

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

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### FREQUENTLY ASKED QUESTIONS

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#### **Effective Date of the Policy**

##### ***When does the clock start on the 43% and 12 months restrictions?***

The clock starts on the policy's restrictions for those retirees who were rehired on or after January 1, 2009.

#### **Grandfathering Current Rehired Retirees**

##### ***How will retirees who were rehired under the prior guidelines be treated under the current policy? Will they be grandfathered under the new policy? (For example, how will retirees who were rehired above 43% or for more than 12 months under the prior guidelines be treated?)***

Rehired retirees who were reemployed on or before December 31, 2008 will be grandfathered under the new policy, as follows:

Rehired retirees who have appointments with an end date: These individuals will be grandfathered under the new policy until they reach their appointment end date or until there is a change to their current appointment (e.g., change in percent of time, extension of appointment, etc.) whichever occurs first. Until that time, they will be subject to the "Guidelines for Rehire of UC Retirees" that governed the rehire of retirees prior to implementation of the new policy.

Rehired retirees who have appointments with an indefinite end date or an appointment with an ending date for budgetary purposes only (e.g., career appointment but extramural or soft funding): These individuals will be grandfathered under the new policy until their appointment ends or until there is a change to their current appointment (e.g., change in appointment type, reclassification, etc.) A systemwide review process is underway for all indefinite appointments. This will determine whether a sunset date can be established and the operational impact in doing so. Until that time, such individuals will be subject to the "Guidelines for Rehire of UC Retirees" that governed the reemployment of retirees prior to implementation of the new policy.

#### **IRS Restriction**

***Since the IRS restriction seems to apply to individuals who retire prior to the normal retirement age (normal retirement age in UCRP is 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), why is the policy being implemented for those who retire at or after the normal retirement age?***

In addition to complying with the IRS restriction, the policy also is intended to articulate the University's obligations to responsibly operate a public retirement plan, respond to Medicare law compliance issues, address the issue of retirees simultaneously receiving monthly retirement income and a salary from reemployment, and provide for effective succession planning.

### **Separation from Service**

***There are seven factors which support a determination that a true separation from service has occurred for an employee who has not reached normal retirement age (normal retirement age in UCRP is 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)—must all seven factors be present to support a determination?***

No, the first factor (the employee and the employer did not engage in discussions regarding reemployment before the employee's separation from service) in combination with at least one of the other six factors will support such a determination.

### **Break in Service**

***Reemployment cannot occur until there has been a break in service of at least 30 days, but preferably 90 days. However, since a break in service is not required to preserve the tax-qualified status of the UCRP, what benefit is provided to UC by including such a break in service?***

The break in service restriction is not required to preserve the tax-qualified status of UCRP when the retiree has reached normal retirement age at the time of separation from service. However, when the retiree has not reached normal retirement age, a factor in determining if a true separation from service has occurred is the length of the break in service. The University decided to apply the break in service requirement to both age groups for consistent administration of the policy. This is required to ensure that certain requests for distributions will not violate Internal Revenue Code in-service distribution laws. Payroll activity prior to distribution or payroll documentation establishing reemployment prior to distribution will preclude distribution.

### **43% Appointment**

***How is the 43% appointment to be calculated—weekly, monthly, per pay period, averaged over the 12 months, or some other method?***

The 43% may be calculated as any percentage and duration that does not exceed 43% time over a 12-month period, for example:

- 43% time for 12 months = 100% for 5.16 months
- 50% time for 10 months = 100% for 5 months
- 75% time for 6 months = 100% for 4.5 months.

Additional types of examples:

- 100% time for maximum of 5.16 months (see note below)
- 80% time for maximum of 6.45 months

- 75% time for maximum of 6.88 months
- 50% time for maximum of 10.32 months

**Note:** Any appointment over 43.75% time for any length of time will qualify an employee for health and welfare benefits. If a rehired retiree is covered by Medicare and his/her appointment is 43.75% or more, specific processing instructions must be followed, as provided in the [Implementation Procedures \[link\]](#) for the policy. If it is necessary to appoint at this level, the retiree and the local Benefits Office should work together prior to reemployment so that the impact of this action is fully explained and the appropriate paperwork is completed.

***If a rehired retiree is appointed less than 43%, does that extend the 12 month limitation?***

No, the limit is 12 months, regardless of the appointment percentage. If an appointment is to exceed 12 months, it is a variation to policy and must be approved in accordance with the policy's requirements governing variations.

***Is the rehired retiree limited to 43% time per pay period or is the time averaged over a 12-month period? Or is it averaged over the period they are rehired to work?***

No, the rehired retiree is not limited to 43% time per pay period. The 43% time may be averaged over the period the retiree is rehired to work, but the period cannot exceed 12 months and the overall average cannot exceed 43%. Appointments should closely reflect the actual hours the employee will work and compliance with this policy provision will be audited.

