeholder input and the revised policy will be presented for discussion at the January 2024 board meeting.

Discussion Regarding Employment Policy Governing Employee References

Vice Chancellor for Human Resources Leora D. Freedman discussed recommended revisions to the Employment Policy Governing Employee References based on feedback received from the California State Auditor (CSA) and the Joint Committee on Legislative Audit (JLAC). Vice Chancellor Freedman provided background information and shared developments that have taken place since the adoption of the policy. Proposed revisions to the policy will clarify the requirements

of any letter of reference concerning employees found to have engaged in sexual harassment who were not separated from employment as a result of the finding. Attachment A of Item 7 highlights the key provisions identified by the CSA and JLC. Staff will seek stakeholder input and the revised policy will be presented for discussion at the January 2024 board meeting. At the conclusion of the report, Vice Chancellor Freedman responded to questions.

Update on Civil Rights (Title IX and other Nondiscrimination) Programs and Services

Vice Chancellor for Human Resources Leora D. Freedman presented a report on the university's Civil Rights (Title IX and other Nondiscrimination) programs and services. As previously shared, in July 2023, the CSU received reports from Cozen O'Connor's Institutional Response Group and the California State Auditor that address the CSU's implementation of its policies and procedures governing Title IX and other nondiscrimination laws and regulations. The reports are available on the CSU's Title IX web site at: https://www.calstate.edu/titleix/Pages/cozen-title-ix-assessment.aspx.

In response to a request at the September board meeting, Vice Chancellor Freedman briefly discussed the legal framework governing universities' responses to Title IX and other protected status-related reports and concerns. She noted that the Cozen O'Connor Systemwide Report contains a helpful overview of the intersecting federal and state laws governing universities' responses to Title IX-related conduct. The report is available on CSU's website at: https://www.calstate.edu/titleix/Pages/cozen-title-ix-assessment.aspx?utm_campaign=homepage

The remainder of Vice Chancellor Freedman's report focused on the status of the work being undertaken at the Chancellor's Office and on campuses to strengthen civil rights programs and services across the CSU. She noted that there are over 150 individual recommendations in the Cozen O'Connor and State Auditor reports that fall into five implementation categories:

1. Building Chancellor's Office Infrastructure
2. Establishing Systemwide Standards
3. Supporting University-Level Implementation Teams
4. Increased Oversight of University Title IX/DHR Programs
5. Leading Other Key Initiatives

A slide presentation was used to update the trustees on the implementation timeline and the key actions taken to date, next steps, and challenges in each category. This same presentation and "progress indicators" will be updated and shared at future board meetings. At the conclusion of the report, Vice Chancellor Freedman responded to questions.

Trustee Adamson adjourned the meeting of the Committee on University and Faculty Personnel.

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Executive Compensation: Vice Chancellor for External Relations and Communications – California State University

Presentation By

Mildred García
Chancellor

Summary

This action item establishes the compensation for Gregory J. Saks as vice chancellor for external relations and communications of the California State University.

Executive Compensation

This item recommends that Gregory J. Saks receive an annual salary of $344,321 effective February 12, 2024, the date of his appointment as vice chancellor for external relations and communications of the California State University.

In accordance with existing policy of the California State University, Mr. Saks will receive the following benefits:

- An auto allowance of $1,000 per month;
- Standard benefit provisions afforded CSU Executive classification employees; and
- Reimbursement for reasonable actual and necessary travel and relocation expenses.

Recommended Action

The following resolution is recommended for adoption:

> **RESOLVED**, by the Board of Trustees of the California State University, that Gregory J. Saks shall receive a salary set at the annual rate of $344,321 effective February 12, 2024, the date of his appointment as vice chancellor for external relations and communications of the California State University; and be it further
>
> **RESOLVED**, that Gregory J. Saks shall receive additional benefits as cited in Agenda Item 2 of the Committee on University and Faculty Personnel at the January 29-31, 2024 meeting of the Board of Trustees.

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Discussion Regarding Employment Policy Governing Administrator Employees' Option to Retreat

Presentation By

Leora D. Freedman
Vice Chancellor
Human Resources

Summary

At the September 2023 meeting of the CSU Board of Trustees, during the Update on Civil Rights (Title IX and Nondiscrimination) Programs and Services, it was announced that Chancellor's Office staff plans to present recommended policy revisions to the Employment Policy Governing Administrator Employees' Option to Retreat (the "Retreat Policy") based on feedback from the California State Auditor (CSA) and the Joint Committee on Legislative Audit (JLAC).

Thereafter, at the November 2023 meeting, an information item was presented describing the issues raised in the feedback and the steps that will be taken to seek stakeholder input and propose revisions to the policy for the board's consideration.

This information item will present and describe the proposed revisions to the Employment Policy Governing Administrator Employees' Option to Retreat.

The revised Retreat Policy is provided in Attachment A to this agenda item. Attachment B displays the proposed revisions in markup view.

This item will be presented for action at the March 2024 meeting of the Board of Trustees.

"Revised"
Employment Policy Governing Administrator Employees' Option to Retreat

This policy describes the protocol governing the option for Administrators to Retreat to a faculty position at the California State University (CSU) at the end of an administrative appointment. The policy also describes the circumstances under which Administrators are ineligible to Retreat.

Applicability

This policy applies to all Administrator appointments made at any CSU campus or at the Chancellor's Office on or after July 13, 2022 that include the option to Retreat to a faculty position. This policy does not impact retreats offered in appointment letters prior to July 13, 2022, except on a case-by-case basis in the event of serious misconduct or policy violation.

Definitions

Administrator – Any CSU employee designated as an Administrator (management or supervisory) under the Higher Education Employer-Employee Relations Act and Title 5. Administrators may be in either the M80 (MPP) or M98 (Executive) job classifications.

Executive – An Executive employee is an employee in a M98 job classification, including the Chancellor, Vice Chancellors, and Campus Presidents.

Finding – A Finding is a decision or conclusion made during a Proceeding that an Administrator engaged in a violation of CSU policy or other unprofessional misconduct.

Determination – A Determination is a decision or conclusion made at the time an Administrator requests Retreat that the Administrator is unsuitable to have continued direct interactions with CSU students or employees. A Determination is based on a Finding or in reliance on a written acknowledgment by the Administrator that they engaged in misconduct.

Management Personnel Plan (MPP) Employees – An MPP employee is any CSU employee designated as a manager or supervisor under the Higher Education Employer-Employee Relations Act and Title 5. MPP Employees are in the M80 job classification. Rules and provisions governing MPP employees can be accessed here: MPP.

Misconduct – includes, but is not limited to: (a) a violation of CSU's Nondiscrimination Policy or other CSU policy; (b) improper governmental activity, which is defined by California law as an action that violates state or federal law or regulation; that is economically wasteful, or that involves gross misconduct, incompetence, or inefficiency; (c) an act or threat of violence; or (d) unprofessional conduct.

Proceeding – includes but is not limited to: (a) a university investigation; (b) an internal or

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external audit; (c) an administrative proceeding by a state body having jurisdiction, such as the Department of Labor; (d) a civil or criminal proceeding; or (e) a proceeding that leads to a determination of improper governmental activity (defined by the State of California as any action that violates state or federal law or regulation that is economically wasteful or that involves gross misconduct, incompetence, or inefficiency). A Proceeding is deemed concluded after any appeal rights have been exhausted or waived.

Retreat – the option to Retreat means an Administrator's ability to be reassigned to a faculty position with or without tenure at a designated tenure-track rank and within a designated department at the end of an administrative assignment.

