

**Reemployment of UC Retired Employees Into
Senior Management Group and Staff Positions (Regents Policy 7706)
August 6, 2014**

FREQUENTLY ASKED QUESTIONS

Retired Employees are defined as former employees who have separated from University service and elected monthly retirement income or a lump sum cashout from the University of California Retirement Plan (UCRP).

Applicability

- 1. Why does this policy apply to those who retire at or after normal retirement age if the Internal Revenue Service (IRS) is concerned with restricting the timing of retirement benefit distribution for those who retire before reaching normal retirement age?**

This policy applies uniformly to all UC Retired Employees who are reemployed into Senior Management Group and staff positions so that the circumstances under which a Retired Employee receives both retirement benefits and a reemployment salary from the University at the same time are limited. This limit ensures that the University is in compliance with the Internal Revenue Service's position on in-service distributions and is operating its public retirement plan in a responsible manner.

- 2. What is the normal retirement age under UCRP?**

Under UCRP, normal retirement age is defined as age 50 with a minimum of five years of service credit for Safety Members, age 60 with a minimum of five years of service credit for 1976 Tier Members, and age 65 with a minimum of five years of service credit for 2013 Tier Members.

- 3. Does this policy apply to Retired Employees who are rehired into exclusively represented positions?**

Retired Employees who were/are rehired on or after January 1, 2009 into exclusively represented positions are subject to the restrictions in this policy.

- 4. Does this policy still apply if the Retired Employee is to be rehired for a very short period of time, for example, a couple of weeks?**

Yes, this policy still applies, even if the Retired Employee is rehired for only a very short period of time. Reemployment of the Retired Employee is subject to all of the policy provisions and appropriate approvals must be secured prior to reemployment.

- 5. Are Retired Employees who were rehired before this policy originally became effective (January 1, 2009) grandfathered under the [Guidelines for Rehire of UC Retirees](#) that were in place at the time they were reemployed?**

Retired Employees who retired before December 31, 2008 and were reemployed on or before December 31, 2008 have been grandfathered under the provisions of the prior *Guidelines for Rehire of UC Retirees* as follows:

If the appointment has an end date: They are grandfathered until they reach their appointment end date or until there is a change to their appointment, whichever occurs first.

If the appointment has an indefinite end date or an end date for budgetary purposes only (e.g., a career appointment with extramural or soft funding): They are grandfathered until their appointment ends or until there is a change to their appointment, whichever occurs first.

A “change in appointment” in either of the above circumstances includes, but is not limited to:

- Change in appointment type
- Reclassification
- Promotion
- Demotion
- Any change in title/job code
- Movement to another department or location

6. Does this policy apply to individuals who retired under CalPERS if they accept a position at UC?

No, this policy does not apply to individuals who retired under CalPERS. This policy applies only to those who retired under UCRP.

Approvals

7. Who can approve the reemployment of Retired Employees?

Reemployment of Retired Employees must be approved in accordance with Section [IV.C](#) (*Approval of Actions Authorized by this Policy*) or [IV.D](#) (*Approval of Exceptions to this Policy*) of the policy as appropriate. See this policy's *Implementation Procedures* for a non-exhaustive list of what constitutes an exception to policy; the local Chief Human Resources Officer can also be contacted for guidance.

Separation from Service

8. Section III.B of the policy lists [seven factors](#) that support a determination that an employee who retired before reaching normal retirement age has had a true separation from service. Do all seven factors have to be present to support such 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) combined with at least one of the other six factors will support a determination that the employee has had a true separation from service.

University Need

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

Yes, you can continue to make such a statement. Your local disaster plan should identify which areas would require assistance during an emergency based on University Need and the Chancellor (or designee) can approve the rehiring of Retired Employees in such circumstances (unless approval by another authority is required per the policy).

In emergency situations, locations should contact UCOP Human Resources immediately for assistance.

Break in Service

10. Why does the policy require a break in service?

The policy requires a break in service because one of the factors in determining whether an employee who retires before reaching normal retirement age has had a true separation from service is the length of that employee's break in service. As the policy states, a "true separation from service" is critical to preserving the tax-qualified status of UCRP.