**12-Month Duration of Reemployment**

***Are the 12 months cumulative or are they based on a fiscal year or calendar year period?***

The restriction is based on a 12-month cumulative total, regardless of the periods that the months cover, for example:

- a rehired retiree works 43% time for 9 months in 2009, is off 2 months, then is rehired at 43% time for 3 months in 2010 = 12 months cumulative total; any further reemployment action must be approved in accordance with the process specified in [Section IV.D. of the policy](#).

***Does the 12-month limit apply to retirees rehired at various UC campuses?***

Yes, if a rehired retiree is hired sequentially at several UC campuses, the cumulative 12-month limit applies.

***Does the 12-month limitation refer to the duration of each single appointment or to the total duration of multiple appointments? If multiple appointments, is there a required minimum break period between appointments?***

The 12-month limitation refers to both, for example:

- 43% time for 12 months
- 50% time for 8 months + 29% time for 4 months

There is no required minimum break period between appointments within the 12 months limit.

Additional examples that are equivalent to 43% time for 12 months:

- 100% time for 5.16 months
- 75% time for 6 months

In the above two examples, the rehired retiree must be separated from UC employment for the remainder of the 12 month period before he/she may be rehired.

***Can a rehired retiree be appointed to one or more additional 12-month periods after the initial appointment of 12 months has expired?***

A request for approval of an additional period may be made in accordance with the process specified in [Section III.C.4. of the policy](#).

***Can a rehired retiree have an initial appointment that exceeds 12 months?***

Such an appointment is a variation from policy and would require approval in accordance with the process specified in [Section IV.D. of the policy](#). If the rehired retiree suspends his or her monthly retirement income, the appointment would not be a variation from policy since the individual would not be drawing a retirement benefit and another UC income simultaneously.

***Does the minimum 30 day break in service apply to retirees who go from one assignment to another within the 12-month limit?***

No, the 30 day break in service only applies when the employee retires from the University and begins receiving monthly retirement income or takes a lump sum cashout.

***If there is a break in service, can the rehired retiree come back for a new 12 month period?***

A request for approval of reemployment for a new 12 month period may be made in accordance with the process specified in [Section III.C.4. of the policy](#).

**Limited and Other Appointment Types**

***The policy states that rehired retirees should be reemployed with limited appointments—does this mean retirees cannot be rehired into per diem appointments?***

Rehired retirees may be reemployed with a per diem appointment, as long as it does not exceed 43% time for a total of 12 months.

***Does the policy apply to all staff appointment types—career, partial-year career limited, contract, and per diem?***

Yes, the policy applies to all staff appointment types. However, should a retiree elect to suspend his/her monthly retirement income, he/she will only be subject to the break in service requirement. This option is not available to lump sum cashout recipients.

**Monthly Retirement Income Retirees**

***Is suspension of monthly retirement income required for career positions only?***

If a retiree is rehired for more than 43% time in 12 months or for other than University need, the retiree must suspend his or her monthly retirement income, otherwise, the hiring action would be considered a variation from policy.

**If a rehired retiree who is receiving monthly retirement income agrees to suspend his or her pension to accept a career position that was subject to a competitive search, are approvals under the policy still required?**

Approval is necessary for all rehired retirees. For rehire actions authorized by policy, approval is in accordance with [Section IV.C. of the policy](#) (for staff positions, that means sign off by the Chief Human Resources Officer and approval by the Chancellor or delegatee). For rehire actions that are variations from policy, approval is in accordance with [Section IV.D. of the policy](#) (for staff positions, that means sign off by the Chief Human Resources Officer and approval by the Chancellor (no delegation of approval is allowed)).

**Lump Sum Cashout Retirees**

***How are rehired retirees who received a lump sum cashout and were reemployed in career positions as of December 31, 2008 being treated?***

These rehired retirees are grandfathered under the new policy until their appointment ends or until there is a change in their current appointment.

***What about other retirees who received a lump sum cashout?***

Those retirees who received a lump sum cashout prior to January 1, 2009 but were not reemployed as of December 31, 2008 may be appointed to a career position during 2009 and be grandfathered under the new policy until their appointment ends or until there is a change in their current appointment, whichever occurs first.

Those retirees who received a lump sum cashout in 2009 may be reemployed in a career position during 2009 and be grandfathered under the new policy until their appointment ends or until there is a change in their current appointment, whichever occurs first. During 2009, the University will inform all past lump sum cashout retirees about the changes in rehired retiree requirements as a result of the new policy.

Beginning January 1, 2010, all lump sum cashout retirees who are not currently rehired would be subject to the new policy.

***Can a retiree who took a lump sum cashout be reemployed in a career position if hired into a different position and/or campus? If not, what is the reason for this restriction?***

No, the policy does not allow a lump sum cashout retiree to be reemployed in a career position. Such a retiree is subject to all of the restrictions specified in the policy (i.e., University need, appropriate break in service, 43% restriction on appointment percentage, and 12 month maximum cumulative duration of reemployment). The reason for the disallowance is because a lump sum cashout amount represents the lifetime equivalent that the retiree would have received if he or she had elected monthly retirement income. The restriction is to prevent the retiree from “double dipping,” that is, collecting two incomes from the University (a retirement benefit of full cashout of his/her pension funds in addition to a UC career appointment salary) and accrual of new UCRP service credit, which provides the potential of receiving a second retirement benefit. Reemployment into a career appointment for a retiree who took a lump sum cashout is an exception to policy and would require appropriate approval.