Considerations and Procedures for the Conferral of the Option to Retreat

General Considerations

Whenever practicable, and except in the case of closed executive searches (as addressed below), options to Retreat are granted at the time of appointment to an Administrator position and are memorialized in the appointment letter. Therefore, during the recruitment process, and before any offer of employment is made to a candidate for an MPP position, the campus shall:

1. Review the candidate's education, background, teaching skill, scholarship, research and creative contributions and professionalism to ensure that the candidate's qualifications are comparable to other CSU tenure-track faculty.
2. Ensure that the hiring authority or search committee chair consults confidentially with the tenured department faculty or department committee in accordance with campus policy to ensure the appropriateness of an Administrator's Retreat to a particular academic department or unit. The details of an option to Retreat are memorialized in an Administrator's appointment letter, therefore, any concerns or questions about the candidate's qualifications must be raised before an offer is extended to the Administrator.

Template letters for MPP and Executive appointments entitled "CSU Administrator Appointment Letter with Addendum for Retreat (MPP)" and "CSU Administrator Appointment Letter with Addendum for Retreat (Executive)" are attached to this policy. In closed executive searches, any option to retreat made at the time of appointment is conditioned on and subject to the terms that will be negotiated after that appointment is publicly announced. The Executive template letter should be used in connection with the appointment of university presidents or other closed executive searches. In such cases, the provost consults with the relevant department as described in the attached "Campus Guidance in Conferring the Option to Retreat to Campus Presidents."

Establishment of a Procedure for Conferring the Option to Retreat

Campuses must adopt procedures for conferring the option to Retreat to a faculty position for Administrator candidates. The procedure shall include: (a) early notification from the search

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committee to the appropriate department that a finalist is requesting an option to Retreat so as to ensure a timely conferral/appointment should the finalist be selected for hire; (b) the process for the recommendation of conferral of retreat by either the tenured faculty or a committee of tenured faculty to which the Administrator wishes to Retreat (augmented by tenured faculty from other departments when sufficient tenured faculty are not available in the department) and/or other representatives of the campus, as provided by campus policy; and (c) final approval by the campus president or designee.

In granting the option to Retreat with tenure, serious consideration should be given to the candidate's education, background, teaching skills, scholarship, research and creative contributions and professionalism, to ensure that the candidate's qualifications are comparable to other CSU tenure-track faculty. As a general rule, administrator candidates who have earned and held a tenured position as a professor at any CSU or other comparable institution would (subject to campus process) be provided the option to retreat to a position at their current faculty rank. Administrator candidates who have never earned or held a tenure-track position may be offered the option to Retreat to either a tenured or probationary faculty position on a case-by-case basis provided that during the campus tenure review process, they demonstrate a substantial record of achievement meriting such rank.

Memorialization of the Terms of Retreat

If the campus determines an Administrator candidate should be conferred an option to Retreat, the following terms must be memorialized in the appointment letter.

a. Acknowledgement of the faculty appointment, whether it is with or without tenure, and the rank to which the candidate will be appointed upon retreat.
b. Name of the department and college to which the candidate will be appointed upon Retreat.
c. Faculty rank upon Retreat.
d. Salary placement details to be applied upon Retreat. If an Administrator exercises their option to Retreat three years or more after the effective date of their appointment, their salary may be set up to the highest paid professor in their rank in their department or the maximum pay rate for their rank in their department, at the president's discretion. If an Administrator exercises their option to Retreat prior to serving three years in the administrative role, their salary at the time of Retreat must be in line with similarly ranked professors in the department/school to which they are retreating.
e. The amount of notice the Administrator must provide to the university of their intent to elect to Retreat.
f. Any additional terms agreed upon between the campus and the candidate relating to their Retreat and/or faculty appointment.
g. Notice of the potential ineligibility for the option to Retreat in the event of a Finding as described in this policy or any successor policy.

Terms of administrative leave should also be included in the appointment letter.

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Determination of Ineligibility to Exercise the Option to Retreat

An Administrator will be found ineligible to exercise the option to Retreat when a Determination has been made that the Administrator is unsuitable to have continued direct interactions with CSU students or employees. The Determination is made at the time the Administrator requests Retreat. The campus president or designee, in consultation with the university's Title IX Coordinator, Faculty Affairs, Human Resources or other administrators with relevant subject matter expertise, and if appropriate systemwide Human Resources, make this determination. Absent extenuating circumstances, it is presumed that a Finding that an Administrator engaged in sexual harassment in violation of CSU policy will render the Administrator unsuitable to have continued direct interaction with CSU students or employees.

Allegations or reports of misconduct for which no Findings have been made may not serve as a basis for denying an option to Retreat. However, in the event a complaint or investigation that could result in a Finding is pending at the time that the Administrator announces their intention to exercise their option to Retreat, the Retreat determination shall be held in abeyance until the completion of any pending investigation or Proceeding, including any appeals. At the written request of the Administrator, the president, in consultation with the chancellor, (or in the case of the chancellor seeking to retreat, the board chair), may allow the Administrator to be placed on paid administrative leave pursuant to Section 42729 of Title 5 during the pendency of the investigation.

In the event there is no Finding or pending investigation at the time the request to Retreat is made, any decision to allow Retreat shall be conditional for 60 days. If, during the 60-day period, a Proceeding is initiated or the campus initiates an investigation that could result in a Finding, the Retreat determination shall be held in abeyance as set forth above until the completion of the pending investigation or Proceeding, including any appeals. CSU will endeavor to complete the investigation or Proceeding in a timely fashion. CSU may also, at any time (including after Retreat), investigate and take appropriate action in connection with alleged misconduct committed by an employee while serving as an Administrator.

Notice of ineligibility to Retreat will be provided to an Administrator by the campus president, chancellor, or their designee, and to a chancellor by the board chair. For Administrators employed at the Chancellor's Office, the chancellor or designee is responsible for determining ineligibility to Retreat. In the case of a chancellor or vice chancellor, the board of trustees holds this responsibility.

When an Administrator is ineligible to Retreat, the university may not provide a positive reference or letter of recommendation. Human Resources may provide employment verification for the Administrator, however, consisting only of the job titles held, dates of employment, and job duties, as outlined in CSU's employee reference policy.

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Notice of Election to Exercise the Option to Retreat

An Administrator who has been offered the option to Retreat must notify the university of their intent to elect to Retreat within the time period set forth in the Administrator's appointment letter. At the time the Administrator notifies the campus of their election to Retreat, and the campus determines the Administrator's eligibility to Retreat, the campus and Administrator should discuss the transition plan including the timing for Retreat and work assignment. Absent circumstances that would prevent the Administrator from doing so, they should normally Retreat and initiate their faculty appointment no later than six (6) months from the date on which the University was notified of the Administrator's intent to Retreat.

Procedure for Reconsideration of Denial of the Option to Retreat

Any campus decision to deny an Administrator's option to Retreat will be subject to reconsideration in accordance with Section 42728 of Title 5, California Code of Regulations, as may be set forth in campus policy.

Payment in Lieu of Notice Where MPP Employee Elects to Retreat

Pursuant to Section 42723(e) of Title 5, campuses are required to provide an MPP Employee notice of non-retention at least three months prior to the separation date or provide corresponding salary in lieu of notice.

Further, campuses are required to pay MPP Employees all earned and unpaid wages and accrued vacation on the last day of employment (separation date). In the event a campus chooses to exercise its right to non-retain an Administrator who has the option to retreat, the campus should provide at least 30 days' notice whenever possible, so that the Administrator has sufficient time to convey intent to retreat. (The remainder of the non-retention period would be paid in salary in lieu of notice.)

