

UC Berkeley Reemployment of UC Retired Employees Campus Procedures (Rev. 08/17)

What is the Intent of the Reemployment of Retired Employees Program?

The reemployment of Retired Employees is meant to be temporary. Reemployment should not exceed a total of **12 cumulative months at 43% time or less** (43% combination includes concurrent appointments at another location or separate appointments at same the location). It is generally meant to provide temporary services or transitional training for a short-term from a qualified professional who has experience with University operations.

If there is a substantive business reason to reemploy a Retired Employee after having been reemployed for 12 cumulative months, the Retired Employee may be reappointed for up to an additional 12 cumulative months. **After 24 cumulative months of reemployment as a Retired Employee, the Retired Employee's rehire appointment must end.**

What are the ramifications for the employee of non-compliance with Regents Policy 7706 – Reemployment of UC Retired Employee?

Completion of UCRP Reemployed Retiree Notification Form UBEN 1039 is required so that retired employees who return to non-career appointments do not have UCRP contributions deducted from their paychecks and those who return to career appointments do not receive a UCRP benefit and a career salary at the same time. Retired Employees who do not complete the form may have their rehire appointments modified or withdrawn. Retirees electing a lump sum (LSC) cashout do not complete this form.

If a Rehired Retiree or family member covered under the medical plan is eligible for Medicare and their appointment exceeds 43.75 percent time or more, UC-sponsored medical coverage will become the primary payer. This may result in an increase their monthly premium.

If a Rehired retiree attains 1,000 hours of employment within a 12-month period, automatically converts the rehire appointment to career – the monthly pension stops, and the rehire retiree must elect to retire upon separation.

Rehired Retirees who elected a lump sum cash-out should NEVER convert to Career Status.

What are the ramifications for UC or the location for non-compliance with Regents Policy 7706 – Reemployment of UC Retired Employee?

The Internal Revenue Code imposes restrictions on the timing of the distribution of benefits to participants in defined benefit plans such as UCRP. Failure to satisfy the distribution timing restrictions could disqualify the plan, which could cause the vested benefits of UCRP members to become immediately taxable.

A Retired Employee whose reemployment appointment is 43.75% or more is likely eligible for employee health and welfare benefits. Under the Medicare Secondary Payer Law, regulations require that Medicare pay secondary to any employee medical coverage for which a Retired Employee is eligible. **Non-compliance with these regulations carries significant financial risk to the University. Locations that fail to ensure compliance will be responsible for all claims and fines associated with the violation.**

If the Department hires a rehired retiree and the retiree attains a1000 hours in a rolling 12 months or the Department hires a rehired retiree and does not submit a UBEN 138 form, works the retiree for more than 43 percent equivalent in a 12-month period, the rehired appointment will automatically convert to career. The

rehired retiree's monthly pension will stop and the retiree may be subject to retroactively refund overpaid pension payments. The Department's fringe will be charged for career benefits. A late UBEN 138 Exception request containing department head's signatures is required for Chancellor review. UCOP Compliance distributes a report of all campus violations to Senior Leaders and CHROS system-wide.

What is Compensations guidance on reemploying a retired employee?

A rehired retiree is to be brought back to UC at a salary level equal to or lower than their previous salary, if they are returning to assist in their previous position. In almost all instances, the rehired retiree is not performing the full scope of their responsibilities prior to retirement due to the reduced FTE. Since the rehired retiree is now drawing a pension, returning to Berkeley at a higher salary (for the same job) is not recommended. If the position is a lower level position, the salary should be lower. If the position is a higher-level role or, there are extenuating circumstances, please consult with the Compensation Unit.

What are the procedures for submitting a request to reemploy a retired employee?

For all Staff and Senior Management Group (SMG) appointments, campus hiring managers are expected to read and comply with the [Regents Policy 7706 - Reemployment of UC Retired Employees into Senior Management Group and Staff Positions](#) policy. More detailed information can be found in the [Implementation Procedures](#) and [Frequently Asked Questions \(FAQ's\)](#) available on [UCnet website](#).

It is recommended that the hiring manager contact their Campus Shared Services (CSS) HR Partner or Dept. HR Liaison to begin working through the reemployment approval process at least three weeks prior to the anticipated start date of the initial appointment or appointment extension to allow time for processing. Within 7 to 10 business days after receiving a completed Retired Employee Approvals packet, Central HR Benefits Unit will send a determination to the CSS HR Partner or Dept. HR Liaison.

CAUTION: The Retired Employee cannot begin working unless the request has been approved.

A. Before submitting the *Retired Employees Approval Form (UBEN 138)*

1. Determine whether or not the prospective Retired Employee is a UC (not just a UCB) retiree.
2. Contract appointments, must be approved by Central HR Policy & Practice before the Retired Employee Approvals packet is submitted.
3. If a hiring freeze has been implemented, and approval to hire the position is required, *before submitting a request to rehire* contact your Control Unit Administrator to notify him or her about the potential hire and get an exception to Hiring Freeze Process (non-academic positions).