The University has applied the break in service requirement to all Retired Employees (whether they retired before, at, or after normal retirement age) to make sure that the policy is administered consistently. This is essential to ensuring that retirement benefit distributions do not violate Internal Revenue Code in-service distribution rules. If a payroll system shows employment activity for a Retired Employee prior to the distribution of his/her retirement benefits, or if there is documentation establishing reemployment prior to the distribution of his/her retirement benefits, those retirement benefits will not be distributed.

11. Is a break in service required between appointments if a Retired Employee works in more than one appointment during his/her 12 months of reemployment?

No, a break in service is not required between appointments. A break in service is only required when an employee initially retires.

Rehire Appointment

12. Does the policy apply to all staff appointment types, whether a Retired Employee is rehired into a career, partial-year career, limited, contract, or per diem appointment?

Yes, the policy applies to all staff appointment types.

13. The policy states that Retired Employees should be reemployed with limited appointments. Does this mean Retired Employees cannot be rehired into per diem appointments?

No, Retired Employees may be reemployed into per diem appointments, as well as limited, contract, and floater appointments. The policy statement regarding reemploying Retired Employees with limited appointments is referring to the

appointment percentage and duration restrictions; it is not meant to confine reemployment into the appointment type defined as “limited.”

14. Why does the policy restrict rehire appointments to 43% or less?

It is the intent of the policy that rehired Retired Employees do not become eligible for employee health and welfare benefits or return to active UCRP membership and earn additional service credit. Restricting rehire appointments to 43% or less ensures that this does not happen.

15. How is the 43% 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 mathematically exceed 43% time over a 12-month period. For example:

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

Additional types of examples:

- 100% time for a maximum of 5.16 months
- 80% time for a maximum of 6.45 months
- 75% time for a maximum of 6.88 months
- 50% time for a maximum of 10.32 months

Note: *If the Retired Employee is reemployed at the equivalent of 43% in a 12-month period, locations must closely manage the rehire appointment to ensure that the Retired Employee does not reach 1,000 hours of employment within a 12-month period, which would automatically convert the rehire appointment to career.*

Also, an appointment over 43.75% time, regardless of duration, will likely qualify a Retired Employee for employee health and welfare benefits. If a Retired Employee is covered by Medicare and his/her rehire appointment is 43.75% or more, the Retired Employee and local Human Resources/Benefits Office should work together prior to reemployment so that the impact of reemployment is fully explained and the appropriate paperwork is completed. See this policy’s Implementation Procedures for additional information.

16. Can a Retired Employee be reemployed at more than 43%?

There are two ways a Retired Employee can be reemployed at more than 43%:

- A Retired Employee who is receiving monthly retirement income can be reemployed into a career appointment if he/she suspends his/her monthly retirement income and is appointed to the appointment after a recruitment process. Such reemployment is not an exception to policy. (Note: This option is not available to a Retired Employee who received a lump sum cashout.)

- A Retired Employee can be reemployed at the mathematical equivalent of 43% in 12 months; for example, at 75% for 6 months or 100% for 5.16 months.

Otherwise, in order to be reemployed at more than 43%, an exception to policy must be approved.

17. Is it possible for a rehired Retired Employee to accrue 1,000 hours of employment within a 12-month period, which would cause him/her to become a career employee and an active UCRP member?

Appointment percentages must closely reflect the actual time the Retired Employee will work in the rehire appointment. Therefore, if the Retired Employee returns to an appointment that is, or equivalent to, 43% or less, it is not possible for him/her to accumulate 1,000 hours of employment within a 12-month period. Locations must closely manage rehire appointments to ensure the Retired Employee does not reach this 1,000 hour threshold, and must manually adjust the hours balance to zero for all Retired Employees who return to University employment. See this policy's *Implementation Procedures* for more information on making this adjustment.

Reemployment Duration

18. Is the 12-month limit on reemployment based on a fiscal year or calendar year period or is it cumulative?

The restriction is based on a 12-month cumulative total, regardless of the periods that the months cover. For example, if a rehired Retired Employee works 43% time for 9 months in 2013, is off for 2 months, and then is rehired at 43% time for 3 months in 2014, this equals 12 cumulative months of reemployment.

19. Does the 12-month reemployment limit refer to the duration of each single rehire appointment or to the total duration of multiple rehire appointments?

The 12-month reemployment limit refers to the total duration a Retired Employee should be reemployed. Whether the Retired Employee works in a single rehire appointment or in multiple rehire appointments, in most circumstances his/her reemployment at the University should be limited to a total of 12 cumulative months.