Adopted DATE
Resolution RUFP 11-22-18, RUFP xx-xx-xx
CSU Board of Trustees

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Campus Guidance:
Granting the Option to Retreat to Presidents

The option to retreat to a faculty position is granted to Administrators in either the M80 (MPP) or M98 (Executive) job classifications at the conclusion of their administrative appointment in alignment with CSU's Employment Policy Governing Administrator Employee's Option to Retreat. Due to the fact that presidents and other executives are recruited through a closed search process, the process for granting the option to exercise Retreat to Presidents differs from those of other administrators as follows:

1. **Timing:** While Systemwide policy requires that the option to retreat be granted and memorialized in an Administrator's appointment letters, maintaining the confidentiality of presidential searches means the option to retreat can only be granted after appointment.
2. **Appointment Letters:** Appointment letters for campus presidents should include conditional language indicating that the appropriate department faculty will be consulted within the first 90 days of the president's employment. Recommended template language is provided in Appendix A.
3. **Documentation:** Final approval to confer the option to retreat to campus presidents is documented in a memorandum from the campus designee (typically the Provost) to the president's personnel file. A copy of the memorandum is to be provided to the Chancellor's Office. Template language is provided in Appendix B.

It is the responsibility of each CSU campus to develop processes around the conferral of the option to retreat to new presidents. Processes should establish:

1. A campus designee (typically the provost) responsible for ensuring compliance with campus process and systemwide policy.
2. Criteria for assessment for tenure including what materials will be provided by the candidate and reviewed by the department. Example criteria is provided in Appendix C.

If a department determines that it will not recommend offering a retreat option to a president, the campus designee should directly notify the Chancellor, who will work collaboratively systemwide to find an appropriate solution.

Additional template language is provided in Appendix D.

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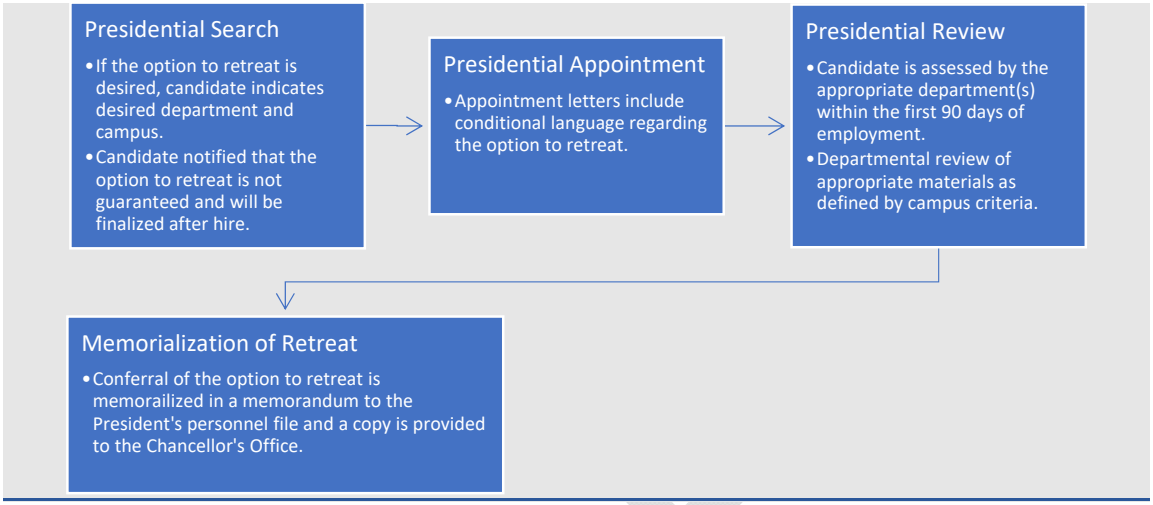
Sample Process



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APPENDIX A
Recommended Template Language: Appointment Letter – Presidents

As discussed, subject to faculty consultation within the first 90 days of your appointment as President, you will be granted the option to request retreat to a tenured faculty position in the department of <DISCIPLINE> in the School of <SCHOOL> at <CAMPUS> pursuant to CSU Employment Policy Governing Administrator Employees' Option to Retreat (Policy Stat ID 12715152 -- https://calstate.policystat.com/policy/12715152/latest) and campus policy. The option to retreat is subject to the terms and conditions of these policies.

If you request the option to Retreat prior to serving three years, your salary at the time of Retreat will align with similarly ranked professors in the department/school to which you are retreating. If you request the option to Retreat three years or more after the effective date of your appointment, your salary may be set up to the maximum pay rate for your rank, at the discretion of the Board of Trustees.

<IF APPLICABLE> As discussed, <TERMS OF ADMINISTRATIVE LEAVE>. <ANY ADDITIONAL TERMS AGREED UPON BETWEEN THE CAMPUS AND THE CANDIDATE>.

APPENDIX B
Recommended Template: Memorandum Conferring the Option to Retreat

<CAMPUS LETTERHEAD>

MEMORANDUM
DATE:
FROM:
TO:
CC:
SUBJECT: Conferral of the Option to Retreat to President <NAME>

I am pleased to confirm that the department of <DEPARTMENT> in the School of <SCHOOL> at <CAMPUS> supports granting you the option to retreat to a faculty position as a <TENURED/NON TENURED> Professor.

The option to retreat is subject to the terms and conditions set forth in CSU's Employment Policy Governing Administrator Employees' Option to Retreat (Policy Stat ID 12715152 -- https://calstate.policystat.com/policy/12715152/latest

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APPENDIX C
Example Criteria for Assessing Candidates for Retreat

The option to retreat to a faculty position is granted to Administrators in either the M80 (MPP) or M98 (Executive) job classifications at the conclusion of their administrative appointment and in alignment with CSU's Employment Policy Governing Administrator Employee's Option to Retreat.

At the request of the campus designee as outlined in established campus policies, tenured department faculty or a committee of tenured department faculty may be asked to evaluate Administrators for conferral of the option to retreat. Criteria departments may wish to consider, as well as those that should not be factored into their assessment, are as follows:

Do Consider	Do Not Consider
Prior tenured position and institutional affiliation	Course Offerings
Education	Order of Assignments
Instructional Experience	Overlap with current faculty expertise
Publications	Departmental/ School Budget
Research or Creative Activities	Potential Retaliation (It is prohibited!)
Professional Expertise	Qualifications for the Administrative Position
Contributions to the Profession	
Discipline Specific Measures of Success	
Contributions to the Department	

What is critical is that in assessing eligibility for retreat, the tenured faculty consider the candidate's qualifications for a faculty position and not for the administrator position to which they are applying.

APPENDIX D
ADDITIONAL TEMPLATE LANGUAGE

The templates below are provided for campus use dependent on their established processes.

Memo: Chair to Dean

I, <name>, <title>, chair of the department of <DEPARTMENT> at <CAMPUS> confirm that a committee of tenured faculty reviewed the curriculum vitae and provided supplemental materials for <NAME MPP> <OPTIONAL and met with the candidate>.

After careful review the candidate's education, background, teaching skill, scholarship,

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research and creative contributions and professionalism, the tenured faculty/ a committee of tenured faculty voted on <DATE> <IN FAVOR OF/ AGAINST> recommending conferral to <MPP NAME> of the option to retreat to a faculty position at the rank of <PROPOSED RANK> <WITH/WITH OUT> tenure.

<If applicable>Our recommendation against conferring the option to retreat is based upon the following concerns:

Memo: Dean to President

Upon review of <MPP NAME> curriculum vitae and with the recommendation of the Department of <TITLE> in the <SCHOOL> at <CAMPUS>, I am pleased to recommend that <MPP NAME> be conferred the option to retreat to a faculty position as <RANK> of <DISCIPLINE> <WITH/WITHOUT> tenure.

The tenured faculty/ a committee of tenured faculty of the department of <TITLE> met on <DATE>. After careful review of the candidate's education, background, teaching skill, scholarship, research and creative contributions and professionalism, the department of <DEPARTMENT> voted in favor of conferring the option to retreat to <NAME OF MPP>. I <SUPPORT/DO NOT SUPPORT> their recommendation.

