



OFFICE OF THE VICE PROVOST --
ACADEMIC PERSONNEL AND PROGRAMS

OFFICE OF THE PRESIDENT
1111 Franklin Street, 11th Floor
Oakland, California 94607-5200

September 13, 2016

CHANCELLORS
LABORATORY DIRECTOR WITHERELL
ACADEMIC COUNCIL CHAIR CHALFANT
ANR VICE PRESIDENT HUMISTON

**Re: Systemwide Review of Proposed Revised Academic Personnel Manual (APM)
Section 190, Appendix G, Program Description: Retirement Contributions on Academic
Appointee Summer Salary**

Colleagues:

Enclosed for Systemwide Review are proposed technical revisions to Academic Personnel Manual (APM) Section 190, Appendix G, Program Description: Retirement Contributions on Academic Appointee Summer Salary. The technical revisions are required to align policy for administering summer salary benefits with the new 2016 Retirement Choice Program provisions. The APM technical revisions explicitly name the new retirement plan options that became available to those employed on July 1, 2016 or later. In addition, language is modified to reflect that the summer salary retirement benefit for all faculty will be transferred, prospectively, from UC's Defined Contribution Plan ("DC Plan"), where summer session retirement contributions currently go, to UC's Tax Deferred 403(b) Plan. The changes are applicable to future contributions only, effective November 1, 2016. Prior summer salary benefit contributions and investment earnings will remain in the DC Plan. The existing definition of summer salary and the summer salary retirement contribution amounts are unchanged.

Background on summer salary contributions to retirement plans

Since summer salary for teaching, research, or administrative service is not covered compensation to determine University of California Retirement Plan (UCRP) benefits, The Regents approved in November 2000 and implemented in July 2001 the summer salary benefit for eligible faculty on academic-year (nine-month) appointments. The summer salary benefit requires a contribution of 7% of eligible summer salary, on a pre-tax basis, composed of 3.5% each from UC and from the faculty member. This benefit was instituted when UCRP was the sole primary career retirement plan, remaining so until this year when the 2016 Retirement Choice Program was established with a choice between two options: Pension Choice or Savings Choice. Under both new options, more substantial retirement contributions than before go into the DC Plan. To preserve the largest possible set of retirement planning options in the two new options (including use of the DC Plan), as well as for the prior UCRP pension tiers, the summer salary retirement contributions, as of November 1, 2016, will go into the 403(b) plan and no longer into the DC Plan.

September 13, 2016

Page 2

IRS regulations on retirement plan limits play a large role in these changes to administration of the summer salary contributions. The main reason for the change is to ensure that faculty who are eligible for the new retirement plan options, Pension Choice and Savings Choice maintain full access to retirement contribution options within IRC limits. Transfer of the summer salary benefit to the 403(b) Plan gives maximum room in the DC Plan for contributions based on the academic-year salary for faculty electing either Pension Choice or Savings Choice. The change will have no negative effect on faculty members in the earlier UCRP pension tiers (the 1976 Tier or the 2013 Tier).

A more technical description of the reason for the changes, provided by Human Resources, is attached.

Systemwide Review

Systemwide Review is a public review distributed to the Chancellors, the Director, Lawrence Berkeley National Laboratory, the Chair of the Academic Council, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, affected employees, and union membership about policy proposals. Systemwide Review of the proposed technical revisions includes 45 days for a full Senate review, agreed to by Academic Council Chair Chalfant. Employees should be afforded the opportunity to review and comment on the draft policy, available online at <http://www.ucop.edu/academic-personnel-programs/academic-personnel-policy/policies-under-review/index.html>. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than **October 28, 2016**. Please submit your comments to ADV-VPCARLSON-SA@ucop.edu. Please contact Janet Lockwood with any questions at Janet.Lockwood@ucop.edu or (510) 987-9499.

Sincerely,



Susan Carlson
Vice Provost
Academic Personnel and Programs

Enclosures: Proposed revised APM - 190, Appendix G (redline and clean copy)
Model Communication
Human Resources Summary

cc: President Napolitano
Provost and Executive Vice President for Academic Affairs Dorr
Executive Vice Chancellors and Provosts
Executive Vice President Brostrom
Executive Vice President Nava
Senior Vice President Vacca
Vice President Duckett
Vice President Ellis
Vice Provost Gullatt
Chief of Staff Grossman
Vice Provosts/Vice Chancellor of Academic Personnel/Academic Affairs
Academic Personnel Directors

September 13, 2016

Page 3

Deputy General Counsel Woodall
Principal Counsel Clark
Deputy/UCOP Compliance Officer Lane
Executive Director Baxter
Executive Director Schlimgen
Interim Executive Director Lee
Director Chester
Director Henderson
Director Lockwood
Manager Donnelly
Manager Smith
Academic HR Manager Jordan
Human Resources Policy Analyst Bello

Program Description

Retirement Contributions on Academic Appointee Summer Salary

Compensation that many academic appointees receive for summer session teaching or summer research is not considered Covered Compensation for determining University of California Retirement Plan (UCRP) benefits or Defined Contribution Plan (DC Plan) Supplemental and Savings Choice contributions under the Retirement Choice Program. Since summer salary can be a significant portion of an academic appointee's annual earnings, The Regents determined in November 2000 that some coverage for retirement purposes is appropriate. Therefore, an employer and employee contribution to the DC Plan Pretax Account based on those summer earnings was approved by The Regents, to be effective with summer salary payments made on or after July 1, 2001. Effective November 1, 2016, future employer and employee pretax contributions on summer salary will be made to the Tax-Deferred 403(b) Plan.

