Communication from the Committee on Faculty Welfare
Candy Tsourounis, PharmD, Chair

March 23, 2007

Deborah Greenspan, DSc, BDS
Chair, UCSF Academic Senate
Office of the Academic Senate, Box 0764

Re: Health Sciences Compensation Plan-Retirees and Recall

Dear Chair Greenspan,

At the last Faculty Welfare Committee meeting on March 22, 2007, the Committee reviewed the current policy surrounding the Health Sciences Compensation Plan as it relates to retirees and recall. The Committee was not able to identify the history behind this policy and the steps that led to its creation and adoption. The Committee felt strongly that input from the faculty is needed, particularly as more of our faculty will be approaching retirement in the coming years.

The Faculty Welfare Committee is recommending that this policy be brought before the faculty for consideration and revision where necessary. We recommend the policy be circulated for faculty input throughout the various campus committees and faculty councils.

Sincerely,

Candy Tsourounis, PharmD
Chair, Faculty Welfare Committee

Committee on Faculty Welfare
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Enc(s): UCRP Return to Employment after Retirement
UC Guidelines for Rehire of UC Retirees
Guidelines for Rehire of UC Retirees

The University of California hiring policies should include the following rules for the reemployment of former University employees who are receiving UC Retirement Plan pension benefits. Failure to adhere to these guidelines could endanger the favorable tax status of the UC Retirement Plan, which would result in tax for all participants. Taxable income could be based on the value of a member’s entire accrued benefit in the UC Retirement Plan at the time of disqualification. The Internal Revenue Service (IRS) rules governing the UC Retirement Plan prohibit distributions unless an employee has separated from service. In judging whether or not a separation from service has occurred the IRS will look at the facts and circumstances of each case. The following represents some guidelines for the reemployment of retirees to ensure that a separation has occurred prior to reemployment:

1. Both the University and the employee must have intended that a separation from service occur and intended the separation to be permanent. A reduction in the number of hours (i.e., working part-time), or a transfer to a different location is not sufficient. In particular, the University cannot agree, prior to an employee’s separation or retirement, to rehire such employee. Agreeing to rehire prior to separation has been called a “sham transaction” by the IRS.

2. The University must process the employee as if he/she has separated from service. For example, a COBRA election or information on retiree medical should have been provided to the employee upon separation, and other fringe benefits not available to anyone other than active employees should have terminated.

3. Upon termination, the employee must have surrendered some value, such as seniority or access to any benefits not available to anyone other than University employees.

4. The University cannot rehire the employee until the earlier of the employee receiving the first retirement payment or 90 days after the employee’s retirement date.

5. Existent circumstances should be causing the employee to return to work, such as the University could not find a suitable replacement after a search, the employee had a change in his or her personal circumstances, or the University’s circumstances changed.

6. Generally, retirees should work less than 1000 hours in 12 months (if paid hourly) or be recalled for 46% time appointments or less in order to continue to receive UC Retirement Plan benefits. This limitation is especially critical for rehiring of senior management.

Note: As a part of the employment process, it will be necessary to provide all retirees with an option either to waive future UC Retirement Plan service credit or to become an active member accruing additional benefits (if the employee otherwise would be eligible to accrue UC Retirement Plan benefits in their new employment situation).

Additional Favorable Facts for Protecting Plan Qualification

The employee has acquired new training or skills, which qualify the individual for a new position.

The employee is returning to a completely different job (different supervisor, department, salary, schedules, etc.).

The employee had interim employment with an employer unrelated to the University.
University of California Retirement Plan (UCRP)

Returning to UC Employment After Retirement
Factsheet and Waiver

Each year, some faculty and staff retirees return to work at UC. All retirees receiving monthly retirement income who return to work must elect in writing whether to continue receiving retirement income (accept the waiver) or be reinstated as an active member of UCRP and earn service credits (decline the waiver). Your decision to return to work and whether you accept or decline the waiver can have a significant impact on your current and future income. This factsheet addresses reemployment and how it affects retirement and health and welfare benefits.

Guidelines for Reemployment after Retirement

Following are the general University guidelines for reemployment after retirement.

• You should not return to work at UC until after you receive your first retirement payment (or lump sum cashout), generally 90 days after your termination date. In any case you may not return to work sooner than 30 days after your termination date, even if you have received your first retirement payment or lump sum cashout.

• Your return to work should be caused by exigent circumstances—for example: the University could not find a suitable replacement after a search, your personal circumstances changed, or the University’s circumstances changed.

• You should work less than 1,000 hours in 12 months (if paid hourly) or be reappointed at 46 percent time or less.

Reemployment and UCRP Retirement Income
If you are receiving monthly retirement income from the University of California Retirement Plan (UCRP) and you are rehired by the University, you must choose either:

(1) to accept the waiver, that is, waive your rights to additional UCRP service credit associated with your reemployment, and continue to receive your monthly benefits; or

(2) to decline the waiver, that is, be reinstated as an active member of UCRP (if your new appointment qualifies you), and suspend your monthly UCRP retirement income payments.

Your choice also may affect your eligibility for health and welfare benefits, as described on the following pages.

