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September 29, 2008

DIVISIONAL CHAIRS
CHAIRS OF SENATE COMMITTEES ON FACULTY WELFARE, PLANNING AND BUDGET, ACADEMIC PERSONNEL, AND EDUCATIONAL POLICY

Re: Retiree Rehire Policy Adopted by The Regents September 18, 2008

Dear Divisional and Committee Chairs:

On behalf of Academic Council Chair Mary Croughan, please find attached for your review the Policy on Reemployment of University of California Retired Employees, adopted by The Regents on September 18, 2008 without Senate review. In presenting the policy to The Regents, President Yudof announced that he would circulate the policy, which becomes effective January 1, 2009, to the University community for review after its adoption by The Regents. The Regents item stated further that "the final version [of this policy] may incorporate clarifications and additional guidance that will support compliance."

At its September 24, 2008, meeting Council determined that the policy should be distributed to the Senate for review by the Divisions and the committees on Faculty Welfare, Planning and Budget, Academic Personnel, and Educational Policy will most likely wish to opine.

In order to present a formal Senate position on this policy to President Yudof in time for him to report to The Regents in November, the last meeting before the policy goes into effect, Chair Croughan requests your responses by October 15, 2008 for review and discussion at the October 22 Council meeting.

The new policy on rehiring University retirees does not apply to the faculty who retire from faculty appointments and are subsequently recalled for academic duties under APM 200-22. However, it does apply to retired faculty members who may be rehired into staff or senior management positions while remaining in retiree status. It applies to all other University of California retirees who may be rehired in staff or SMG positions. The policy was developed after extensive press coverage of an arrangement between the Berkeley campus and the campus police chief, who was allowed to retire and continue working with no break in service.

For your convenience, I am enclosing a table comparing the new policy to the current guidelines; the Regents item including the text of the new policy; the relevant sections of the APM; and a news account of the controversy over the Berkeley police chief's rehiring.

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

Sincerely,

A handwritten signature in black ink, reading "Martha Kendall Winnacker". The signature is written in a cursive style with a long horizontal flourish at the end.

Martha Kendall Winnacker
Executive Director, Academic Senate

Cc: Academic Council
Divisional Directors
Senate Committee Analysts

Encl. 4

COMPARISON BETWEEN

**POLICY ON REEMPLOYMENT OF UNIVERSITY OF CALIFORNIA RETIRED EMPLOYEES INTO SENIOR
MANAGEMENT GROUP AND STAFF POSITIONS (effective January 1, 2009)**

AND CURRENT

RETURNING TO UC EMPLOYMENT AFTER RETIREMENT FACT SHEET*

**Guidelines underlying fact sheet have been removed from UCOP web site. Regents item refers to the fact sheet.*

New Policy	Current Guidelines
Established as Regental policy	Guidelines issued by Human Resources & Benefits.
Does not apply to faculty recalled to academic appointments under APM 200-22 and 200. (Intro)	Not addressed.
Does not apply to retirees reemployed into career appointments following regular UC recruitment procedures and after an appropriate break in service except for required break in service. (III.C.5)	Not addressed. Policy provisions suggest that it does not apply. No distinction between retirees who took monthly payments and those who took lump-sum cash out.
Prohibits retirees who took lump sum cash out from returning to career appointments. (III.C.5)	Not addressed.
Does apply to faculty rehired in staff or SMG positions without affecting "rights and privileges connected with their underlying faculty appointments." (Intro)	Not addressed.
Defines normal retirement age as 60 (50 for Safety employees) plus 5 years service covered by UCRP	Defines normal retirement age as 60
For employees under retirement age, prohibits discussion of re-employment before separation.	Same
Reemployment eligibility begins after retiree receives first pension check or lump sum cash payment.	Same
No reemployment without break in service at least 30 days, no exceptions. Preferably 90 days.(III.C.2)	Same
Requires exigent circumstances , e.g., retiree possesses critical skills and UC cannot find replacement. (III.C.1) Written documentation of exigent circumstances required in all cases. (III.C.1)	Rehire "should" be caused by exigent circumstances, e.g., UC could not find replacement after a search, "your personal circumstances changed, or the University's circumstances changed."
Rehire into same position or vacant position requires position to be posted within 30 days of vacancy and minimum 30 days recruitment (III.C.1) Recruitment not required if retiree is not rehired into previous position or another vacant position.	Not addressed. Implied search expectation.
Approval by President & Regents required for reemployment into SMG position or where annualized total compensation exceeds Indexed	Not addressed.

