July 23, 2009

TO: VICE CHANCELLOR FINANCE AND BUSINESS OPERATIONS

RE: Redelegation of Authority – To Approve Settlements of Claims and Separation Agreements with a Value of $100,000 or Less and Voluntary Separation Program Agreements of Less than $50,000 (DA 2222)

The Regents Policy on Settlement of Litigation, Claims, and Separation Agreements authorizes the President to approve claims and separation agreements with a value of $500,000 or less. As used in the policy, a “claim” is a disputed demand for payment from an entity or individual (including employees) made other than through litigation. A “separation agreement” is an agreement with an employee by which the employee separates from University employment, but which does not involve a claim or litigation. The President delegated to Chancellors in the attached Presidential Delegation of Authority (DA 2222, dated May 29, 2009) the authority to:

(a) Approve settlements of non-litigated claims and separation agreements with a value of $100,000 or less, with the exception of separation agreements reached through the Local Voluntary Separation Program.
(b) Approve separation agreements reached through the Local Voluntary Separation Program with a value of less than $50,000.

Effective immediately, I hereby redelegate to you, as the Vice Chancellor Finance and Business Operations, the above-listed authority delegated to Chancellors.

Requirements and conditions under which this redelegation of authority is made include:

(a) All settlements of litigation and claims and separation agreements for Officers of the University or Officers of the Regents will require approval by the Regents.
(b) Any settlement or separation agreement of any amount involving significant questions of University policy will require approval by the Regents.
(c) Litigated settlements must be reviewed and approved by the Office of General Counsel.
(d) Per the executive memo from Katherine Lapp, Executive Vice President – Business Operations dated July 8, 2008, and Business and Finance Bulletin
BUS-73 “Worker’s Compensation Self-Insurance Program”, Workers’ Compensation related filings and claims are administrative matters which are separate from the claims addressed in the Regents’ policies and the Presidential delegations of authority on settlement of claims (e.g., DA 2222).

(e) Commercial negotiations to adjust amounts payable under a contract shall not be treated as claims.

(f) A report of settlements and separation agreements involving consideration of $50,000 or more must be transmitted to the General Counsel through our Campus Counsel for required reporting to the Regents. Accordingly, arrangements should be made to forward relevant information to Campus Counsel.

(g) Per the Implementation Guidelines for Local Voluntary Separation Programs (VSP), individual VSP severance payments cannot exceed $75,000, and any individual payment of $50,000 to $75,000 must be approved by the President.

(h) A report of VSP agreements must be transmitted to the Vice President – Human Resources through campus Human Resources.

(i) This authority may not be further redelegated.

This redelegation supersedes all previous redelegations of DA 2214, DA 2172, and DA 2171.

Timothy P. White
Chancellor

Attach:
Presidential Delegation of Authority DA2222 (5/29/2009)
Policy on Settlement of Litigation, Claims, and Separation Agreements (11/20/2008)

Cc:
Executive Vice Chancellor
Campus Counsel
Assistant Vice Chancellor Finance and Business Operations
Assistant Vice Chancellor Human Resources
Labor Relations Director
Risk Management Director
Universitywide Policy Office
UCR Delegations of Authority Coordinator
CHANCELLORS
DIRECTOR, LAWRENCE BERKELEY NATIONAL LABORATORY

Delegation of Authority--To Approve Settlements of Claims and Separation Agreements With a Value of $100,000 or Less and Voluntary Separation Program Agreements of Less Than $50,000


The Policy on Settlement of Litigation, Claims and Separation Agreements authorizes the President to approve claims and separation agreements with a value of $500,000 or less. As used in the Policy, a “claim” is a disputed demand for payment from an entity or individual (including employees) made other than through litigation (litigation is defined as legal proceedings in the form of a lawsuit, arbitration proceeding, or internal or external administrative proceeding; settlements involving litigation must go through the General Counsel). A “separation agreement” is an agreement with an employee by which the employee separates from University employment, but which does not involve a claim or litigation. Commercial negotiations to adjust amounts payable under a contract shall not be treated as claims.

With the exception of separation agreements reached through Local Voluntary Separation Programs, you are authorized to approve settlements of non-litigated claims and separation agreements for matters under your respective jurisdictions, when the consideration paid or received is $100,000 or less. Litigated settlements must be reviewed and approved by the Office of General Counsel. For the Implementation Guidelines for Local Voluntary Separation Programs (VSP), individual VSP severance payments cannot exceed $75,000 and any individual payment of $50,000 to $75,000 must be approved by the President (see DA 2188, April 3, 2009 and the VSP Guidelines at http://www.ucop.edu/ucophome/coordrev/da/da2189guidelines.pdf).

