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Chair of the Assembly and the Academic Council  
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December 23, 2008

**PRESIDENT MARK YUDOF  
UNIVERSITY OF CALIFORNIA**

**Re: Proposed Changes to Policy on Reemployment of UC Retired Employees**

Dear Mark:

As I promised when I provided you with Academic Council's comments on the Policy on Reemployment of University of California Retired Employees into Senior Management Group and Staff Positions, I write now to transmit specific policy language changes that would address Council's concerns with this policy. The attached version of the Policy shows deletions and additions with changes noted using the "track changes" format.

In addition, Academic Council had the following questions or comments about the assumptions underlying the proposed changes.

1. What are the University's concerns regarding the operation of the plan, as noted in Section A?
2. Section B notes that the IRS is not concerned about employees' access to retirement funds once they reach retirement age. Why, then, is the University concerned?
3. In Section C(3), the policy should specify when reemployment at greater than 43% is permissible under IRS and Medicare rules.
4. In Section C(5), unless legal considerations require differential treatment of employees who take a lump sum payment, the prohibition on reemployment of retirees who take a lump sum payout appears to discriminate on the basis of personal choices that involve such considerations as health or disability.

We hope that you will find these clarifications and suggestions helpful, and that you will submit this revised version of the Policy to The Regents for approval.

Please do not hesitate to contact me if you have any questions regarding Council's proposed changes.

Sincerely,

A handwritten signature in black ink that reads "Mary Croughan". The signature is written in a cursive, flowing style.

Mary Croughan, Chair  
Academic Council

Copy: Academic Council  
Martha Winnacker, Senate Director  
Executive Vice President Katherine Lapp  
Randy Scott, Executive Director, HR&B

# Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions

8/21/08 Draft



**Responsible Officer:** Associate Vice President–Human Resources and Benefits

**Responsible Office:** Human Resources and Benefits Policy and Program Design

**Effective Date:** January 1, 2009

**Next Review Date:** January 1, 2011

**Who is Covered:** All UC retired employees (Senior Management Group members, including Deans; staff employees; and academic appointees) who are reemployed into Senior Management Group positions or staff positions. Recall appointments for academic appointees are governed by Academic Personnel Policy 200-22 and Academic Personnel Policy 200, Appendices A and B, and the *Guidelines for Rehire of UC Retirees*. Retired employees with underlying faculty appointments who are rehired into SMG or staff positions retain all rights and privileges connected with their underlying faculty appointments.

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## **I. POLICY SUMMARY**

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This policy governs the reemployment of all Retired Employees (as defined in Section II. below) into Senior Management Group (SMG) or staff positions.

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## **II. POLICY DEFINITIONS**

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**Career Appointment:** An appointment established at a fixed or variable percentage of time at 50 percent or more of full-time, which is expected to continue for one year or longer.

**COBRA:** The Consolidated Omnibus Budget Reconciliation Act (COBRA), which gives University employees and their covered family members the right to temporarily continue their UC-sponsored group health coverage in situations that would ordinarily cause the individual to lose coverage.

**Executive Officer:** The President for the Office of the President, Chancellor, or Laboratory Director.

**Normal Retirement Age:** Normal retirement age under UCRP means age 50 with a minimum of 5 years of service credit for Safety Members and age 60 with a minimum of 5 years of service credit for all other Members.

**Retired Employees:** Former University employees (SMG members, staff employees, and academic appointees) who have separated from University service and elected monthly retirement income or a lump sum cashout under the University of California Retirement Plan.

**Senior Management Group:** As defined by Regents Action Item on Governance, dated \_\_\_\_\_, 2008.

**Top Business Officer:** Executive Vice President–Business Operations for the Office of the President, Vice Chancellor for Administration, or the position responsible for the location’s financial reporting and payroll as designated by the Executive Officer.

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## **III. POLICY TEXT**

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### **A. Scope**

Retired Employees may be reemployed by the University in accordance with the provisions of this policy, which incorporates requirements developed [1] to address legal concerns regarding preservation of the tax-qualified status of the University of California Retirement Plan (UCRP) as described in Section B. below and [2] to address the University’s concerns regarding operation of a public retirement plan, administrative feasibility, and compliance as described in Section C. below.