New Policy	Current Guidelines
Compensation level. (III.C.1)	
Approval by top campus business officer (EVP-Business Operations for UCOP, VC Administration or equivalent on campuses) and chancellor for reemployment into staff positions (may be delegated). (III.C.1)	Not addressed.
Appointment percentage limited to 43%. (III.C.3) Appointment at more than 43% requires same approvals as appointment. (III.C.3)	Appointment percentage limited to 46%.
Appointment length may not exceed 12 months "in one or multiple positions." (III.C.4) Exceptions require same approvals as appointment. (C.III.4)	Not addressed.
Locations must report to AVP-HR&B at time of reemployment: submit all local approval documents and supporting documentation of exigent circumstances, including any reappointments or extensions to previous appointments. (III.D.)	Not addressed.
Locations must report to AVP-HR&B every 6 months a list of all reemployed Retired Employees, noting appointments greater than 43% or for more than a total of 12 months and any other exceptions.	Not addressed.
Policy revision by Regents on recommendation of President. AVP-HR&B may initiate revision. (IV.B) Review scheduled January 1, 2011. (Intro)	Not addressed. Guidelines issued by HR&B.
Chancellors (local executive officers) may delegate approval of actions authorized by policy but remain accountable for all reemployment actions and for submission of timely and accurate reports. UCOP will conduct periodic audits of delegations and reemployment actions. (IV.C)	Not addressed.
Any action not explicitly and specifically authorized by this policy is a "variation" from the policy and must be approved by President and Regents or by chief business officer and chancellor as above. (IV.D)	Not addressed.

Office of the President

TO MEMBERS OF THE COMMITTEE ON COMPENSATION:

ACTION ITEM

For Meeting of September 18, 2008

APPROVAL OF THE POLICY ON REEMPLOYMENT OF UNIVERSITY OF CALIFORNIA RETIRED EMPLOYEES INTO SENIOR MANAGEMENT GROUP AND STAFF POSITIONS AND AMENDMENT TO THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN REGARDING NORMAL RETIREMENT AGE

EXECUTIVE SUMMARY

The President recommends that the Committee on Compensation recommend to the Regents that the proposed policy on *Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions* (**Attachment**) be approved in substantially the form proposed. The policy governs the reemployment of all former UC employees (Senior Management Group members, staff personnel, and academic appointees) who have separated from University employment and elected monthly retirement income or a lump sum cashout from the University of California Retirement Plan (UCRP), and who are rehired into SMG or staff positions. Although applicable to the reemployment of retired employees with underlying faculty appointments who are rehired into SMG or staff positions, this policy does not modify, amend, or suspend any rights or privileges connected with the underlying faculty appointments.

The policy was developed to ensure compliance with Internal Revenue Service restrictions on distribution of pension benefits prior to an employee's separation from service or attainment of "normal retirement age" as defined under the University of California Retirement Plan. The policy was also developed to address the University's interest in ensuring appropriate operation of a public retirement plan and clarifying the applicable rules, approval authorities, and reporting requirements in the reemployment of retired employees.

The proposed policy was presented to the Regents for discussion at the July 2008 meeting, and upon approval, will be sent out formally to the University community for review and comment. Based on the review, the final version may incorporate clarifications and additional guidance that will support compliance. The policy's effective date is January 1, 2009.

