



3.210B Addendum: Hiring Options through RCUH (Rehiring RCUH Retirees)

I. Policy

The purpose of this policy is to establish principles for guiding decisions in rehiring retirees to insure that the RCUH rehires only retirees who have made bona fide retirements for purposes of the Internal Revenue Code [26 Code of Federal Regulations Sec. 1.401(a)-1(b)(1)(i), Sec. 1.401(a)(36)].

II. Responsibilities

A. Principal Investigator

1. If an individual has prior service with the RCUH, notify the prospective hire of RCUH's Rehiring RCUH Retirees policy.
2. Submit Hire Request to the RCUH.

III. Applications

This policy applies to all Principal Investigators and/or designees who are participating in the hiring process. This is also applicable to current and/or former RCUH employees.

IV. Details of Policy

A. Overview of the RCUH Pension Plan (See RCUH Retirement Plans Policy)

1. The RCUH Group Retirement Annuity plan ("Plan") is classified as a pension plan for purposes of the Internal Revenue Code ("Code").
2. Normal retirement age under the Plan is sixty-five (65), but employees who have separated from service may receive a complete distribution of their benefits without detriment as early as age 59½. Employees who separate from service prior to age 59½ are eligible for a distribution of a portion of their accounts but are subject to tax consequences.
3. Former RCUH employees who have separated from service with the RCUH and who have elected monthly retirement income or a lump-sum withdrawal from their RCUH Group Retirement Annuity (GRA) plan (see RCUH 3.560 Retirement Plans Policy for information on the GRA plan) must have experienced a "bona fide retirement" from the RCUH for the purposes of the Code.

B. Rehiring Effects on Retirement Distributions

1. The Code [26 Code of Federal Regulations Sec. 1.401(a)-1(b)(1)(i)] has long forbidden distributions from a pension plan to employees who have not yet retired or reached normal retirement age. Allowing such distributions could jeopardize the tax qualification of the Plan.

2. Under Section 401(a)(36) of the Code, a pension plan does not fail to be tax qualified solely because the plan provides that a distribution may be made to an employee who has attained age sixty-two (62) and has not separated from employment at the time of the distribution. Nonetheless, the issue of whether a bona fide retirement occurred is still relevant. It is critical when authorizing the retirees rehire with/by RCUH that a determination is made on whether the circumstances under which an employee's retirement from the RCUH were in actuality a retirement or merely a brief hiatus in employment, which in substance, remained continuous for purposes of the Code.

C. Guidelines on Determining a "Bona Fide Retirement"

1. Presumptions: Whether a retiree has made a bona fide retirement is determined by the facts and circumstances of the event. The following facts and circumstances shall establish the presumption that the retiree has made a bona fide retirement and may be rehired absent facts rebutting the presumption.
 - a. *Age 65 (Normal Retirement Age) and Older*: Retirees who attained normal retirement age prior to separation from service or who have attained normal retirement age during retirement shall be conclusively presumed to have retired and may be rehired.
 - b. *Ages 62–64*: Retirees who did not reach normal retirement age at or during retirement but attained at least age sixty-two (62) at or during retirement shall be presumed to have retired if they have had a separation from service of at least two (2) months after the date they separated from service.
 - c. *Ages 59½–61*: Retirees who have attained at least age 59½ but have not yet attained age sixty-two (62) at or during their retirement shall be presumed to have retired if they have had a separation from service of at least four (4) months and if there was no evidence of a plan to rehire the employees at the time they separated from service.
 - d. *Under Age 59½*: Employees who are younger than age 59½ at separation from service and who elect partial distribution of their benefits prior to attainment of age 59½ shall not be presumed to have retired but to have merely separated from service. Such employees may be rehired only after a separation from service of at least six (6) months, provided that there was no evidence of a plan to rehire the employees at the time of their separation. Employees who are younger than age 59½ at separation from service but who do not elect partial distribution of their benefits may be rehired at any time.
2. Other Considerations: Other considerations may serve to rebut the above presumptions, except in the case of the first presumption (IV.C.1.a), or may create a presumption of retirement in their own right in cases that do not fall within the above presumptions. Such considerations include, but are not limited to, the following:
 - a. The presumption that a retirement was bona fide is rebuttable by evidence that there was a plan to rehire the retiree that was in effect at the time of the individual's retirement.

- b. That the terms and conditions of a retiree's re-employment, including, but not limited to, the retiree's compensation, are materially greater or materially diminished as compared to the terms and conditions of the retiree's employment prior to retirement, creates the presumption that the retiree's retirement was bona fide if the difference is great enough that a reasonable individual either would have considered not retiring had the change in terms and conditions been offered prior to retirement or would have been likely to reject the change in employment if it had been effectuated prior to retirement.
- c. That the terms and conditions of a retiree's re-employment are substantially identical to the terms and conditions of the retiree's employment prior to retirement tends to rebut the presumption that a retirement was bona fide.
- d. Other things being equal, the longer the period of separation from service, the stronger the evidence that a retirement was bona fide.
- e. Other things being equal, material changes in the operational circumstances and requirements of the RCUH support the presumption of a bona fide retirement if such operational changes and requirements are independent of the retiree's retirement from the RCUH.

D. Governance of Policy

- 1. RCUH reserves the right to amend, enlarge, and otherwise change this policy by action of its Director of Human Resources.
- 2. This policy is effective May 1, 2012, but in general represents the pre-existing informal policy of the RCUH.

V. Procedures

A. Submit Hire Request to the RCUH Human Resources

B. Determination Made on Rehire Eligibility

- 1. The hire request will be denied for a former RCUH employee who does not meet the presumption requirements outlined in Section IV.C above.
- 2. Reconsideration of denial of the hire request
 - a. The Principal Investigator may submit a rebuttal (via a signed memo) to the RCUH Director of Human Resources for reconsideration of the denial of the hire request based on the "Other Considerations" (IV.C.2).
 - b. The RCUH reserves the right to request additional documentation needed to substantiate the reversal of the denial.
 - c. Any falsification of such documentation will result in immediate termination of employment of the individual. It may also result in termination of RCUH services for the entire Program if it is deemed that the Principal Investigator/Program participated in the falsification of documentation.

- d. The RCUH will inform the Principal Investigator/Program of its decision based on the facts and circumstances presented in the rebuttal memo and related documentation.

VI. Contact

RCUH Benefits: (808) 956-6979
rcuh_benefits@rcuh.com

VII. Relevant Documents

[Policy 3.210 Hiring Options Through RCUH](#)
[Policy 3.560 Retirement Plans](#)

Date Revised: 05/02/2012, 04/02/2013, 05/30/2013, 07/21/2014, 07/06/2016,
08/08/2017