B. Approval Process for Appointment to Staff Positions - the equivalent of 43 Percent for 12-month period

1. Steps Applicable to All Requests

a. Initial Requests

- i. The hiring department initiates the approval process by submitting to their CSS HR Partner or Dept. HR Liaison a Returned Employee Approvals packet containing the following:
 1. [Retired Employee Approvals Form UBEN 138 \(R12/14\)](#),
 2. [UC Berkeley Supplement to the Retired Employee Approvals Form UBEN 138 \(Rev.03/14\)](#)
 3. Job description

4. [Completed UCRP Rehired Retiree Election Form UBEN 1039 \(R08/17\)](#)
 5. Hiring freeze exception approval, if required
- ii. The CSS HR Partner or Dept. HR Liaison reviews the packet for accuracy, completeness, and proper department signatures before sending electronically to the Rehire Retiree mailbox, rehireretiree@berkeley.edu. The CSS HR Partner or Dept. HR Liaison will notify the requesting department if there is an issue or problem with the request.
 - iii. The Central HR Benefits Unit will evaluate the packet before forwarding it for a decision to the Assistant Vice Chancellor of Human Resources.
 - iv. The Central HR Benefits Unit will notify the CSS HR Partner or Dept. HR Liaison coordinating the request of the decision within 7 to 10 business days.

b. Extension of Appointment Requests – the equivalent of 43 Percent for an additional 12-months (24 month maximum includes initial 12 month period)

- i. The hiring department initiates the approval process by submitting to their CSS HR Partner or Dept. HR Liaison a Returned Employee Approvals packet containing the following:
 1. [Retired Employee Approvals Form UBEN 138 \(R12/14\)](#)
 2. [UC Berkeley Supplement to the Retired Employee Approvals Form UBEN 138 \(Rev.03/14\)](#)
 3. Job description
 4. [Completed UCRP Rehired Retiree Election Form UBEN 1039 \(R08/17\)](#)
 5. Hiring freeze exception approval, if required
- ii. The CSS HR Partner or Dept. HR Liaison reviews the packet for accuracy, completeness, and proper department signatures before sending electronically to the Rehire Retiree mailbox rehireretiree@berkeley.edu. The CSS HR Partner or Dept. HR Liaison will notify the requesting department if there is an issue or problem with the request.
- iii. The Central HR Benefits Unit will evaluate the packet before forwarding it for a decision to the Assistant Vice Chancellor of Human Resources.
- iv. The Chancellor's signature is also required for appointment extensions.
- v. The Central HR Benefits Unit will notify the HR Partner or Dept. HR Liaison coordinating the request of the decision within 7 to 10 business days.

c. Reemployment into Career/Long term UCRP-eligible Appointments

- i. The hiring department initiates the approval process by submitting to their CSS HR Partner or Dept. HR Liaison a Returned Employee Approvals packet containing the following:
 1. [Retired Employee Approvals Form UBEN 138 \(R12/14\)](#),
 2. [UC Berkeley Supplement to the Retired Employee Approvals Form UBEN 138 \(Rev.03/14\)](#)
 3. Job description
 4. [Completed UCRP Rehired Retiree Election Form UBEN 1039 \(R08/17\)*](#)
 5. Hiring freeze exception approval, if required
- ii. The CSS HR Partner or Dept. HR Liaison reviews the packet for accuracy, completeness, and proper department signatures before sending electronically to

the Rehire Retiree mailbox, rehireretiree@berkeley.edu mailbox. The CSS HR Partner or Dept. HR Liaison will notify the requesting department if there is an issue or problem with the request.

- iii. The Central HR Benefits Unit will evaluate the packet before forwarding it for a decision to the Assistant Vice Chancellor of Human Resources.
- iv. The Central HR Benefits Unit will notify the HR Partner or Dept. HR Liaison coordinating the request of the decision within 7 to 10 business days.

*Form UBEN 1039 serves as written notification to the Retirement Administration Services Center (RASC) to suspend monthly retirement income

2. Requests that are Within Policy

- a. Rehiring a Retired Employee to a staff position **within policy** requires the approval of the Assistant Vice Chancellor of Human Resources.
- b. If approved, Central HR Benefits Unit will notify the CSS HR Partner or Dept. HR Liaison.
- c. The department may then move forward with the hire.
- d. If **not approved**, the request will be returned to the CSS HR Partner or Dept. HR Liaison to consult with the department, which may choose to provide additional supporting documentation for reassessment.

3. Requests that are Exceptions to Policy

- a. Rehiring a Retired Employee in a staff position as an **exception to policy** requires the endorsement of the Assistant Vice Chancellor of Human Resources and the approval of the Chancellor.
- b. **Exceptions to policy will be handled on a case by case basis.** Exceptions include, but are not limited to, appointments in excess of the equivalent of 43 percent time over a 12-month period, appointment duration is longer than 12-months, total number of appointments exceeding 24 cumulative months of reemployment, and/or delaying recruitment for more than 30 days.
- c. Requests endorsed by the Assistant Vice Chancellor of Human Resources will be forwarded to the Chancellor for approval.
- d. If approved by the Chancellor, Central HR Benefits Unit will notify the CSS HR Partner or Dept. HR Liaison coordinating the request of the decision.
- e. If **not approved**, the request will be returned to the CSS HR Partner or Dept. HR Liaison to consult with the department, which may choose to provide additional supporting documentation for reassessment.