Approval is also recommended for an amendment to UCRP to clarify the definition of “normal retirement age” and to make UCRP conform to the proposed policy on *Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions*.

Relevant Policy: UCRP Plan Document

Issue: Amendment of UCRP is required to conform UCRP to the proposed policy on *Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions* as it relates to separation from University employment prior to “normal retirement age”

RECOMMENDATION

The President recommends that the Committee on Compensation recommend that the Regents approve:

- 1) The proposed policy on *Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions*;
- 2) Clarification of the definition of “normal retirement age” to refer to age 50 plus a minimum of 5 years of UCRP Service Credit for Safety Members and age 60 plus a minimum of 5 years of UCRP Service Credit for all other Members; and
- 3) Delegation of authority to the Plan Administrator to implement the UCRP amendment.

BACKGROUND

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

The proposed policy on *Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions* governs the reemployment of all former UC employees (Senior Management Group members, staff personnel, and academic appointees) who have separated from University employment and elected monthly retirement income or a lump sum cashout from the UCRP, and who have been rehired into Senior Management Group (SMG) or staff positions. The policy was presented at the July 2008 Regents’ meeting for discussion. Subsequent to the July meeting, the policy was revised with editorial changes and clarifications pursuant to review by location leadership and other appropriate management personnel, and by faculty leadership.

The proposed policy will replace the *Guidelines for Rehire of UC Retirees*. As indicated in the July Discussion Item for the policy, the policy is consistent with the goals developed in response to a July 2004 audit on rehired retirees conducted by the UC Internal Audit Office. As a result of the audit, actions were taken to improve compliance with the *Guidelines for Rehire of UC Retirees*, such as identifying sources for generating more reliable data, tracking hours worked by rehired retirees, and ensuring that rehired retirees complete the election form indicating to the

University that the employee chooses either to continue receiving monthly UCRP retirement income or to suspend monthly UCRP retirement income. In follow-up to the audit, it was determined that the *Guidelines* should be converted to a University policy in order to provide greater accountability for compliance with guidance on reemploying retired employees, particularly those based on Internal Revenue Service requirements to ensure that UCRP maintains its tax-qualified status.

The Internal Revenue Code imposes restrictions on when benefits can be distributed to pension plan members. The Internal Revenue Service (IRS) is concerned that employees under normal retirement age should not have access to retirement funds unless there has been a true separation from service. Therefore, in compliance with the IRS guidance, the proposed policy requires a minimum break in service of 30 days before reemployment can occur and prohibits any discussion regarding reemployment prior to an employee's separation from service if the employee has not reached the Plan's definition of normal retirement age. The proposed amendment to UCRP clarifies the Plan's normal retirement age for Safety Members and all other Members.

In addition, the proposed policy also addresses the University's concerns regarding the reemployment of retired employees, and builds on the principles stated in the *Guidelines* by incorporating additional reemployment restrictions and approval, accountability, and reporting requirements.

The policy includes the following requirements.

Conditions for reemployment:

- It must be as a result of exigent circumstances, such as that the retired employee possesses skills that are critical to the mission of the University and the University is not able to find a suitable replacement
- It must not occur until there has been a break in service of at least 30 days, and preferably 90 days (including reemployment of employees who have reached normal retirement age)

Limitations on reemployment:

- It must be limited to no more than a 43 percent appointment
- It must not exceed a total of 12 months

Approval of and reporting on reemployment:

- It must be approved by both the Executive Officer (i.e., the chancellor, laboratory director, or President for the Office of the President) and the Regents if it involves:
 - ~ A retired employee rehired into a Senior Management Group position or
 - ~ A retired employee whose annualized base salary plus any other cash compensation in the rehire position meets or exceeds the Indexed Compensation Level (currently \$205,000). (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.)