20. Does the 12-month reemployment limit apply per Retired Employee or per UC location?

The 12-month reemployment limit applies per Retired Employee. Reemployment at the University is limited by the policy to 12 cumulative months, whether the Retired Employee works at one or multiple UC locations during that time.

21. Does being appointed at less than 43% extend the 12-month limit?

No, the limit is 12 cumulative months, regardless of the appointment percentage.

22. Can a Retired Employee be reemployed again after he/she has worked for 12 cumulative months, whether in a new rehire appointment or as an extension of a current rehire appointment?

After a Retired Employee has been reemployed for 12 cumulative months, he/she may be reemployed again for up to another 12 cumulative months in either one or more new rehire appointments or as an extension of a current rehire appointment.

Unless the Retired Employee is rehired into a career appointment, any rehire appointment must end after the Retired Employee reaches 24 cumulative months of reemployment. Any reemployment of a Retired Employee beyond 24 cumulative months (except for those rehired into career appointments) will be considered an exception to this policy and must be approved accordingly.

Retired Employees who have already been reemployed for at least 24 cumulative months as of the issuance date of this document and who are currently reemployed may continue in their current rehire appointment until their appointment end date. Any further reemployment of these Retired Employees beyond their current appointment end dates will be considered an exception to policy. [This 24 month limit does not apply to Retired Employees who have been reemployed into career appointments.]

Career Appointments

23. Is it ever possible for a Retired Employee to return to University employment in a career appointment without an exception to policy?

The policy allows a Retired Employee to return to University employment in a career appointment without an exception to policy if all of the following criteria are met:

- The Retired Employee has a minimum 30-day break in service;
- The career appointment underwent a recruitment process;
- The Retired Employee is receiving monthly retirement income; and
- The Retired Employee suspends his/her monthly retirement income upon reemployment.

If all of the above criteria are met, the Retired Employee is not subject to the policy restrictions regarding University Need, appointment percentage, and appointment duration. The Retired Employee and hiring manager must still complete all appropriate forms and approval must be obtained in accordance with the policy. The Retired Employee will need to complete the [UCRP Employee Notification Form](#) and the location must include this Retired Employee in its compliance reports.

Reemployment of a Retired Employee who received a lump sum cashout into a career appointment would have to be approved as an exception to policy.

24. Can an employee who retires after being laid off return to a career position without an exception to policy?

An employee who retires after being laid off can return to a career position without an exception to policy if he/she:

- Chooses the right to recall/preference for reemployment upon layoff;
- Chooses monthly retirement income upon retirement;
- Returns to University employment in a career position during his/her recall/preference for reemployment period; and
- Suspends his/her monthly retirement income upon reemployment.

The Retired Employee will need to complete the [UCRP Employee Notification Form](#) and the location must include this Retired Employee in its compliance reports.

Reemployment of a Retired Employee who received a lump sum cashout into a career position, even after layoff, would have to be approved as an exception to policy.

25. What if a location does not offer the option to choose right to recall/preference for reemployment upon layoff?

If a location does not offer the option to choose right to recall/preference for reemployment upon layoff, the Retired Employee may return to a career position without an exception to policy if he/she returns to University employment in a career position during what would have been his/her right to recall/preference for reemployment period based on the provisions of [Personnel Policies for Staff Members \(PPSM\) 60 \(Temporary and Indefinite Layoff from Professional & Support Staff Career Positions\)](#). The Retired Employee must still have chosen monthly retirement income upon retirement and suspend his/her monthly retirement income upon reemployment.

If the Retired Employee returns to University employment during the period for which he/she received severance pay, the repayment provisions under *PPSM 60* will apply. (Note that, due to the receipt of severance, the Retired Employee will not have continuity of service upon reemployment.)

26. Can Retired Employees who received lump sum cashouts before January 1, 2009 (the policy's original effective date) be reemployed into career positions?

Retired Employees who received lump sum cashouts prior to January 1, 2009 but were not reemployed as of December 31, 2008 were allowed to be reemployed into career positions during the 2009 calendar year and grandfathered under the [Guidelines for Rehire of UC Retirees](#) until their appointment ends or until there is a change in their appointment, whichever occurs first. (See question 5 for the definition of a "change in appointment.")