### **B. IRS Restrictions for Preserving the Tax-Qualified Status of UCRP**

The Internal Revenue Code imposes restrictions on the timing of the distribution of benefits to participants in defined benefit plans such as UCRP. Generally, payments are permitted when an employee retires or attains normal retirement age. Otherwise, retirement benefits should remain in the plan so they will be available to provide support to participants after they cease working. Failure to satisfy the distribution timing restrictions could disqualify the

plan, which could cause the vested benefits of UCRP members to become immediately taxable.

If an employee retires before reaching the normal retirement age under a pension plan, the Internal Revenue Service (IRS) may question whether the employee’s retirement is a true separation from service or a strategy to access retirement funds that otherwise would not be available to the employee.

Normal retirement age under UCRP means age 50 with a minimum of 5 years of service credit for Safety members and age 60 with a minimum of 5 years of service credit for all other members. Once an employee attains normal retirement age, the IRS no longer is concerned about an employee’s access to retirement funds because those funds were intended to be available at that age.

The following factors support a determination that a true separation from service has occurred for an employee who has not reached normal retirement age:

- The employee and the employer did not engage in discussions regarding reemployment before the employee’s separation from service. The IRS has singled out this factor as critical to support the occurrence of a true separation. Therefore, for employees who have not reached normal retirement age, discussions about reemployment are prohibited until after the employee has received his or her first monthly payment or lump sum cashout or 30 days after separation, whichever is later. (For employees who have reached normal retirement age, discussions about reemployment prior to actual separation are not prohibited.)
- The length of the break in service before reemployment is reasonable
- Both the employer and the employee intended that a separation from service occur and that it be permanent
- Upon separation from service, the employee surrendered something of value, such as seniority rights or access to benefits available only to active employees
- The employer processed the employee as if he or she were separating from service. For example, a COBRA election or information on retiree health insurance coverage was provided to the employee upon separation, or benefits not available to anyone other than active employees were terminated, or a separation date was entered into the payroll/personnel system
- The employee is reemployed into a position that requires different skills from those used in his or her prior position or is with a different department or supervisor
- The employee was employed by an unrelated employer prior to reemployment

**C. University Policy Restrictions**

Subject to the exceptions described in Section C.5. below, the following restrictions on the reemployment of Retired Employees who have not reached normal retirement age are based on University policy.

1. University Need

Reemployment must be as a result of University need, such as the Retired Employee possesses skills and institutional knowledge that the hiring department cannot otherwise obtain with equal cost effectiveness; the hiring department anticipates a prolonged

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process for hiring a replacement; or the hiring department anticipates that the Retired Employee will assist a replacement to acquire necessary skills and knowledge. For situations in which a Retired Employee is reemployed into the same position held before retirement or another vacant position, the job must be posted and a search begun within 30 days of the vacancy being created and a minimum 30-day recruitment period must be held.

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Situations in which a Retired Employee is not reemployed into the same position held before retirement or is not reemployed into another vacant position do not require a recruitment.

Written documentation on University need must be provided for reemployment actions in which a Retired Employee is rehired into a Senior Management position, including specification of the duration of the appointment in order to support the existence of exigent circumstances.

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The President must endorse a request based on University need for Retired Employees reemployed into SMG positions. For Retired Employees whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the current Indexed Compensation Level, the President must endorse a request based on University need before submission to The Regents for approval. (The total compensation at the appointment rate in the rehire position will be used and not the conversion to derive a "full-time equivalent" amount, e.g., at 100 percent.)

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2. Break in Service

A Retired Employee must not be reemployed until there has been a break in service of at least 30 days, but preferably 90 days. The break in service restriction is not required to preserve the tax-qualified status of UCRP if the Retired Employee has reached normal retirement age at the time of separation from service; however, this policy requires that the break in service restriction be applied to all Retired Employees.

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3. Appointment Percentage

This policy requires that Retired Employees be rehired with no more than a 43% appointment within any 12-month period.

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It is the intent of this policy that Retired Employees be reemployed with limited appointments that do not qualify them for active employee health and welfare benefits, regardless of whether the Retired Employee has elected monthly retirement income or a lump sum cashout.