- It must be approved by the applicable Executive Officer if it involves a retired employee rehired into a staff position
- Supporting documentation for the reemployment action must be submitted to the Office of the President by the locations together with a UCRP retired employee election form

The conditions and limitations on reemployment described above, other than the requirement for an appropriate break in service, do not apply in cases of reemployment into a career appointment, following regular UC recruitment procedures when a retired employee (who did not take a lump sum cashout) elects suspension of UCRP monthly retirement income on returning to UC employment.

Because the new proposed policy applies to retired employees who are reemployed in Senior Management Group positions, it is being submitted to the Regents for approval. If Regental approval is obtained, the policy will be sent out formally to the general University community for review and comment, with an effective date of January 1, 2009.

Amendment to UCRP

The Internal Revenue Code imposes restrictions on when benefits can be distributed to pension plan members. Generally, payments are permitted after an employee retires or after attainment of normal retirement age. The Internal Revenue Service's theory is that tax-qualified plans, such as the UCRP, offer significant tax advantages to employees by allowing them to exclude the value of retirement benefits from taxable income as they are accrued during an employee's working life. In return, the government expects the benefits to be available to support employees in their retirement years. Failure to satisfy the timing restrictions on distributions from the plan could result in plan disqualification, which in turn could cause the vested benefits of UCRP members to become immediately taxable. As such, it is proposed that UCRP be amended to indicate that the normal retirement age is 50 with a minimum of 5 years of UCRP Service Credit for Safety Members and 60 with a minimum of 5 years of UCRP Service Credit for all other Members. These ages are consistent with the maximum age factors for retirement benefits as defined in the Plan Document for Safety and non-Safety Members. The normal retirement age definition will replace the normal retirement date definition in the Plan Document.

(Attachment – Policy on Reemployment of UC Retired Employees Into Senior Management Group and Staff Positions)

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

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

II. POLICY DEFINITIONS

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.

III. POLICY TEXT

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

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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 are based on University policy.

1. Exigent Circumstances

Reemployment must be as a result of exigent circumstances, such as the Retired Employee possesses skills that are critical to the mission of the University and the University was not able to find a suitable replacement. For situations in which a Retired Employee is reemployed into the same position held before retirement or another

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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.

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. Exigent circumstances in such situations include, but are not limited to, the need to train a replacement or to provide transition assistance.

Written documentation on exigent circumstances must be provided for all reemployment actions, including specification of the duration of the appointment in order to support the existence of exigent circumstances.

The President must endorse a request based on exigent circumstances before submission to The Regents for approval for Retired Employees reemployed into SMG positions, and 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 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 staff positions, the local campus, medical center, or laboratory Chief Human Resources Officer (CHRO), as applicable, must review and sign off on a request based on exigent circumstances prior to submission to the location’s Executive Officer for approval.

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.

3. Appointment Percentage

Due to potential Medicare complications, this policy requires that Retired Employees be rehired with no more than a 43% appointment. Appointments at 43.75% time or more provide eligibility to Retired Employees for UC-sponsored employee medical coverage, which makes Medicare become the secondary payer.

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.

Appointment at no more than 43% also ensures that Retired Employees who elected monthly retirement income are reemployed with limited appointments and do not become active members in UCRP.

If reemployment must exceed a 43% appointment, 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 current Indexed Compensation Level.

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(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. 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,

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

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. All local approval documents and supporting documentation of exigent circumstances for each individual including any reappointments or extensions to previous appointments; and
2. 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, noting appointments greater than 43% or for more than a total of 12 months (when the employee has not selected suspension of UCRP monthly retirement income), and/or appointments for which other types of variations from policy have been approved.

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.

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, 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. The Executive Officer may delegate authority to approve

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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.

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 and documented and approved by the location’s Executive Officer.

V. COMPLIANCE

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.

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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.

REVISION HISTORY

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*

IMPLEMENTATION PROCEDURES [link]

RELATED DOCUMENTS

- [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*

FREQUENTLY ASKED QUESTIONS

200-0 **Policy**

It is the policy of the University to evaluate objectively and thoroughly each candidate for appointment, promotion, or merit increase. Promotions and merit increases are not automatic, but are based on merit.