<CHOOSE ONE> The department and I would welcome <NAME'S> contributions to <CAMPUS> as an educator, scholar/practitioner/artist, and peer. <OR> After careful consideration, I have come to a different conclusion than the department for the following reasons: <EXPLANATION>

This memorandum is issued in alignment with CSU systemwide policy as outlined in Employment Policy Governing Administrator Employees' Option to Retreat.

Appointment Letter - MPPs and Executives

As part of your administrative appointment, you are being granted an option to request retreat to a faculty position <WITH/WITHOUT> tenure at the rank of <RANK> in the Department of <DISCIPLINE> in the College/School of <COLLEGE/SCHOOL> at <CAMPUS>.

The option to Retreat is subject to the terms and conditions set forth in the attached document titled "Terms and Conditions Pertaining to Retreat" and the Employment Policy Governing Administrator Employees' Option to Retreat ("Retreat Policy"). Upon notice of resignation or non-retention from your administrative position, you will have 30 days from notification to request in writing retreat. Requests to retreat may be denied in the event of the conditions as described in the Retreat Policy (https://calstate.policystat.com/policy/12715152/latest).

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If you request the option to retreat prior to serving three years in the administrative role, your salary at the time of retreat will align with similarly ranked professors in the department/school to which you are retreating. If you request the option to retreat three years or more after the effective date of your appointment, your salary may be set up to the highest paid professor at your rank in the department or the maximum pay rate for your rank in their department, at the president's. <IF APPLICABLE> As discussed, <TERMS OF ADMINISTRATIVE LEAVE>. <ANY ADDITIONAL TERMS AGREED UPON BETWEEN THE CAMPUS AND THE CANDIDATE>.

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"Proposed Revision Markups"
Employment Policy Governing Administrator Employees' Option to Retreat

This ~~The purpose of this policy~~ policy ~~is to delineate systemwide~~ describes the protocols~~ throughout the California State University (CSU) system~~ governing the option for Administrators to Retreat to a faculty position at the California State University (CSU) the end of their administrative appointment. The policy also describes ~~identifies the conditions~~ the circumstances under which Administrators are ~~eligible and~~ ineligible to Retreat.

~~This policy is intended to provide systemwide consistency in conferring and granting options to Retreat to faculty positions in connection with Administrator appointments. This policy is based on the core values of CSU such as commitment to the university mission, collegiality, excellence in teaching and scholarship, and on CSU's overarching commitment to maintaining an inclusive and equitable community that fosters mutual respect and a workplace free of discrimination, harassment, and retaliation.~~

Applicability

This policy applies to all Administrator appointments made at any CSU campus or at the Chancellor's Office on or after July 13, 2022, that include the option to Retreat to a faculty position. This policy ~~is intended to be prospective and~~ does not impact retreats offered in appointment letters prior to July 13, 2022, ~~granted prior to its effective date~~ except on a case-by-case basis in the event of serious misconduct or policy violation.

~~**Relevant**~~ **Definitions**

Administrator – ~~this means any~~ Any CSU employee designated as an Administrator (management or supervisory) under the Higher Education Employer-Employee Relations Act and Title 5. Administrators may be in either the M80 (MPP) or M98 (Executive) job classifications.

Executive – An Executive employee is an employee in a M98 job classification, including the Chancellor, Vice Chancellors, and Campus Presidents.

Finding - A Finding is a decision or conclusion ~~determination~~ made during a Proceeding than an ~~as described below that an~~ Administrator engaged in ~~misconduct or a policy~~ a violation of CSU policy or other unprofessional misconduct. ~~that renders the Administrator unsuitable to have continued direct interactions with CSU students or employees.~~

Determination~~**.**~~ ~~s~~A determination is a decision or conclusion ~~are made in the course of~~ made at the time an Administrator requests Retreat that the Administrator is unsuitable to have continued direct interactions with CSU students or employees. A determination is based on a Finding or in reliance on a written acknowledgement by the Administrator that they engaged in misconduct.

~~proceedings including but not limited to: (a) a university investigation, following any appeals; (b) an internal or external audit; (c) an administrative proceeding by a state body having jurisdiction, such as the Department of Labor; (d) a civil or criminal proceeding, following any appeals; or (e) a proceeding that leads to a determination of improper governmental activity (defined by the State of California as any action that violates state or federal law or regulation that is economically wasteful or that involves gross misconduct, incompetence, or inefficiency). An admission by the Administrator that they engaged in conduct that the university determines to constitute misconduct or a policy violation that renders the Administrator unsuitable to have continued direct interactions with CSU students or employees also constitutes a Finding for purposes of this policy.~~

Management Personnel Plan (MPP Employees) ~~**– the management personnel plan outlines the rules and provisions governing administrators and administrative appointments within the CSU and can be accessed here:** M– the management personnel plan outlines the rules and provisions governing administrators and administrative appointments within the CSU and can be accessed here: – the management personnel plan outlines the rules and provisions governing administrators and administrative appointments within the CSU and can be accessed here: PP.~~

~~MPP Employees –~~ An MPP Employee is any CSU employee designated as a manager or supervisor under the Higher Education Employer-Employee Relations Act and Title 5. MPP Employees are in the M80 job classification. Rules and provisions governing MPP employees can be accessed here: MPP.

Misconduct - includes, but is not limited to: (a) a violation of CSU's Nondiscrimination Policy or other CSU policy; (b) improper governmental activity, which is defined by California law as an action that violates state or federal law or regulation that is economically wasteful, or that involves gross misconduct, incompetence, or inefficiency; (c) an act or threat of violence; or (d) unprofessional conduct.

Proceeding – includes but is not limited to: (a) a university investigation; (b) an internal or external audit; (c) an administrative proceeding by a state body having jurisdiction, such as the Department of Labor; (d) a civil or criminal proceeding; or (e) a proceeding that leads to a determination of improper governmental activity (defined by the State of California as any action that violates state or federal law or regulation that is economically wasteful or that involves gross misconduct, incompetence, or inefficiency). A Proceeding is deemed concluded after any appeal rights have been exhausted or waived.

Retreat - the option to Retreat means an Administrator's ability to be reassigned to a faculty position with or without tenure at a designated tenure-track rank and within a designated department at the end of an administrative assignment.

Considerations and Procedures for the Conferral of the Option to Retreat

General Considerations

Whenever practicable, and except in the case of closed executive searches (as addressed below), ~~O~~options to Retreat ~~should always be~~ are granted at the time of appointment to an Administrator position and are memorialized in an Administrator's appointment letter. ~~When considering the granting of an option to Retreat to an Administrator candidate, the campus should seek to do the following:~~ Therefore, during the recruitment process, and before any offer of employment is made to a candidate for an MPP position, the campus shall:

1. Review the candidate's education, background, teaching skill, scholarship, research and creative contributions and professionalism to ensure that the candidate's qualifications are comparable to other CSU tenure-track faculty.

~~1. Reflect the CSU's faculty hiring process by assessing the candidate's education, background, excellence in teaching, scholarship, and/or research and creative activities, and professionalism.~~

~~2. Ensure the appropriateness of an Administrator's Retreat to a particular academic department or unit through consultation with the department faculty into which the candidate would ultimately Retreat.~~

2. Ensure that the hiring authority or search committee chair consults confidentially ~~collaborates~~ with the tenured faculty or department committee in accordance with campus policy to ensure appropriateness of an Administrators Retreat to a particular academic department or unit. The details of an option to Retreat are memorialized in an Administrator's appointment letter, therefore, any concerns or questions about the candidate's qualifications must be raised before an offer is extended to the Administrator. ~~in the department to which the finalist wishes to Retreat, so that they may evaluate the candidate's qualifications including, but not limited to, any obtainment of tenure at a prior institution, and also ensuring that should the option to Retreat be conferred, the details of the option to Retreat are memorialized in the Administrator's appointment letter should they be selected for hire.~~

Template letters for MPP and Executive appointments entitled "CSU Administrator Appointment Letter with Addendum for Retreat (MPP)" and "CSU Administrator Appointment Letter with Addendum for Retreat (Executive)" are attached to this policy. In closed executive searches, any option to retreat made at the time of appointment is conditioned on and subject to the terms that will be negotiated after that appointment is publicly announced. The Executive template letter should be used in connection with the appointment of university presidents or other closed executive searches. In such cases, the provost consults with the relevant department as described in the attached "Campus Guidance in Conferring the Option to Retreat to Campus Presidents."