Reemployment and UCRP Lump Sum Cashout
If you took the lump sum cashout and later you are rehired by UC, the UCRP waiver option is not applicable because you will be treated as a new employee.

Medicare Alert
If you return to work after retirement and you or your family members are eligible for Medicare, your medical insurance benefits and premiums may be affected if your appointment is 43.75 percent time or more. Under the Medicare Secondary Payer law, your UC-sponsored medical plan becomes the primary payer and Medicare becomes the secondary coverage. See page 3 for details.
If You Accept UCRP Waiver

Impact on Retirement and Savings Plans
If you accept the waiver, you:
• can continue to receive monthly retirement income while working for the University.
• will not be reinstated as an active UCRP member and will not earn additional UCRP service credit.
• will be required to contribute 7.5 percent of your pay to the DC Plan Pretax Account as a Safe Harbor participant.
• may also choose to contribute to the DC Plan After-Tax Account, the Tax-Deferred 403(b) Plan and/or the 457(b) Deferred Compensation Plan.

Impact on Health and Welfare Plans
If you accept the waiver and continue to receive monthly retirement income upon your return to UC employment, you can choose to continue your retiree medical, dental and legal coverage. Or, you can enroll as an employee in any health and welfare plans for which your reemployment qualifies you.
If you continue your retiree benefits, any net premiums will continue to be deducted from your monthly retirement payments. Note: You cannot have duplicate coverage as a retiree and an employee.
If you or family members are Medicare eligible, see page 3.

If You Decline UCRP Waiver

Impact on Retirement and Savings Plans
If you choose to decline the waiver and your appointment does not make you eligible for UCRP membership, your monthly retirement income continues.
If you choose to decline the waiver option and your new appointment meets the requirements for UCRP membership (either immediately or after 1,000 hours on pay status in 12 months—see the appropriate UCRP Summary Plan Description):
• You will be reinstated as an active member and begin earning additional UCRP service credit.
• Your monthly UCRP retirement income payments including any Social Security supplement, must be suspended. Note: You must contact UC Customer Service to suspend retirement income and return any overpayment that occurs as a result of your reinstatement.
• You will be required to contribute to the DC Plan Pretax Account in an amount determined by your UCRP membership classification. You may choose to contribute to the DC Plan After-Tax Account, the Tax-Deferred 403(b) Plan and/or the 457(b) Deferred Compensation Plan.
• When you re-retire, your retirement income will be recalculated to include any additional UCRP service credit you earned during your period of reemployment.

If you decline the waiver and become an active member of UCRP, you can estimate the value of your future retirement income using the Retirement Calculator tool available on the At Your Service website (http://atyourservice.ucop.edu).

Impact on Health and Welfare Plans
If you decline the UCRP waiver and suspend your monthly retirement income when you return to UC employment, any medical, dental and/or legal coverage you have as a retiree stops. You may enroll as an active employee in any health and welfare plans for which your reemployment qualifies you. For more information about how declining the waiver affects your health and welfare benefits, see your local Benefits Office or the person in your department who handles benefits.
Note: You cannot have duplicate coverage as a retiree and an employee.
If you or family members are Medicare eligible, see page 3.
If You or Your Family Members are Medicare Eligible

If you or your family members are covered by Medicare and you become eligible for employee medical coverage because of your retired appointment, federal law requires that Medicare no longer be your primary payer. To comply with this federal regulation, you are required to cancel your retiree coverage and enroll as an employee with Medicare as the secondary payer, or opt-out of UC-sponsored medical coverage and have Medicare coverage only.

If eligible for employee medical coverage, your local Benefits Office or the person in your department who handles benefits will advise you on enrolling as an employee, and your retiree medical coverage will be canceled. Your premium will be paid from your employee earnings and, in most cases, your premium will increase.

If you are receiving any Medicare Part B reimbursement, it will stop.

Note: If you are eligible for UC-sponsored employee medical coverage as a result of returning to work, you cannot cancel your Medicare Part B enrollment even though Medicare is a secondary payer.

If your new employment excludes you from UCRP membership (e.g., you are appointed by agreement or per diem, or your appointment is for less than 43.75 percent time), you are not eligible for employee medical benefits. Your retiree benefits continue and Medicare remains the primary payer.

Other Considerations

DC Plan, 403(b) Plan and 457(b) Plan

Once you return to pay status following retirement or a lump sum cashout, the normal DC Plan, 403(b) Plan and 457(b) Plan distribution rules apply to you as an active employee, regardless of whether you accept the UCRP waiver.

Sick Leave

If you receive monthly retirement income and you return to work, any sick leave accruals associated with your new appointment start from zero because at retirement your accumulated sick leave was converted to service credit. If you elect a lump sum cashout, you may be eligible to have some or all accrued sick leave reinstated, in accordance with the personnel policy or collective bargaining agreement that applies to you. For more information, please contact your local Human Resources or Benefits Office.

When You Stop Working

You should notify UC Customer Service as soon as you know when you will stop working so that your medical coverage will reflect your return to retiree status. Call 1-800-888-8267.

Please Note:

UC Customer Service, your local Benefits Office or the person in your department who handles benefits can help you with forms, procedures, information and counseling.