C. Approval Process for Appointment to an SMG Position

For appointment to SMG appointments, contact the campus SMG Coordinator, Lynne Geske-Morgan, lgmorgan@berkeley.edu or 510 642-9573. Appointments to SMG positions, or positions when the total salary plus cash compensation exceeds the Indexed Compensation Level (ICL), must be approved by the Regents. Allow at least a three-month lead time for approval. The SMG Coordinator will handle this approval process.

D. Restrictions to Reemployment

The rehiring of a Retired Employee must be based on university need and must meet several basic restrictions. The university is required to launch a recruitment to fill a career position within 30 days of the position being vacated if a retiree is temporarily appointed to fill that position. The job must be posted for a minimum of 30 days. Additional restrictions apply to the appointment:

1. A Retired Employee may not be reemployed until there has been at least a 30 day, but preferably a 90 day, break in service from the date of retirement.
2. An employee who has not reached the normal retirement age under UCRP² must not engage in discussions about reemployment until after receipt of his or her first monthly retirement payment or Lump Sum Cashout, or 30 days after separation, whichever is later.
3. Reemployment is restricted to the equivalent of no more than 43% time during a continuous 12-month period.

These restrictions are summarized in the [Implementation Procedures](#) and [Frequently Asked Questions \(FAQ's\)](#) available on [UCnet website](#).

Appointment Percentage cont.*

The restriction on appointment percentage applies cumulatively to all UC locations. That means if a Retired Employee is working 43% at one location, he/she cannot concurrently work an additional appointment at another location or hold separate appointments at the same location that exceed a combined 43%. Appointment percentages must closely reflect the actual time the Retired Employee will work in the rehire appointment.

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. **Maximum hours for Berkeley is 900 hours.**

Since rehired retirees generally work varying hours, please set the employee up as nonexempt (FLSA: N), paid via positive time on a biweekly pay schedule. This will allow the time worked to be more easily managed and paid. If the position is normally exempt from overtime, please follow the HCM and PPS procedures to override the FLSA status.

If the Retired Employee suspends monthly retirement payments:

He or she may fill a career position or other type of appointment, subject to normal recruiting requirements. However, there must be at least a 30 day, but preferably a 90 day, break in service from the date of retirement. The retiree is also exempt from the 43% time base and 12 month duration limits. Should the employee resume receiving monthly retirement payments from UCRP while employed, a change of status has occurred. The "43%-12 month" limits apply and the appointment would need to be approved by the Assistant Vice Chancellor of Human Resources.

If the Retired Employee is receiving monthly retirement payments:

If the retiree continues to receive monthly retirement payments while reemployed, he or she is subject to at least a 30 day, but preferably a 90 day, break in service, from the date of retirement, and is limited to 43% time during a continuous 12-month period.

If the Retired Employee took a Lump Sum Cashout:

He or she may not be appointed to any career position. After a 30 day, but preferably a 90 day, break in service, from the date of retirement, the retiree may be placed in other types of appointments but is limited to 43% time within a 12-month period.

E. Determining University Need

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. 2

A statement of "need" to rehire or extend the appointment of a retiree must be provided on every Retired Employees Approvals Form UBEN 138. University need may include, but is not limited to, the following circumstances:

1. The Retired Employee has skills or institutional knowledge that the hiring department cannot otherwise obtain with equal cost effectiveness.
2. The hiring department anticipates a prolonged process for hiring a replacement.
3. The hiring department anticipates that the retiree will assist a replacement acquire necessary skills and knowledge.
4. The hiring department anticipates that the position vacated by the retiree may not be needed due to a possible restructuring within the near future, and it would not be a good business decision to fill the position permanently until the final organizational structure is known.
5. The position being considered has been temporarily vacated by an employee on temporary leave.

F. Grandfathered retirees

Retired Employees who were hired on or before December 31, 2008, and have subsequently continued employment will be grandfathered under the policy. Until their current appointments end or there is a change in their current appointments, these rehired retirees will be covered under the *Guidelines for Rehire of UC Retirees*. However, it is intended that such rehired retirees become subject to the new policy as expeditiously as possible.

G. Reporting UC Retiree Rehire Activity

Central Human Resources is the local management office responsible for collecting appointment and compensation activity. Central Human Resources prepares reports for review and approval of the Chancellor. All rehire activity is reported to UCOP at the time of hire, and semi-annually on June 30 and December 31. The Assistant Vice Chancellor of Human Resources reviews the reports before they are submitted to UCOP Human Resources Compliance. Reports include appropriate documentation justifying any exceptions to policy.

H. Resources

- [Returning to UC Employment After Retirement Fact Sheet](#)
- [Guidelines for Rehire of UC Retirees](#)