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If reemployment must exceed a 43% appointment, the request must be approved as follows:

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- The President must endorse the request prior to submission to The Regents for approval for Retired Employees reemployed into SMG positions and Retired Employees whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the current Indexed Compensation Level. (The total compensation at the appointment rate in the rehire position will be used and not the conversion to derive a "full-time equivalent" amount, e.g., at 100 percent.)
- The Chief Human Resources Officer must review and sign off on the request prior to submission to the Executive Officer for approval for Retired Employees reemployed into staff positions,

- 4.

5. Reemployment into Career Appointments

In cases of reemployment into a Career Appointment, following regular UC recruitment procedures and after an appropriate break in service, a Retired Employee who is receiving UCRP monthly retirement income, but agrees to suspend such payments, shall not be subject to the policy restrictions in sections 1, 3 and 4 above but shall be subject to section 2.

**D. Reporting Requirements and Disclosure**

For Retired Employees reemployed into non-Career Appointments in staff positions, the locations must submit the following information to the Associate Vice President–Human Resources and Benefits at the time the Retired Employee is reemployed:

1. Completed UCRP Retired Employee Election Form [link] for each reemployed Retired Employee (not required for Retired Employees who received a lump sum cashout).

In addition, every six months the locations must submit a summary report to the Associate Vice President – Human Resources and Benefits no later than June 30 and December 31 that incorporates a list of all reemployed Retired Employees. Identify appointments at greater than 43% time within a 12-month period, and, appointments for which other types of variations from policy have been approved, and provide documentation that required approvals were obtained.

Disclosure:

Per University policy, persons inside or outside the University shall have access to information in employees' personnel records in conformance with state statutes and University policies on records. The Executive Officer shall establish procedures for the release of information. Examples of information which is public information and which should be released upon request include name, current salary, retirement compensation and appointment type.

**Deleted: Duration of Reemployment**  
 Reemployment in one or multiple positions must not exceed a total of 12 months. If reemployment is to exceed a total of 12 months, the request must be approved as follows:  
 The President must endorse the request prior to submission to The Regents for approval for Retired Employees reemployed into SMG positions and Retired Employees whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the Indexed Compensation Level. (The total compensation at the appointment rate in the rehire position will be used and not the conversion to derive a "full-time equivalent" amount, e.g., at 100% percent.)  
 The Chief Human Resources Officer must review and sign off on the request prior to submission to the Executive Officer for approval for Retired Employees reemployed into staff positions,

**Deleted:** This does not apply to Retired Employees who took a lump sum cashout for whom all sections (1, 2, 3 and 4) apply.

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**IV. APPROVAL AUTHORITY**

**A. Implementation of the Policy**

The Associate Vice President–Human Resources and Benefits is the Responsible Officer for this policy and has the authority to implement the policy.

**B. Revisions to the Policy**

The Regents is the Policy Approver for this policy and has the authority to approve any policy revisions upon recommendation by the President.

The Associate Vice President–Human Resources and Benefits has the authority to initiate revisions to the policy, consistent with approval authorities and applicable Bylaws [link] and Standing Orders [link] of The Regents.

The Executive Vice President–Business Operations has the authority to ensure that policies are regularly reviewed and updated, and are consistent with the Senior Management Group Compensation Policy Principles [link] and other governance policies [link].

**C. Approval of Actions**

The President must endorse, and The Regents must approve, all reemployment actions (actions authorized by this policy, that exceed this policy, or that are not expressly provided for under any policy) for:

- Retired Employees reemployed into SMG positions
- Retired Employees whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the Indexed Compensation Level. (The total compensation at the appointment rate in the rehire position will be used and not the conversion to derive a “full-time equivalent” amount, e.g., at 100 percent.) (Normal appointment approval shall be followed for a Retired Employee reemployed into a Career Appointment, following regular UC recruitment procedures and after an appropriate break in service, who elects suspension of UCRP monthly retirement income.)

For Retired Employees reemployed into staff positions, actions authorized by this policy must be approved in accordance with local procedures. The Executive Officer may delegate authority to approve actions authorized by this policy, but remains accountable for all reemployment actions and for submission of timely and accurate reports in compliance with Section V.A. of this policy. Documentation of the delegation of authority must be submitted to the Associate Vice President—Human Resources and Benefits. The Office of the President will conduct periodic audits of delegations and reemployment actions.