Establishment of a Procedure for Conferring the Retreat

Campuses must adopt procedures for conferring the option to Retreat to a faculty position for qualified Administrator candidates. The procedure shall include: (a) early notification from the relevant search committee that a finalist is requesting an option to Retreat so as to ensure a timely conferral/appointment should the finalist be selected for hire; (b) the process for the recommendation of conferral of retreat by either the tenured faculty or a committee of tenured faculty to which ~~by tenured faculty in the department to which~~ the Administrator wishes to Retreat (augmented by tenured faculty from other departments when sufficient tenured faculty are not available in the department) and/or other representatives of the campus, as provided by the campus policy; and (c) final approval by the campus president or designee.

In granting the option to Retreat with tenure, serious consideration should be given to the candidate's education, background, teaching skills, scholarship, research and creative contributions and professionalism, to ensure that the candidate's qualifications are comparable to other CSU tenure-track faculty. ~~all the factors set forth in paragraph III. A., above. A~~As a general rule, administrator candidates who have earned and held a tenured position as a professor within the CSU or other comparable ~~another equivalent~~ (subject to campus process) ~~institution are ordinarily granted~~ be provided the option to Retreat to a position at their current faculty rank. ~~tenured faculty position.~~ Administrator candidates who have never earned or held a tenure-track position may be offered the option to Retreat to either a tenured or probationary faculty position on a case-by-case basis provided that during the campus tenure review process, they demonstrate a substantial record of achievement meriting such rank. ~~While the option to Retreat is not ordinarily granted to non-academics, the option to Retreat to either a tenured or probationary faculty position may be granted on a case-by-case basis to Administrator candidates who have never earned or held a tenure-track position, provided they demonstrate a substantial record of achievement meriting such rank and receive the recommendation of the faculty committee and approval of the campus president or chancellor.~~

Memorialization of the Terms of Retreat

If the campus determines an Administrator candidate should be conferred an option to Retreat, the following terms ~~of Retreat will~~ must be placed in the ~~official~~ appointment letter ~~for the administrative~~ appointment:

a. Acknowledgement of the faculty appointment and whether it is with or without tenure, and the rank to which the candidate will be appointed upon retreat. ~~.~~
b. Name of the department and college to which the candidate will be appointed upon exercising their option to Retreat.
c. Faculty rank upon Retreat.
d. Salary placement details to be applied upon Retreat. If an Administrator exercises their option to Retreat three years or more after the effective date of their appointment, their

salary may be set up to the highest paid professor in their rank in their department or the maximum pay rate for their rank, at the president's discretion. If an Administrator exercises their option to Retreat prior to serving three years in the administrative role, their salary at the time of Retreat must be in line with similarly ranked professors in the department/school to which they are Retreating.

~~e. Terms of administrative sabbatical (if provided) or paid time being granted upon Retreat to prepare for a return to teaching.~~

~~f.~~e. The amount of notice~~time~~ the Administrator must provide notice to the university of their intent to elect to Retreat.

~~g.~~f. Any additional terms agreed upon between the campus and the candidate relating to their Retreat and/or faculty appointment.

g. Notice of the potential ineligibility for the option to Retreat in the event of a Finding.

Terms of administrative leave should also be included in the appointment letter.

Determination of Ineligibility to Exercise the Option to Retreat

An Administrator will be found ineligible to exercise their option to Retreat when a Determination has been made that the Administrator is unsuitable to have continued direct interactions with CSU students or employees. The Determination is made at the time the Administrator requests Retreat. ~~under the following circumstances: (1) a Finding (as defined above) has been made that resulted in the Administrator being non-retained, terminated, or separated through mutually agreed upon settlement terms; or (2) the Administrator's retirement benefits have been rescinded under The Public Employees' Pension Reform Act due to criminal misconduct associated with their official duties.~~ The campus president or designee, in consultation with the university's Title IX Coordinator, Faculty Affairs, Human Resources or other administrators with relevant subject matter expertise, and if appropriate systemwide Human Resources, make this determination. Absent extenuating circumstances, it is presumed that a Finding that an Administrator engaged in sexual harassment in violation of CSU policy will render the Administrator unsuitable to have continued direct interaction with CSU students or employees.

Allegations or reports of misconduct for which ~~for which~~ no Findings have been made may ~~should~~ not serve as a basis for denying an option to Retreat. However, in the event a complaint or investigation that could result in a Finding is pending at the time that the Administrator announces their intention to exercise their option to Retreat, the Retreat determination shall be held in abeyance until the completion of any pending~~the~~ investigation or Proceeding, including ~~and~~ any appeals. At the written request of the Administrator, the president, in consultation with the chancellor, (or in the case of the chancellor seeking to retreat, the board chair), may allow the Administrator to be placed on paid administrative leave pursuant to Section 42729 of Title 5 during the pendency of the investigation.

In the event there is no Finding or pending investigation at the time the request to Retreat is made, any decision to allow Retreat ~~the campus~~ shall be conditional for ~~defer making a final decision on the request to Retreat for~~ 60 days. If, during the 60-day period, a Proceeding is initiated or the campus initiates~~the campus initiates~~ an investigation that could result in a Finding, the Retreat determination shall be held in abeyance as set forth above until the completion of the investigation or Proceeding, including ~~and~~ any appeals. ~~, which the~~ CSU will endeavor to complete the investigation or Proceeding in a timely fashion. ~~.~~ CSU may also, at any time (including after Retreat), investigate and take appropriate action in connection with alleged misconduct committed by an employee while serving as an Administrator.

Notice of ineligibility to Retreat will be provided to the Administrator by the campus president, chancellor, or their designee, and to the chancellor by the board chair. ~~In such cases, CSU will not grant the option to Retreat nor provide a positive letter of reference to the Administrator. The university may provide employment verification for the Administrator, but it will consist only of the job titles held, dates of employment, and job duties, as outlined in CSU's employee reference policy. Notice of the potential ineligibility for the option to Retreat under these circumstances must be included in the Administrator's appointment letter.~~ For Administrators ~~who are~~ employed at the CSU Chancellor's Office, the chancellor or designee holds the responsibility for determining ineligibility ~~to exercise an option to~~ Retreat. In the case of the Chancellor or vice chancellor, the board of trustees ~~For the position of the chancellor, the board chair, in consultation with the board of trustees,~~ holds this responsibility.

When an Administrator is ineligible to Retreat, the university may not provide a positive reference or letter of recommendation. Human Resources may provide employment verification for the Administrator, however, consisting only of the job titles held, dates of employment, and job duties, as outlined in CSU's employee reference policy.

Notice of Election to Exercise the Option to Retreat

An Administrator who has been offered the option to Retreat in their appointment letter must notify the university of their intent to elect to Retreat within the time period set forth in the Administrator's appointment letter. At the time the Administrator notifies the campus of their election to Retreat, and the campus determines the Administrator's eligibility to Retreat, the campus and Administrator should discuss the transition plan for Retreat including the timing of Retreat and ~~date on which the Retreat becomes effective and the Retreating faculty member's~~ work assignment. Absent circumstances that would prevent the Administrator from doing so, they should normally Retreat and initiate their faculty appointment no later than six (6) months from the date on which the University was notified of the Administrator's intent to Retreat.

Procedure for Reconsideration of Denial of the Option to Retreat

Any campus decision to deny an Administrator's option to Retreat will be subject to reconsideration in accordance with Section 42728 of Title 5, California Code of Regulations, as may be set forth in campus policy.