***The policy prohibits a rehired retiree who received a lump sum cashout from being reemployed into a career appointment—but can such a retiree choose to waive reinstatement into UCRP and accrual of service credit in order to be rehired into a career position?***

Currently, this is not possible. The issue of retiree income still exists. However, the University plans to review the data on lump sum cashout recipients and may explore the issue of reemployment into career appointments during the next policy review cycle.

### **1000 Hour Rule**

***What happens if a rehired retiree who is receiving monthly retirement income or took a lump sum cashout exceeds 1,000 hours in a 12-month period and thereby becomes a career employee and an active UCRP member?***

The act of retirement creates a break in service for both monthly retirement income and lump sum cashout recipients. If a retiree returns to employment within a few months of retirement they will need to have their 1000 hours balance adjusted. Details on how to effect this change can be found in the Implementation Procedures. However, once the 1000 hours balance is adjusted it can begin to accrue anew.

The provisions of the policy restrict employment to 43% time for 12 months; accordingly, it is not possible to accumulate 1000 hours in a 12-month period at a 43% appointment.

The 43% appointment restriction is intended to be a safeguard against retirees being reinstated as active members of UCRP. In order for a rehired retiree to reach 1,000 hours in a 12-month period, his/her work hours would have to exceed the 43% time restriction. This would need to be addressed as an exception to policy and be approved in advance in accordance with the appropriate approval provisions of the policy. In addition, Compliance Reports will monitor this issue and related policy provisions.

At the time of reemployment, retirees who are receiving monthly retirement income are required to complete a *UCRP Rehired Retiree Election Form* to elect either to continue receiving their monthly retirement income or to suspend their monthly retirement income should they again become an active UCRP member. Those who chose to suspend their monthly retirement income are not subject to the restrictions of University need, 43% time, or 12-month reemployment duration. However, the other policy provisions still apply. Retirees who took a lump sum cashout are not required to complete the *UCRP Rehired Retirees Election Form*, but the policy restricts them from becoming career employees and returning to UCRP.

### **Exception for Disaster Planning**

***In our location's disaster planning, we always mention that we would look to retirees to assist with staffing needs in an emergency. Can we continue to make such a statement?***

Yes, and there are alternative approaches in addressing such a statement, such as:

- the disaster plan could identify which areas would require assistance based on University need and at that time the campus could be granted an exception to policy to rehire retirees under such emergency circumstances;
- a recruitment plan could be submitted in the emergency situation for appropriate approval pursuant to the guidelines.

If either of these steps is necessary, locations should contact UCOP Human Resources immediately for assistance.

### **Reemployment Into a Faculty Title**

***If an employee retires from a staff title and is rehired into a faculty title, does this policy apply to the employee?***

No, the Academic Personnel Manual policy would apply. This policy applies only to rehired retirees who are rehired into SMG positions and staff positions.

### **Reemployment Using Alternative Mechanisms**

***How should situations be handled in which retirees are brought back via a purchase order as an independent contractor or consultant since they are not entered into the payroll system and are not considered UC employees?***

If the retiree meets all of the IRS and UC criteria required to be an independent contractor or consultant, the retiree may be hired as such. However, this mechanism must not be utilized in order to circumvent the Reemployment of UC Retired Employees policy.

***Would a manager be able to reemploy a rehired retiree through a temporary services agency, even though the manager may not be able to hire the retiree under the policy?***

The manager must not reemploy the retiree through a temporary services agency in order to circumvent the policy. This includes retirees who have not been considered for reemployment directly by the University but rather seek reemployment via a temporary services agency.

### **Layoff and Retirement**

***How will employees who are laid off, and then chose to retire within 120 days of their separation, be treated?***

These employees may have chosen to retire because of the requirement that they must retire within 120 days of separation from the University in order receive any retiree health and welfare benefits for which they may be eligible, even though they in fact wish to continue working. Pursuant to UC layoff policy, applicable individuals are entitled to the right to recall and preference for reemployment and may return to work in a career position if a recall or reemployment opportunity arises, but must agree to suspend their monthly retirement payments at the time of rehire.

### **Applicability to Union-Represented Employees**

***Does this policy apply to represented employees?***

The policy applies to represented employees, subject to applicable collective bargaining requirements for existing rehired retirees who were hired before January 1, 2009. Retirees who are rehired into exclusively represented positions after January 1, 2009 are subject to the policy because matters related to the University's hiring decisions are outside of the scope of bargaining. However, applying the policy to existing rehired retirees who were hired before January 1, 2009 may be subject to collective bargaining.

## **CalPERS**

***Are members of CalPERS required to suspend retirement payments if they accept a career position with UC?***

No, retirees from CalPERS are not members of UCRP and need not suspend their retirement payments.