**Deleted:** , which must include a provision for review and sign off by the local Chief Human Resources Officer prior to approval by the location’s Executive Officer.

**D. Approval of Variations From Policy**

Unless there is explicit and specific authorization for an action by this policy, the action is considered to be a variation from the policy and must be approved as follows:

The President must endorse, and The Regents must approve, the variation to the policy for:

- Retired Employees reemployed into SMG positions
- Retired Employees whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the current Indexed Compensation Level. (The total compensation at the appointment rate in the rehire position will be used and not the conversion to derive a “full-time equivalent” amount, e.g., at 100 percent.)

For Retired Employees reemployed into staff positions, requests for approval for variations from this policy must be reviewed and signed off on by the local Chief Human Resources Officer.

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**V. COMPLIANCE**

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**A. Compliance with the Policy**

The Associate Vice President–Human Resources and Benefits is accountable for monitoring compliance with this policy.

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local office to be responsible for the ongoing reporting of policy compliance, including collecting all relevant compensation package activity, and creating specified regular compliance reports (such as a monthly compensation compliance report) for review by the location’s Top Business Officer.

The Top Business Officer establishes procedures to collect and report information, reviews the specified regular compliance reports (such as a monthly compensation compliance report) for accuracy and completeness, reviews policy exceptions and/or anomalies to ensure appropriate approval has been obtained, and submits a copy of the compliance report to the Executive Officer for signature.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms, ensuring monitoring procedures are in place, approving the specified regular compliance reports (such as a monthly compensation compliance report), and sending notice of final approval for the reports to the Senior Management Compensation Office, Top Business Officer, and Local Resources.

The Associate Vice President–Human Resources and Benefits is accountable for reviewing the administration of this policy. The Senior Vice President–Chief Compliance and Audit Officer will periodically audit and monitor compliance to these policies, and results will be reported to senior management and The Regents.

**B. Noncompliance with the Policy**

Noncompliance with the policy is handled in accordance with The Regents’ [Guidelines for Corrective Actions Related to Compensation Practices](#) [link] and [Guidelines for Resolution of Compensation and Personnel Issues Resulting from the Findings of Audits and Management Reviews](#) [link].

Noncompliance is reported in the monthly compliance report from each location as approved by the Executive Officer and reviewed by the Senior Vice President–Chief Compliance and Audit Officer and The Regents at each Regents’ meeting.

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**REVISION HISTORY**

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As a result of the issuance of this policy, the following documents are rescinded as of the effective date of this policy and are no longer applicable for Senior Management Group and staff rehired Retired Employees, and academic appointees rehired into SMG or staff positions:

- *Guidelines for Rehire of UC Retirees*
- *Reappointment Guidelines for Rehired Retirees*

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## IMPLEMENTATION PROCEDURES [\[link\]](#)

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## RELATED DOCUMENTS

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- [UCRP Retired Employee Election Form](#) (referenced in Section III.D.1. of this policy)
- [Bylaws of The Regents](#) [include the specific Bylaws that are applicable] (referenced in Section IV.B. of this policy)
- [Standing Orders of The Regents](#) [include the specific Standing Orders that are applicable] (referenced in Section IV.B. of this policy)
- [Senior Management Group Compensation Policy Principles](#) (referenced in Section IV.B. of this policy)
- [Other Governance Policies](#) (referenced in Section IV.B. of this policy)
- [Guidelines for Corrective Actions Related to Compensation Practices](#) (referenced in Section V.B. of this policy)
- [Guidelines for Resolution of Compensation and Personnel Issues Resulting from the Findings of Audits and Management Reviews](#) (referenced in Section V.B. of this policy)
- [Returning to UC Employment After Retirement Factsheet and Election Form](#)
- [Medicare Factsheet for Employees and Retirees](#)
- [Recall Appointments for Academic Appointees -- Academic Personnel Policy 200-22 \(APM - 200-22\)](#)
- [Pre-Retirement Recall Guidelines for Faculty Recalled for Post-Retirement Teaching -- Academic Personnel Policy 200 \(APM - 200\), Appendix A](#)
- [UCRP Reappointment Guidelines for Rehired Retirees -- Academic Personnel Policy 200 \(APM - 200\), Appendix B](#)

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## FREQUENTLY ASKED QUESTIONS

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