Payment in Lieu of Notice Where MPP Employee Elects to Retreat

Pursuant to Section 42723(e) of Title 5, campuses are required to provide an MPP Employee notice of non-retention at least three months prior to the separation date or provide corresponding salary in lieu of notice.

Further, campuses are required to pay MPP Employees all earned and unpaid wages and accrued vacation on the last day of employment (separation date). In the event a campus chooses to exercise its right to non-retains ~~an MPP Employee or~~ Administrator who has the option to Retreat, the campus should ~~in order to avoid a premature separation, the campus should always~~ provide at least thirty (30) days notice whenever possible, so that the Administrator has sufficient time to convey intent to retreat. ~~to exercise their option to Retreat prior to the effective date of non-retention.~~(The remainder of the non-retention period would be paid in salary in lieu of notice.)

Adopted November 16, 2022
Resolution RUFP 11-22-18
CSU Board of Trustees

Campus Guidance:

Granting the Option to Retreat to Presidents

The option to retreat to a faculty position is granted to Administrators in either the M80 (MPP) or M98 (Executive) job classifications at the conclusion of their administrative appointment in alignment with CSU's Employment Policy Governing Administrator Employee's Option to Retreat. Due to the fact that presidents and other executives are recruited through a closed search process, the process for granting the option to exercise Retreat to Presidents differs from those of other administrators as follows:

1. **Timing:** While Systemwide policy requires that the option to retreat be granted and memorialized in an Administrator's appointment letters, maintaining the confidentiality of presidential searches means the option to retreat can only be granted after appointment.
2. **Appointment Letters:** Appointment letters for campus presidents should include conditional language indicating that the appropriate department faculty will be consulted within the first 90 days of the president's employment. Recommended template language is provided in Appendix A.
3. **Documentation:** Final approval to confer the option to retreat to campus presidents is documented in a memorandum from the campus designee (typically the Provost) to the president's personnel file. A copy of the memorandum is to be provided to the Chancellor's Office. Template language is provided in Appendix B.

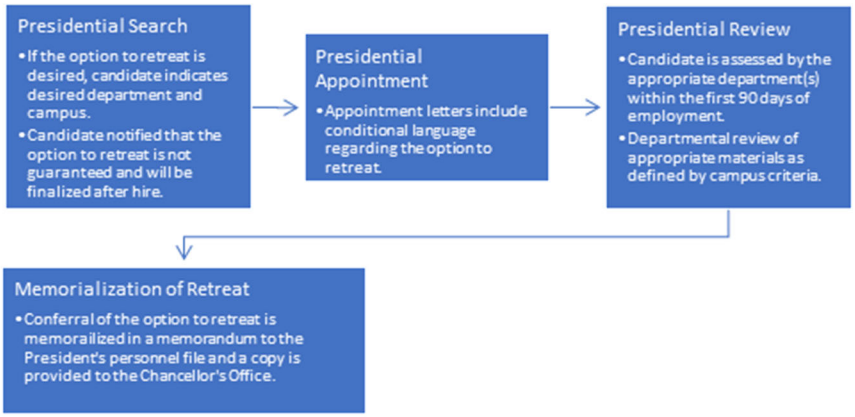
It is the responsibility of each CSU campus to develop processes around the conferral of the option to retreat to new presidents. Processes should establish:

1. A campus designee (typically the provost) responsible for ensuring compliance with campus process and systemwide policy.
2. Criteria for assessment for tenure including what materials will be provided by the candidate and reviewed by the department. Example criteria is provided in Appendix C.

If a department determines that it will not recommend offering a retreat option to a president, the campus designee should directly notify the Chancellor, who will work collaboratively systemwide to find an appropriate solution.

Additional template language is provided in Appendix D.

Sample Process



APPENDIX A

Recommended Template Language: Appointment Letter – Presidents

As discussed, subject to faculty consultation within the first 90 days of your appointment as President, you will be granted the option to request retreat to a tenured faculty position in the department of <DISCIPLINE> in the School of <SCHOOL> at <CAMPUS> pursuant to CSU Employment Policy Governing Administrator Employees' Option to Retreat (PolicyStat ID 12715152 -- https://calstate.policystat.com/policy/12715152/latest) and campus policy. The option to retreat is subject to the terms and conditions of these policies.

If you request the option to Retreat prior to serving three years, your salary at the time of Retreat will align with similarly ranked professors in the department/school to which you are retreating. If you request the option to Retreat three years or more after the effective date of your appointment, your salary may be set up to the maximum pay rate for your rank, at the discretion of the Board of Trustees.

<IF APPLICABLE> As discussed, <TERMS OF ADMINISTRATIVE LEAVE>. <ANY ADDITIONAL TERMS AGREED UPON BETWEEN THE CAMPUS AND THE CANDIDATE>.

APPENDIX B

Recommended Template: Memorandum Conferring the Option to Retreat

<CAMPUS LETTERHEAD>

MEMORANDUM

DATE:

FROM:

TO:

CC:

SUBJECT: Conferral of the Option to Retreat to President <NAME>

I am pleased to confirm that the department of <DEPARTMENT> in the School of <SCHOOL> at <CAMPUS> supports granting you the option to retreat to a faculty position as a <TENURED/NON TENURED> Professor.

The option to retreat is subject to the terms and conditions set forth in CSU's Employment Policy Governing Administrator Employees' Option to Retreat (PolicyStat ID 12715152 -- https://calstate.policystat.com/policy/12715152/latest

APPENDIX C

Example Criteria for Assessing Candidates for Retreat

The option to retreat to a faculty position is granted to Administrators in either the M80 (MPP) or M98 (Executive) job classifications at the conclusion of their administrative appointment and in alignment with CSU's Employment Policy Governing Administrator Employee's Option to Retreat. At the request of the campus designee as outlined in established campus policies, tenured department faculty or a committee of tenured department faculty may be asked to evaluate Administrators for conferral of the option to retreat. Criteria departments may wish to consider, as well as those that should not be factored into their assessment, are as follows:

Do Consider	Do Not Consider
Prior tenured position and institutional affiliation	Course Offerings
Education	Order of Assignments
Instructional Experience	Overlap with current faculty expertise
Publications	Departmental/ School Budget
Research or Creative Activities	Potential Retaliation (It is prohibited!)
Professional Expertise	Qualifications for the Administrative Position
Contributions to the Profession	
Discipline Specific Measures of Success	
Contributions to the Department	

What is critical is that in assessing eligibility for retreat, the tenured faculty consider the candidate's qualifications for a faculty position and not for the administrator position to which they are applying.

APPENDIX D

ADDITIONAL TEMPLATE LANGUAGE

The templates below are provided for campus use dependent on their established processes.

Memo: Chair to Dean

I, <name>, <title>, chair of the department of <DEPARTMENT> at <CAMPUS> confirm that a committee of tenured faculty reviewed the curriculum vitae and provided supplemental materials for <NAME MPP> <OPTIONAL and met with the candidate>.

After careful review the candidate's education, background, teaching skill, scholarship, research and creative contributions and professionalism, the tenured faculty/ a committee of tenured faculty voted on <DATE> <IN FAVOR OF/ AGAINST> recommending conferral to <MPP NAME> of the option to retreat to a faculty position at the rank of <PROPOSED RANK> <WITH/WITH OUT> tenure.

<If applicable>Our recommendation against conferring the option to retreat is based upon the following concerns:

Memo: Dean to President

Upon review of <MPP NAME> curriculum vitae and with the recommendation of the Department of <TITLE> in the <SCHOOL> at <CAMPUS>, I am pleased to recommend that <MPP NAME> be conferred the option to retreat to a faculty position as <RANK> of <DISCIPLINE> <WITH/WITHOUT> tenure.