All settlements of litigation and claims and separation agreements for Officers of the University or Officers of The Regents will require approval by The Regents, as will any litigated settlements or separation agreements that involve significant questions of University policy.

A report of settlements and separation agreements involving consideration of $50,000 or more must be transmitted to the General Counsel through your campus counsel for required reporting to The Regents.

This letter replaces Delegation of Authority 2444* 2214 issued on December 12, 2008.

[original signed by M. Yudof]

Mark G. Yudof
President

cc: Executive Vice President, Business Operations
Members, President's Cabinet
Principal Officers of the Regents
Universitywide Policy Office

*typographical error: correct # is "2214"

** typographical error: correct # is 2218
Current Policies

POLICY ON SETTLEMENT OF LITIGATION, CLAIMS, AND SEPARATION AGREEMENTS

Adopted September 15, 1995

The Regents adopt the following Policy on Settlement of Litigation, Claims, and Separation Agreements establishing the authority of The Regents, the President, and the General Counsel and requirements with respect to reporting of settlements and separation agreements.

(1) As used in this Policy, the following terms shall have the meaning specified:

a. "Claim" shall refer to any demand for payment from an entity or individual, including a University employee, which is disputed in whole or in part and is made other than through litigation. Commercial negotiations to adjust amounts payable under a contract shall not be treated as "claims."

b. "Litigation" shall refer to legal proceedings in the form of a lawsuit, arbitration proceeding, or internal or external administrative proceeding.

c. "Separation Agreement" shall refer to an agreement with a University employee by which the employee separates from University employment, but which does not involve a "claim" or "litigation," as defined above.

d. "Consideration" shall refer to a monetary commitment on the part of the University, whether in the form of a lump sum cash payment, or compensation for services for a specified term, or individually-negotiated payments for benefits (e.g., COBRA), or a non-monetary commitment on the part of the University; it excludes payments for salary and benefits previously earned by the employee (e.g., earned vacation leave) or continued employment on the same terms as existed prior to the agreement. When consideration is received by the University, it can also be monetary or non-monetary.

(2) Settlement Authority of the President

The President shall have authority to settle claims and to enter into separation agreements when the consideration paid or received by the University has a value of $500,000 or less. Settlement of claims or separation agreements when the consideration paid or received by the University exceeds $100,000 shall require the concurrence of the General Counsel. The release provisions of all settlements of claims and separation agreements, regardless of the amount of consideration, shall be in a format approved by the General Counsel. Settlement of claims and separation agreements by the President shall
be subject to appropriate funding.

(3) Settlement Authority of the General Counsel

The General Counsel shall have authority to settle claims and litigation when the consideration paid or received by the University has a value of $500,000 or less. All litigation settlements shall be reviewed and approved by the General Counsel. Settlement of claims or litigation by the General Counsel shall be subject to appropriate funding.

(4) Reporting of Settlements and Separation Agreements

a. Annually by the General Counsel, all settlements of claims and litigation, and all separation agreements, when the consideration paid or received by the University has a value greater than $50,000.

b. At each regular meeting of The Regents, the Regents shall receive a report from the General Counsel of all settlements of claims and litigation, and all separation agreements, when the consideration paid or received by the University has a value greater than $100,000 and up to $500,000.

c. At each regular meeting of The Regents, the Regents shall receive a report of all settlements of claims and litigation and all separation agreements approved by the Chairman of the Board and the Chairman of the Committee on Finance pursuant to section 5.a. hereof.

(5) Settlement Actions Reserved to The Regents

The following proposals for settlements of claims or litigation or for separation agreements shall be submitted to the Chairman of the Board and the Chairman of the Committee on Finance or to The Regents for prior approval:

a. To the Chairman of the Board and the Chairman of the Committee on Finance, when the consideration to be paid or to be received by the University has a value greater than $500,000 and up to $1,000,000.

b. To The Regents, when the consideration to be paid or to be received by the University has a value in excess of $1,000,000.

c. To The Regents, settlements or separation agreements of any amount involving significant questions of University policy.

d. To The Regents, settlements or separation agreements of any amount with Officers of the University (Standing Order 100.1(a)) and Officers of The Regents (Bylaw 20.1).

All settlement and separation agreement proposals which require approval by either the Chairman of the Board and the Chair of the Committee on Finance, or by the full Board, shall be accompanied by the recommendation of the General Counsel and a statement of the applicable fund source.

With regard to faculty members with tenure or security of employment, in the event that a faculty member's resignation and
severance compensation is deemed by the President to be in the best
interests of the University, pursuant to Standing Order 103.7, any
resulting separation or settlement agreement shall be subject to this
policy.