Eligible employees are academic appointees who:

- have academic year appointments;

- are active Members of, UCRP (or a defined benefit plan to which UC contributes), or active Savings Choice participants, or are eligible for full retirement benefits and have not yet elected or commenced membership in a primary retirement plan option under the Retirement Choice Program; and
- earn eligible summer salary, as defined below.

For purposes of the retirement contribution, eligible summer salary is additional compensation that is not Covered Compensation for purposes of UCRP benefits (or benefits from other defined benefit retirement plans to which UC contributes) or DC Plan Supplemental or Savings Choice contributions and that is paid in accordance with Academic Personnel Policy 600 for:

- summer research;
- summer teaching; and/or
- summer administrative service (generally, payments to department chairs, vice chairs, etc. for administrative duties paid as “1/9ths”).

Payments from University Extension are excluded.

GENERAL UNIVERSITY POLICY
REGARDING ACADEMIC APPOINTEES
Selected Presidential Policies

APM - 190
DRAFT APPENDIX G

The total contribution rate will be 7% of eligible summer salary, based on an employee pretax contribution of 3.5% and an employer pretax contribution of 3.5%. The employer contribution will be attributed to the same funding source that provides the academic appointee's summer salary.

Program Description

Retirement Contributions on Academic Appointee Summer Salary

Compensation that many academic appointees receive for summer session teaching or ~~s~~Summer research is not considered Covered Compensation for determining University of California Retirement Plan (UCRP) benefits or Defined Contribution Plan (DC Plan) Supplemental and Savings Choice -contributions~~benefits~~ under the Retirement Choice Program. Since summer salary can be a significant portion of an academic appointee's annual earnings, The Regents ~~have~~ determined in November 2000 that some coverage for retirement purposes is appropriate. -Therefore, an employer and employee contribution to the ~~DC~~efined~~Contribution~~ Plan Pretax Account based on those summer earnings ~~has~~ was been approved by The Regents, to be effective with summer salary payments made on or after July 1, 2001. Effective November 1, 2016, future employer and employee pretax contributions on summer salary will be made to the Tax-Deferred 403(b) Plan.

Eligible employees are academic appointees who:

- have academic year appointments;

- are active Members of the Savings Choice Defined Contribution Plan, UCRP (or a defined benefit plan to which UC contributes), ~~and~~ or active Savings Choice participants, or are eligible for full retirement benefits and have not yet elected or commenced membership in a primary retirement plan option under the Retirement Choice Program; and
- earn eligible summer salary, as defined below.

For purposes of the ~~new~~ retirement contribution, eligible summer salary is additional compensation that is not Covered Compensation for purposes of UCRP benefits (or benefits from other defined benefit retirement plans to which UC contributes) or DC Plan, Supplemental or Savings Choice contributions ~~benefits~~ and that is paid in accordance with Academic Personnel Policy 6600 for:

- summer research;
- summer teaching; and/or
- summer administrative service (generally, payments to department chairs, vice chairs, etc. for administrative duties paid as “1/9ths”).

Payments from University Extension are excluded.

The total contribution rate will be 7% of eligible summer salary, based on an employee pretax contribution of 3.5% and an employer pretax contribution of 3.5%. -The employer contribution will be attributed to the same funding source that provides the academic appointee's summer salary.

Academic Appointee Summer Salary Benefit Moving Prospective Contributions from the DC Plan to the 403(b) Plan

Summary:

This document summarizes the necessity of transferring, prospectively, the Academic Appointee Summer Salary Benefit from UC's Defined Contribution Plan ("DC Plan") to UC's Tax Deferred 403(b) Plan ("403(b) Plan"), effective November 1, 2016. This change would be applicable to future contributions only; existing summer salary benefit amounts will remain in the DC Plan. Future summer salary retirement contributions for all faculty eligible for summer salary will be affected by this transfer.

These changes have been recommended by the Office of General Counsel to support compliance with tax code requirements and are necessary due to the implementation of the Retirement Choice Program on July 1, 2016.

Background

The Summer Salary Benefit ("SSB") provides for a required contribution of 7% of eligible summer salary (3.5% each from both UC/employer and for the employee, on a pre-tax basis). The SSB was originally approved by the Regents to augment the UCRP benefit for eligible faculty on academic year appointments, since compensation that many academic appointees receive for summer session teaching or summer research (which may represent a significant portion of an academic appointee's annual earnings) is not Covered Compensation for determining UCRP benefits.