Retired Employees who receive(d) lump sum cashouts on January 1, 2009 or later are subject to the provisions of this policy and cannot be reemployed into career positions without an exception to policy.

27. Can a Retired Employee who took a lump sum cashout be reemployed into a career position without a policy exception if rehired into a different position than the one he/she retired from and/or at a different campus?

No, a Retired Employee who received a lump sum cashout cannot be reemployed into a career position without an exception to policy, even if the position is at another location or is a different position from which the person retired.

The reason for not allowing Retired Employees who received lump sum cashouts to return to career positions is that the lump sum cashout amount represents the lifetime equivalent of monthly retirement income that the Retired Employee would have received if he/she had elected monthly retirement income upon retiring. If a Retired Employee who received a lump sum cashout were to return to a career

position, he/she would be “double dipping,” that is, collecting two incomes from the University at the same time (a retirement benefit of full cashout of his/her pension funds and a UC career appointment salary). In addition, the Retired Employee would also accrue additional UCRP service credit, which would allow him/her to receive a second retirement benefit.

Reemployment into a career position for a Retired Employee who took a lump sum cashout is an exception to policy and should rarely be approved.

28. Can a Retired Employee who received a lump sum cashout waive reinstatement to UCRP and the accrual of additional service credit in order to be rehired into a career position?

No, this is not possible, as the Retired Employee would still be collecting two University incomes at the same time (double dipping).

29. If a Retired Employee accepts a career position that was subject to a competitive search, are approvals under the policy still required?

Yes. Approval is necessary for all rehired Retired Employees, regardless of the circumstances of rehire. If the Retired Employee received a lump sum cashout, reemployment into a career position (even one subject to a competitive search) is an exception to this policy.

30. If a Retired Employee is rehired into a career appointment and then is hired into a subsequent career appointment, is approval under this policy required for the subsequent appointment?

Yes, approval under this policy is still required. This will allow locations to track the reemployment of the Retired Employee and appropriately include his/her reemployment in compliance reports.

Monthly Retirement Income

31. When is the suspension of monthly retirement income required?

The suspension of monthly retirement income is required when a Retired Employee is reemployed into a career appointment. Reemployment into a non-career appointment does not require the suspension of monthly retirement income.

32. Are there any forms for Retired Employees to fill out when they are rehired?

Yes. Retired Employees who are receiving monthly retirement income must complete the [UCRP Rehired Retiree Notification Form](#). Depending on the circumstances of the Retired Employee's reemployment, he/she will complete the form to either acknowledge the terms of his/her reemployment (required if returning to a non-career appointment) or to suspend his/her monthly retirement income (required if returning to a career appointment).

Note that the completion of this form is required for reemployed Retired Employees who are receiving monthly retirement income, and failing to complete the form could result in the modification or withdrawal of the rehire appointment. Timely completion of the form will ensure that Retired Employees returning to non-career appointments do not have UCRP contributions inadvertently deducted from their paychecks, and

ensure that Retired Employees returning to career appointments are not overpaid retirement income.

Reemployed Retired Employees who received a lump sum cashout are not required to fill out this form.

Reemployment Using Alternative Mechanisms

33. Can Retired Employees return to the University as independent contractors or consultants without being subject to the provisions of this policy, since independent contractors/consultants are not UC employees?

If the Retired Employee meets all of the IRS and UC criteria (see *Business and Finance Bulletins* – [BUS 77](#), [BUS 34](#), and [BUS 43](#)) required to be an independent contractor or consultant, he/she may be hired as such and would not be subject to the provisions of this policy. (This is not to be confused with contract appointments. Rehiring a Retired Employee into a contract appointment is subject to the provisions of this policy.) However, a Retired Employee cannot be hired as an independent contractor or consultant in order to circumvent this policy. For example, it would be a circumvention of the policy to hire a Retired Employee as an independent contractor or consultant to do work that is the same or similar to work that is typically done by employees, or to do work that is the same or similar to work the Retired Employee did at the University prior to retiring.

34. Are managers allowed to reemploy Retired Employees through a temporary services agency, even if they may not be able to reemploy them under the policy?

Managers cannot reemploy Retired Employees through a temporary services agency in order to circumvent this policy, including Retired Employees who have not been considered for reemployment directly by the University but rather seek reemployment via a temporary services agency.