Every faculty member shall be reviewed at least every five years. The Chancellor, with the advice of the Academic Senate, shall determine the level and type of review and shall develop appropriate implementing procedures.

The Chancellor may exempt from this five-year review faculty who are also members of the Executive Program. (See APM-240-80 regarding the five-year review of academic Deans and Provosts.)

For faculty who are not members of the Executive Program, the five-year review may not be waived; in exceptional circumstances, the Chancellor may defer the review for one year.

200-8 **Types**

Appointment and promotion policies and procedures for certain specific title series will be found in Manual sections following this general APM - 200.

On each campus the officers reviewing professional research appointments and promotions and reviewing staff appointments will be expected to notify and consult with one another when there is any doubt as to whether a proposed appointment should be classified as professional research or staff personnel. When the officers cannot agree, the question shall be referred to the Chancellor for resolution.

200-17 **Effective Service Dates**

a. **Effective Date of Appointment — General**

The effective date of an appointment, merit or promotion to another approved title is the initial date of the change for purposes of payroll and record keeping and indicates the first day on which the payment begins for appointments. Salary increases associated with merits and promotions will be paid as described below.

The University's annual fiscal operating budget year begins July 1. The University's budget is adopted after the State's budget is signed, which may occur after July 1. For merits and promotions that are effective on July 1, the date of payment of associated salary increases depends on when the University's budget is adopted for the fiscal year. In the event the University's budget is not adopted in time to meet applicable payroll deadlines for a July 1 effective date, there may be a delay in payment of salary increases until the University's budget is adopted. Under these circumstances, salary increases will be paid as soon as possible, with retroactive payment to the effective date of the merit or promotion.

b. Effective Date of Promotions

The effective date for promotions within any of the title series is July 1 of each year; however, Chancellors and the Vice President—Agriculture and Natural Resources are authorized to promote personnel within the authority granted in APM - 200-24 at any effective date during the year.

c. Beginning Date of Service

The beginning date of service for a new appointee, or of service in a new status for a continuing appointee, is the first day on which the appointee is required to be on duty under the terms of the appointment or new status. This date will be different from the effective date for academic-year appointees paid in twelve installments.

200-19 Normal Periods of Service at Rank and Step

For those titles in which normal periods of service at ranks and steps within ranks have been established the following shall apply. (Please note that the following periods are not relevant for purposes of determining retirement credit or sabbatical leave credit.)

- a. An academic-year appointee who has served at least two full quarters or one full semester in any academic year will receive service credit for one year at rank and step.
- b. An academic-year appointee who has served one quarter or less in any academic year will not receive service credit for that year.
- c. A fiscal-year appointee with an effective date of appointment in the period July 1 through January 1 will receive service credit for one year at rank and step.

- d. A fiscal-year appointee with an effective date of appointment in the period January 2 through June 30 will not receive service credit for that year.
- e. A period of leave after service of at least one full quarter may be counted toward service in reckoning the number of years at rank and step if this is deemed appropriate by reviewing authorities. For periods of leave in relation to the eight-year limitation of service, see APM - 133-17-g.

200-22 **Recall Appointments for Academic Appointees¹**

- a. The University may recall to active service, on a year-to-year basis, academic appointees who have retired, provided such appointments are not in conflict with the terms of the University of California Retirement Plan and/or University policy.²

- b. Authority²

The Chancellor has the authority to approve salaried and non-salaried recall appointments on a year-to-year basis.

- c. Criteria

In general, a campus fills a vacancy created by retirement with a long-term appointment. However, delays in such appointments can occur for a number of reasons. Recall appointments may be approved under these and certain other circumstances.

The following criteria shall be considered in determining whether to recommend or approve a recall appointment:

- (1) The teaching, research, and/or administrative needs of the department or unit.