Expanded eligibility to include Savings Choice Participants

Summer salary is also not eligible for retirement contributions under either of the new retirement options, Pension Choice or Savings Choice, but faculty in these plans remain eligible for the SSB so APM – 190, Appendix G, is being amended to make this explicit. The amended APM – 190, Appendix G, will also allow new academic appointees who have not yet chosen either Pension Choice or Savings Choice to participate in the SSB (a new employee has 90 days to make this choice and may be drawing summer salary before the choice is made).

Analysis of Applicable IRC Limits

The impact of the 2016 Retirement Choice Program on the DC Plan (where all current summer salary retirement contributions currently go) and SSB was reviewed in regard to benefit and compensation limitations. Compliance with the IRC 401(a)(17) compensation limit and IRC defined contribution plan limits is required to maintain the DC Plan's tax-qualified status.

It was determined that

- the Covered Compensation of newly hired eligible faculty who are also eligible for the SSB could reach the DC Plan annual compensation limit (currently \$265,000) before all DC Plan contributions under either Pension Choice or Savings Choice are made for a year, with the possible effect of having to cut back DC Plan contributions; once the plan compensation limit is reached, contributions to the DC Plan must stop. Because of the higher contributions going into the DC Plan under either new option, application of the compensation limit is anticipated to have a larger impact for some faculty than in previous years.

It was also determined that

- the compensation of re-hired eligible faculty who are also eligible for the SSB could reach the DC Plan IRC compensation limit sooner under the Savings Choice option than under the Pension Choice option/UCRP, which affects UC's ability to offer choice to rehires, as described below, under the new Retirement Choice Program.

In order for UC to offer employees a choice between the 2016 Retirement Choice Program options (Pension Choice or Savings Choice), each option must produce equal mandatory employee pre-tax contribution amounts, requiring the compensation used for calculating contributions to be the same (since the employee contribution rate is fixed). Once the applicable compensation limit is reached, contributions must stop.

- For rehires, the compensation base for the UCRP/Pension Choice and Savings Choice options differs. The UCRP compensation base includes only regular pay, but the DC Plan must apply both summer salary pay and regular pay to the Savings Choice option compensation limit. For faculty with summer salary, the DC Plan compensation limit would therefore be reached sooner than under UCRP (as summer salary also counts against the DC Plan compensation limit), and Savings Choice/DC Plan contributions would have to stop sooner than under UCRP.

The IRS maintains that this type of situation could result in a "cash or deferred arrangement" under which the employee has been allowed, impermissibly under a governmental plan, to voluntarily make an election that affects his/her current cash compensation: contributions that stop earlier under one option will put more take-home pay in the employee's paycheck.

Using the 403(b) Plan for summer salary contributions will resolve this situation since the 403(b) Plan has a separate 401(a)(17) compensation limit and the 403(b) SSB will not affect DC Plan contributions.

When the University makes the change to transfer the SSB retirement contributions from the DC Plan to the 403 (b) Plan, the following will be in effect and will allow faculty a fuller opportunity to save for retirement:

- SSB contributions will go into to the 403(b) Plan, which maintains its own separate 401(a)(17) compensation limit and does not have any other mandatory pay-based contributions; thus, summer salary would no longer count against the DC Plan compensation limit, or limit summer salary contributions to the 403(b) Plan.
- Summer salary contributions to the 403(b) will not affect the ability to defer the maximum \$18,000 (\$24,000 for age 50+) in pre-tax deferrals to the 403(b) plan since the annual limit on contributions is currently \$53,000.
- Making the summer salary contributions to the 403(b) Plan rather than the DC Plan gives maximum room in the DC Plan for contributions based on the academic-year salary under either Pension Choice or Savings Choice.

MODEL COMMUNICATION

The University invites comments on Proposed Revised Academic Personnel Manual Section 190, Appendix G, Program Description: Retirement Contributions on Academic Appointee Summer Salary (APM - 190, Appendix G).

Proposed technical revisions modify summer salary retirement contributions language to include the Defined Contribution Plan (DC Plan) Supplemental or Savings Choice contributions to the DC Plan under the 2016 retirement Choice Program. In addition, policy is modified to reflect that the summer salary retirement benefit will be transferred, prospectively, from the DC Plan to the Tax Deferred 403(b) Plan. The changes are applicable to future contributions only (effective November 1, 2016); existing summer salary benefit amounts will remain in the DC Plan.

The proposal is located on the UCOP Academic Personnel and Programs website, "Policies under review", under the "Systemwide Review" tab at <http://ucop.edu/academic-personnel-programs/academic-personnel-policy/policies-under-review/index.html>. It also may be viewed at (*e.g., the campus Academic Personnel Office*).

If you have any questions or if you wish to comment, please contact _____ at _____, no later than _____ 2016.