The tenured faculty/ a committee of tenured faculty of the department of <TITLE> met on <DATE>. After careful review of the candidate's education, background, teaching skill, scholarship, research and creative contributions and professionalism, the department of <DEPARTMENT> voted in favor of conferring the option to retreat to <NAME OF MPP>. I <SUPPORT/DO NOT SUPPORT> their recommendation.

<CHOOSE ONE> The department and I would welcome <NAME'S> contributions to <CAMPUS> as an educator, scholar/practitioner/artist, and peer. <OR> After careful consideration, I have come to a different conclusion than the department for the following reasons: <EXPLANATION>

This memorandum is issued in alignment with CSU systemwide policy as outlined in Employment Policy Governing Administrator Employees' Option to Retreat.

Appointment Letter - MPPs and Executives

As part of your administrative appointment, you are being granted an option to request retreat to a faculty position <WITH/WITHOUT> tenure at the rank of <RANK> in the Department of <DISCIPLINE> in the College/School of <COLLEGE/SCHOOL> at <CAMPUS>.

The option to Retreat is subject to the terms and conditions set forth in the attached document titled "Terms and Conditions Pertaining to Retreat" and the Employment Policy Governing Administrator Employees' Option to Retreat ("Retreat Policy"). Upon notice of resignation or non-retention from your administrative position, you will have 30 days from notification to request in writing retreat. Requests to retreat may be denied in the event of the conditions as described in the Retreat Policy (https://calstate.policystat.com/policy/12715152/latest).

If you request the option to retreat prior to serving three years in the administrative role, your salary at the time of retreat will align with similarly ranked professors in the department/school to which you are retreating. If you request the option to retreat three years or more after the effective date of your appointment, your salary may be set up to the highest paid professor at your rank in the department or the maximum pay rate for your rank in their department, at the president's. <IF APPLICABLE> As discussed, <TERMS OF ADMINISTRATIVE LEAVE>. <ANY ADDITIONAL TERMS AGREED UPON BETWEEN THE CAMPUS AND THE CANDIDATE>.

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Discussion Regarding Employment Policy Governing Employee References

Presentation By

Leora D. Freedman
Vice Chancellor
Human Resources

Summary

At the September 2023 meeting of the CSU Board of Trustees, during the Update on Civil Rights (Title IX and Nondiscrimination) Programs and Services, it was announced that Chancellor's Office staff plans to present recommended policy revisions to the Employment Policy Governing Employee References (the "Reference Policy") based on feedback from the California State Auditor (CSA) and the Joint Committee on Legislative Audit (JLAC).

Thereafter, at the November 2023 meeting, an information item was presented describing the issues raised in the feedback and the steps that will be taken to seek stakeholder input and propose revisions to the policy for the board's consideration.

This information item will present and describe the proposed revisions to the Employment Policy Governing Employee References.

The revised Reference Policy is provided in Attachment A to this agenda item. Attachment B displays the proposed revisions in markup view.

This item will be presented for action at the March 2024 meeting of the Board of Trustees.

"Revised"
Employment Policy Governing the Provision of Employee References

This policy governs the provision of oral and written references and recommendation letters (referred to collectively as references) for current and former CSU employees to prospective employers outside of the California State University.

Requests for references for CSU students (in their capacity as a CSU student and not as an employee) are not governed by this policy.

References Requested by Third Parties

CSU employees may provide references to employers outside of the CSU as follows. References may be official (on behalf of the University) or personal (on behalf of the employee personally). Before providing any reference, the employee who has been asked to provide the reference must notify the campus Human Resources/Faculty Affairs departments of the request so that an appropriate administrator from the department may review and authorize the reference.

Official Letters of Recommendation

Prior to authorizing the release of a reference, an administrator in the campus Human Resources/Faculty Affairs department shall review the employee's personnel file and inquire with the campus Title IX/DHR office as to whether the employee for whom the reference is being requested is the subject of a pending complaint (or appeal) or has been found to have violated the CSU Nondiscrimination Policy. CSU employees may not provide any official reference, either verbally or in writing, regarding a current or former CSU employee who: (i) is subject to a finding that the CSU employee has engaged in misconduct (as those terms are defined below) that resulted in the employee being non-retained, terminated, or is separated through mutually agreed upon settlement terms; (ii) is currently under investigation for misconduct or violation of university policy or left the university while the investigation was pending; or (iii) has had their retirement benefits rescinded under The Public Employees' Pension Reform Act due to criminal misconduct associated with their official duties. In such cases, Human Resources/Faculty Affairs shall inform the third party requesting the reference of CSU's employee reference policy and provide an employment verification only, as set forth below, for the current or former CSU employee.

Misconduct includes: (a) a violation of CSU's Nondiscrimination Policy or other CSU policy; (b) improper governmental activity, which is defined by the state of California as an action that violates state or federal law or regulation, that is economically wasteful, or that involves gross misconduct, incompetence, or inefficiency; (c) an act or threat of violence; or (d) unprofessional conduct.

A finding includes, but is not limited to: (a) a final internal report, following any appeals, resulting

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from an investigation conducted by the university; (b) an internal or external audit; (c) an administrative decision by a state body having such jurisdiction, such as the Department of Labor, etc.; (d) a civil or criminal judgment, following any appeals; or (e) admission of any of the above-referenced misconduct by the employee.

In addition, employees found to have engaged in sexual harassment or other misconduct in violation of CSU's Nondiscrimination policy shall not receive a positive letter of reference even if they were not separated from employment at the CSU as a result of the finding. However, at an employee's written request, the CSU may provide a written reference provided that the writing acknowledges the fact, nature and timing of the finding of misconduct. Although employees might not request a reference that discloses a policy violation, giving employees the agency and opportunity to address with potential future employers their personal growth and development over time aligns with the CSU's mission as an educational institution committed to fostering learning and improvement.

Employment Verifications for Current or Former Employees

Employment verifications for current or former employees must always be directed to the Campus Human Resources Department. It is the CSU's policy to provide minimal information about current or former employees to non-CSU entities for employment verification purposes. Campus Human Resources Departments shall provide only the current or former employee's job title(s), dates of employment, and job duties.

Current or former CSU employees may authorize the release of their salary information, typically for the purpose of credit evaluation, as part of the employment verification process. Such requests must be referred to the Campus Human Resources Department who will only release salary information to a requesting third party/institution after receiving the current or former employee's written authorization.

Personal References

Personal references are permissible. Such references should make clear that they are being provided in an individual capacity and not on behalf of the CSU. Any references made outside Human Resources or Faculty Affairs is considered personal and must be expressly noted by the person giving the reference. Personal references by current presidents, executives, or other university officers in senior administrative positions (MPP Administrator III and IV) are often perceived as being official references by virtue of their position of authority. Such individuals must therefore consult with Human Resources or Faculty Affairs to determine whether a personal reference for an employee is appropriate under the circumstances.

References Requested Within CSU

The CSU operates as a single employer and has the right and responsibility to share information across its campuses and departments about employees, including senior leaders. Shared

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information must be accurate and specific to the employee's work performance and job history. Former or current supervisors must always provide, if requested to do so, information to other CSU campuses and departments and may not withhold any relevant information related to the work performance of the current or former employee. Communications between campuses must always be truthful, accurate, job-related, candid, and unbiased.

Campuses are further reminded that they must comply with CSU's Recruitment and Hiring Guidelines for MPP and Staff (non-represented and represented) Positions, Technical Letter HR/Appointments 2013-03, and to fully cooperate with other campuses in providing information within CSU.