¹ These provisions are consistent with Regents' Standing Order 103.6, and the President's delegation of authority letter dated August 17, 1989, to Chancellors, Laboratory Directors, the Senior Vice President—Business and Finance, and the Vice President—Agriculture and Natural Resources concerning service following retirement.

² See APM - 200, Appendix A, Pre-Retirement Recall Guidelines for Faculty Recalled for Post-Retirement Teaching, for exceptions that apply to certain faculty age 60 and older who enter a pre-retirement agreement for a recall for teaching appointment.

- (2) Availability of office and laboratory space.
- (3) Budgetary resources.
- (4) Ability of the candidate in the areas required for appointment in the particular academic title or series (e.g., Professor series). Documentation of these areas should specifically include an evaluation of activities during the current year and the last several years. If the candidate has not served in the University within the past year, the department may evaluate activities over the last several years of service and/or activities during retirement.

d. Procedure

The department chair, an equivalent administrator, or the individual academic appointee may request a recall appointment. The request should be made well in advance of the desired starting date in order to allow sufficient time for academic and administrative review. The campus shall establish a time period for submission of requests.

The department chair will evaluate whether the appointment of the candidate is the best way to fulfill temporary staffing needs, for example, during recruitment of a permanent ladder rank faculty member to fill this position. In accord with department procedures, the chair will have appropriate consultation with the department faculty. The request is reviewed by the Dean or Provost of the College or School and also may be reviewed by the Committee on Academic Personnel, pursuant to campus procedures.

The Chancellor makes the final decision on the recall appointment.

e. Recall Appointments and Reappointments²

An appointment may be made only for a period of one year or less and shall have a specific ending date. An appointment expires on that date, and no notice is required.

Reappointments are not automatic. Following review, an appointment may be renewed.

200-24 **Authority**

- a. Chancellors are authorized to approve all appointments, reappointments, merit increases, and promotions of academic personnel under their jurisdiction except those appointments involving above-scale salaries beyond the Regental compensation threshold (See Section 101.2 (a) of the Standing Orders of The Regents), and appointments of Regents' Professors and University Professors.
- b. On an exception basis and with suitable justification, the Chancellor, Vice President—Agriculture and Natural Resources and Provost and Senior Vice President—Academic Affairs may approve appointments, reappointments, merit increases, and promotions within the authorization granted in APM - 200-24-a retroactively (that is, with the beginning date of service prior to the actual approval), subject to the condition that a new appointee must have completed and subscribed to the State Oath of Allegiance on or before the beginning date of service under the terms of appointment.

All individuals, including U.S. citizens, under the Immigration Reform and Control Act of 1986, must present evidence through the employment verification process that they are legally eligible to work in the United States.

- c. For authority of the Vice President—Agriculture and Natural Resources and the Provost and Senior Vice President—Academic Affairs with respect to personnel under their jurisdiction, see the section on the particular title or title series for specific statements concerning authority to appoint and promote for that title or title series.

200-30 **Academic Personnel Actions — Personnel Review Files**

The personnel review file is that portion of the academic personnel records pertaining to an individual maintained by the University for purposes of consideration of personnel actions under the relevant criteria set forth in this Manual. An individual's personnel review file shall contain only material relevant to consideration of personnel actions under these criteria. Final administrative decisions concerning appointment, promotion, merit increase, appraisal, reappointment, nonreappointment, and terminal appointment shall be based solely upon the material contained in the individual's personnel review file.

200-96 **Reports**

The Chancellor shall maintain records of personnel actions and submit reports to the President as needed.

Pre-Retirement Recall Guidelines for Faculty Recalled for Post-Retirement Teaching

Campus administrators may enter a pre-retirement agreement with a faculty member age 60 (sixty) or older for a recall to service after retirement.

Timing and Duration of Appointment: By agreement between campus administration and the faculty member, the recall period may be up to three academic years, subject to annual renewal after the agreed initial period. Retirement plan regulations require that there generally be a break in service of at least 90 (ninety) days between the retirement date and the date of the recall appointment start date. However, in no case may the recall date be earlier than 30 (thirty) days following the retirement date.

Compensation: In general, the recall rate for academic-year appointees will be 1/9th of the base salary at the time of retirement per quarter course or 1/6th of the base salary per semester course, not to exceed the current salary rate for Professor, Step VII. Fiscal-year salaries should be converted to the academic-year equivalent salary. Campus administrators and faculty may negotiate a higher or lower salary rate, as appropriate to the nature of the course, to reflect specific needs. The base salary is defined for the purposes of these guidelines as the faculty member's academic year (nine-month) salary or fiscal year (twelve-month) salary at the time of retirement augmented by any subsequent range adjustments. Merit and promotion increases are not granted after retirement.

Appointment and Space Assignment: The recall appointment effort may not exceed 46% (forty-six percent) time. However, due to potential Medicare complications, recall appointments will generally be 43% (forty-three percent) time or less. Assignment of office space is subject to the agreement reached between campus administrators and the faculty member. Recall for teaching appointments will not normally include any commitment of research space.

Benefits: Recalled faculty may contribute to the 403(b) Plan and 457(b) Plan. Health benefits are determined by the terms of the recall appointment. Since eligibility for benefits is a critical and complex issue, recall appointees should consult with the campus Benefits Office about how the recall appointment may affect their benefits eligibility. See the Returning to UC Employment After Retirement Factsheet for further information available at:
http://atyourservice.ucop.edu/forms_pubs/checklists_factsheets/returntowork.pdf.

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September 11, 2003

VICE CHANCELLORS—ACADEMIC AFFAIRS
VICE CHANCELLORS—ADMINISTRATION
DEPUTY LABORATORY DIRECTORS—OPERATIONS

UCRP Reappointment Guidelines for Rehired Retirees

This memo is in response to inquiries on how the change in the University of California Retirement Plan (UCRP) Normal Retirement Date affects the UCRP Guidelines for Rehire of UC Retirees. UCRP recently was amended to change the Normal Retirement Date to age 60 with 5 years of Service Credit, to support the University's ability to arrange recall appointments, especially faculty who would fill limited teaching assignments.

As background, the Internal Revenue Service (IRS) defines Normal Retirement Date as the date specified by the plan when a member's right to benefits is nonforfeitable. Arrangements made for post-retirement employment before individuals reach the plan's normal retirement date could disqualify the pension plan if the IRS believes there has not been a bona fide termination of employment. Plan disqualification would result in immediate taxation to members, based on the value of a member's accrued benefit in UCRP at the time of disqualification.

The current UCRP Guidelines for Rehired Retirees (copy attached) continue to apply to all rehired retirees regardless of age, including the requirement of a 30-day minimum break in service. However, due to the change in the UCRP Normal Retirement Date, discussions about reemployment may now begin before separation or retirement if a Member is age 60 and has at least 5 years of Service Credit. (The Guidelines and related information are available on the Internet at [http://exchange.ucop.edu/documents/UCRP Waiver for Rehired Retirees/](http://exchange.ucop.edu/documents/UCRP%20Waiver%20for%20Rehired%20Retirees/)).

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Chief Human Resources Officers
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UC defends \$2.1 million deal for police chief

Patricia Yollin, Chronicle Staff Writer

Friday, April 25, 2008

UC Berkeley officials are defending an unusual arrangement that allowed Police Chief Victoria Harrison to retire last year with a \$2.1 million package and then return to the same job right away for more money.

"No laws were broken," Cal spokeswoman Marie Felde said Thursday. "That's very clear."

UC spokesman Paul Schwartz said the retirement package was consistent with university policy and reflected benefits she rightfully earned.

"She did not receive anything special," he said.

The two were reacting to a Contra Costa Times story published Thursday that said the chief of the UC Berkeley Police Department received "improper perks" and that administrators broke or bypassed UC and federal rules.