Adopted DATE
Resolution RUFP 07-22-11, RUFP xx-xx-xx
CSU Board of Trustees

DRAFT

"Proposed Revision Markups"
Employment Policy Governing the Provision of Employee References

~~CSU recognizes that reference-checking is an important part of the search and hiring process. It further recognizes that many CSU employees are asked, on occasion, to provide positive references for former or current colleagues and/or direct reports. This policy is intended to outline the principles and procedures guiding the provision of such references, given the legal liability associated therewith. Specifically, it is the guiding principle of CSU to demonstrate integrity in all matters and not to provide positive letters of reference for employees who have engaged in significant misconduct, including a serious CSU policy violation.~~[1]

This policy governs the provision of oral and written references and recommendation letters (referred to collectively as references) for current and former CSU employees to prospective employers outside of the California State University.

Requests for references for CSU students (in their capacity as a CSU student and not as an employee) are not governed by this policy.

References Requested by Third Parties

CSU employees may provide~~receive~~ reference~~s requests from third parties~~ to employers outside of the CSU as follows. References ~~provided to third parties~~ may be official (on behalf of the University) or personal (on behalf of the employee personally). Before providing any reference, the employee who has been asked to provide the reference ~~Employees receiving requests for references from third parties must confer with their~~ must notify the ~~C~~campus Human Resources/ ~~(staff, student, and/or management employees) or~~ Faculty Affairs ~~(faculty employees)~~ ~~D~~departments of the request~~for review or response as there may be relevant~~ so that an appropriate administrator from the department may review and authorize the reference. ~~information for which the employee being asked to provide the reference is unaware.~~

Official Letters of Recommendation

~~CSU employees who are asked to provide letters of recommendation or other formal requests for reference for current/former colleagues or direct reports on behalf of the CSU must confer with their campus Human Resources or Faculty Affairs Departments prior to responding to the request or provide their finalized letter of recommendation to Campus Human Resources or Faculty Affairs for their review prior to submission. Campus Human Resources/Faculty Affairs shall review the employee's personnel file as well as inquire of the campus Title IX/DHR office as to whether the employee for whom the reference is being requested has had findings against them in the past or if there are any investigations/appeals pending.~~

Prior to authorizing the release of a reference, an administrator in the campus Human Resources/Faculty Affairs department shall review the employee's personnel file and inquire with the campus Title IX/DHR office as to whether the employee for whom the reference is being requested is the subject of a pending complaint (or appeal) or has been found to have violated the CSU Nondiscrimination Policy.

CSU employees may ~~will~~ not provide any official ~~positive letters of recommendation or~~ reference, either verbally or in writing, regarding ~~for~~ a current or former CSU employee who: (i) is subject to a finding~~*~~ that the CSU employee has engaged in misconduct (as those terms are defined below) that resulted in the employee being non-retained, terminated, or is separated through mutually agreed upon settlement terms; (ii) is currently under investigation for misconduct or violation of university policy or left the university while the investigation was pending; or ~~(in abeyance until the completion of the investigation and any appeals); or~~ (iii) has had their retirement benefits rescinded under The Public Employees' Pension Reform Act due to criminal misconduct associated with their official duties. In such cases, Human Resources/Faculty Affairs shall inform the third party requesting the reference of CSU's employee reference policy and provide an employment verification only, as set forth below, for the current or former CSU employee.

Misconduct includes: (a) a violation of CSU's Nondiscrimination Policy or other CSU policy; (b) improper governmental activity, which is defined by the state of California as an action that violates state or federal law or regulation, that is economically wasteful, or that involves gross misconduct, incompetence, or inefficiency; (c) an act or threat of violence; or (d) unprofessional conduct.

~~*~~A finding includes, but is not limited to,(a) a final internal report, following any appeals, resulting from an investigation conducted by the university; (b) an internal or external audit; (c) an administrative decision by a state body having such jurisdiction, such as the Department of Labor, etc.; (d) a civil or criminal judgment, following any appeals; or (~~(e) a finding of improper governmental activity, which is defined by the State of California as any action that violates state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency; or (~~cf) admission of any of the above-referenced misconduct by the employee.

In addition, employees found to have engaged in sexual harassment or other misconduct in violation of CSU's Nondiscrimination policy shall not receive a positive letter of reference even if they were not separated from employment at the CSU as a result of the finding. However, at an employee's written request, the CSU may provide a written reference provided that the writing acknowledges the fact, nature and timing of the finding of misconduct. Although employees might not request a reference that discloses a policy violation, giving employees the agency and

opportunity to address with potential future employers their personal growth and development over time aligns with the CSU's mission as an educational institution committed to fostering learning and improvement.

Employment Verifications for Current or Former Employees

Employment verifications for current or former employees must always be directed to the Campus Human Resources Department. It is the CSU's policy to provide minimal information about current or former employees to non-CSU entities for employment verification purposes. Campus Human Resources Departments shall provide only the current or former employee's job title(s), dates of employment, and job duties.

Current or former CSU employees may ~~additionally~~ authorize the release of their salary information, typically for the purpose of credit evaluation, as part of the employment verification process. Such requests must be referred to the Campus Human Resources Department who will only release salary information to a requesting third party/institution after receiving the ~~with the~~ current or former employee's written authorization ~~to do so~~.

Personal References

Personal references are permissible. Such references should make clear that ~~clearly identify that~~ they are being provided in an individual capacity and not on behalf of the CSU. Any references made outside Human Resources or Faculty Affairs is ~~, and where no check in or review with Human Resources or Faculty Affairs has occurred, will be~~ considered personal and must be expressly noted by the person giving the reference. ~~not to have been provided on behalf of the CSU.~~

Personal ~~R~~references by current presidents, executives, or other university officers in senior administrative positions (MPP Administrator III and IV) are often ~~may be~~ perceived as being official references ~~provided on behalf of the University~~ by virtue of their position of authority. Such individuals must therefore~~also~~ consult with Human Resources or Faculty Affairs to determine whether a personal reference for an employee is ~~letters of recommendation or positive references are~~ appropriate under the circumstances. ~~and may be provided, even in their personal capacity.~~

References Requested Within CSU

The CSU operates as a single employer and has the right and responsibility to share information across its campuses and departments about employees, including senior leaders. Shared information must be accurate and specific to the employee's work performance and job history. Former or current supervisors must always provide, if requested to do so, information to other CSU campuses and departments and may not withhold any relevant information related to the

work performance of the current or former employee. Communications between campuses must always be truthful, accurate, job-related, candid, and unbiased.

Campuses are further reminded that they must comply with CSU's Recruitment and Hiring Guidelines for MPP and Staff (non-represented and represented) Positions, Technical Letter HR/Appointments 2013-03, and to fully cooperate with other campuses in providing information within CSU.

Adopted DATE
Resolution RUFP 07-22-11, RUFP xx-xx-xx
CSU Board of Trustees

~~**Endnotes**~~

~~1. This policy addresses requests for references for CSU employees only. Requests for references for CSU students, outside of any student-employment context, may be addressed in a separate policy.~~

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Update on Civil Rights (Title IX and Other Nondiscrimination) Programs and Services

Presentation By

Leora D. Freedman
Vice Chancellor
Human Resources

Summary

The Board of Trustees will be presented with a report on the university's Civil Rights (Title IX and other nondiscrimination) programs and services.

COMMITTEE ON UNIVERSITY AND FACULTY PERSONNEL

Employee Relations: Discussion Regarding Response to Other Conduct of Concern

Presentation By

Leora D. Freedman
Vice Chancellor
Human Resources

Summary

At the November 2023 meeting of the CSU Board of Trustees, during the Update on Civil Rights (Title IX and Nondiscrimination) Programs and Services, it was announced that Chancellor's Office staff would prepare guidance about how members of the CSU community should report – and how the university will respond – to unprofessional behavior and other forms of harmful conduct that do not violate CSU's Non-Discrimination Policy. This behavior is referred to as "Other Conduct of Concern."

This information item will include an update on the status of the guidance regarding "Other Conduct of Concern, including a summary of underlying principles, and an outline of key elements of the guidance and next steps.