In an interview with The Chronicle, Harrison said she was stunned by the uproar over what she saw as a difficult decision on her part, but one that allowed her to keep working in a place she loves.

"I'm now 54," Harrison said. "I think I've got a few good years left in me, and I want to continue to contribute to the big U."

Harrison started her career at UC Santa Barbara in 1973 and came to Cal in 1985. Five years later, she took over as chief. In June 2007, however, she found herself in a quandary. She'd been eligible for full retirement for more than a year, with a pension that would have paid her as much as she was earning by working.

"I was at 100 percent of my salary," she said. "People kept asking me, 'When are you going to retire?' They were telling me I was crazy. And I was told that a job at another municipal police department was mine."

The problem was that she didn't want to leave, and her boss, Vice Chancellor Nathan Brostrom, didn't want her to go. The police chief said they explored her options and

scoured retirement plans, "reading the fine print." They discovered that "if you take the lump sum payout, you're not considered retired."

Harrison got a \$2,130,259 lump sum from the retirement plan. She will also receive \$4,621 a month for 10 years, totaling \$554,520, from a deferred compensation plan.

Before her retirement, Harrison was earning a base salary of \$161,527. Combined with unused vacation pay and a stipend for her work as associate vice chancellor for public safety, her total compensation had amounted to \$205,000 a year.

Under the terms of the rehiring, her base pay was \$175,000, which increased to \$181,125 two months later. In addition, she is receiving \$12,700 annually for working with Cal's athletic director and on special projects - for a total of almost \$194,000 a year.

On the other hand, Harrison said, she forfeited a monthly pension as well as health insurance and other benefits that would have lasted a lifetime.

"When I leave, I'll have to be self-insured," Harrison said. "If I don't do a good job investing all that money, I could be out on the street with a tin cup. I did a lot of soul-searching about whether I was willing to take that risk."

Harrison wanted to keep her 61 unused sick days and the university allowed it as an exception to policy, Schwartz said, because of "extenuating campus circumstances" - they didn't want to lose Harrison.

Schwartz also acknowledged that the university violated its policies by discussing rehiring before Harrison had retired. He said her "pending employment offer from an outside agency" prompted them to disregard the rules.

However, he insisted no federal rules were broken. Although the Internal Revenue Service states that such discussions shouldn't take place before normal retirement age, that age is 50 rather than 60 in the case of safety employees such as Harrison, Schwartz said.

The university also is permitting Harrison to work full time, although its guidelines say recall appointments should be part time - 46 percent or less.

Schwartz said campuses are authorized to determine the amount of work time based on their needs.

"In this case, UC Berkeley determined a full-time appointment was warranted given a range of campus safety issues confronting the campus, including an increase in violent crime and tree-sitting protesters," Schwartz said.

From UC's perspective, it all seemed like a good solution.

"She didn't want to keep working a job and not be paid," Felde said. "Everything was carefully and deliberately reviewed before the offer was made."

Others, however, find the deal disturbing, especially in light of a recent UC scandal in which millions of dollars in extra compensation and questionable perks were bestowed on top executives without disclosure to UC regents or the public.

"The lesson for us as students dealing with tuition hikes is this: UC won't give us accountability," said Jessica Schley, a 23-year-old junior at Cal and editor of the Berkeley Undergraduate Journal. "We've got to demand it."

Bob Stern, president of the Center for Governmental Studies, a Los Angeles nonprofit, said, "It's pretty amazing to me. It's like they have a tin ear. The university has done things by themselves without any oversight. They think they can do things other state agencies can't do."

He said it seemed clear that UC hadn't learned any lessons from the compensation debacle.

"They must have really wanted her to stay," he said. "But nobody is irreplaceable. I'd sure like to have that same deal here."

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/04/25/BALA10BJMH.DTL>

This article appeared on page B - 1 of the San Francisco Chronicle