

# **Guidelines Search Waivers and Search Exemptions for Academic Appointees at the University of California, Merced**

**(This guidance is not intended to address student and training titles)**

**(Original October 2017; Revised January 2024)**

The University of California's commitment to diversity, equal opportunity and nondiscrimination recognizes that a diverse academic employee workforce enhances our academic mission of teaching, research, and service. The University also recognizes that a diverse workforce is essential for maintaining our standing as a public university dedicated to serving the needs of an increasingly diverse state.

As an employer and federal contractor, the University of California is required to provide equal employment opportunity and to identify and take affirmative action to address underutilization of protected classes, including women, underrepresented minorities, individuals with disabilities, and protected veterans in our academic job groups. Moreover, an applicant or employee may have a viable discrimination complaint if the University of California's seemingly neutral hiring practices have a disproportionately negative effect on members of a protected group even if the University of California did not intend to discriminate. Conducting full searches for academic appointments supports the University of California in complying with federal and state laws and advancing our commitment to diversity, equal opportunity, and nondiscrimination.

In rare circumstances, and on a case-by-case basis, the requirement of conducting a search prior to review for appointment may be waived. Although compliance with employment law and Office of Federal Contract Compliance Programs (OFCCP) regulations determines the boundaries for appropriate use of search waivers and exemptions, the content of this document is also driven by the University of California's dedication to recruit a high-quality academic workforce and to address its affirmative action goals. Contributions in all areas of achievement that promote equal opportunity and diversity should be given due recognition in the academic recruitment process. At a minimum, individuals under consideration must meet the high expectations for employment at the University of California.

Regulatory agencies expect that the University of California campuses will coordinate with each other on compliance-related matters, and as such, the following set of

guidelines were developed to provide consistency among campuses and information on the accepted use of search waivers and exemptions for academic appointments systemwide. These guidelines were created as the result of campus experiences with audits conducted by the OFCCP and state regulators, as well as the resulting audit reports and findings. They provide campuses with direction and advice for examining circumstances in which search waivers and exemptions may be considered and guidance to comply with federal and state laws.

The Vice Provost for Academic Personnel is responsible for search waivers and exemptions that are informed by these guidelines. The guidelines provided below form the basis for a decision to approve or decline a request. When submitting a search waiver request, it is important to provide a concise explanation with evidence that one of the search waiver categories applies for the proposed appointment.

Waivers should be made for the minimum duration of time required; they cannot be extended or repeated, unless specifically noted below. In limited situations as specified below, waivers of indefinite duration may be approved for a particular appointee while the appointee holds a specific position.

## **ACADEMIC PERSONNEL POLICY**

Generally, academic personnel policy within the Academic Personnel Manual (APM) does not include language about searches or recruitment procedures, focusing instead on academic appointment criteria and significant events in a faculty member's career after appointment. On occasion, and in limited circumstances, typically in reference to a transfer in series (or change in series), policy within the APM contains language describing when the Chancellor may grant an exception to conducting a search; such references occur in APM 270, 275, 278, and 280.

## **DEFINITIONS**

**Search** – A search is the competitive recruitment process used to identify the best qualified candidates for an academic position. A search is visible to potential applicants, provides equal opportunity to applicants, and meets federal and state job listing requirements. It is also referred to as an open recruitment.

**Exception** – The term “exception,” as used in the APM with regard to recruitments, is analogous to the definition of search waiver and search exemption as listed below.

**Search Waiver** – A search waiver, also referred to as a waiver of open recruitment, is formal approval to hire an individual directly into a specific academic appointment in lieu of a search or open recruitment. Defined criteria must be met to qualify for a search waiver, and the individual hired must meet the criteria for the appointment.

**Search Exemption** – A position is exempt from competitive recruitment when the University does not require a competitive recruitment. An exemption is based on the position and not the individual. Certain categories of appointments or transfers between academic title series may be exempt from open recruitment. When an exemption is in place, these appointments do not require formal approval for a search waiver because the appointment itself, or change in title series, is exempt from open recruitment. For all appointments exempt from open recruitment, the individual hired must meet the criteria for the appointment.

**Waiver Duration** – Search waivers are made for a specific duration. The duration may be a specific period of time (e.g., 12 months or one quarter/semester), or the duration can be tied to the attributes of a specific academic appointment and its renewals (e.g., title series or location/laboratory). The duration is dependent upon the circumstances and the category of search waiver, as described below. An appointment cannot continue beyond the end of the waiver duration; at that time, a search must be conducted. (There may be other factors that limit the duration, such as the availability of funds, in the case of some titles.)

**Waiver of Indefinite Duration** – In certain categories, the duration of a search waiver for an individual may be tied to the appointment title series or another specific attribute that may be continuous in nature. Such waivers are of indefinite duration in that there is no set, definite end date and no requirement to conduct a search at a later date. The waiver remains in effect as long as the individual meets the set criteria of the waiver and of the position held.

## **SEARCH WAIVER CATEGORIES**

## A. SENATE FACULTY

1. **Spousal/Partner Hire:** The University of California recognizes that addressing the needs of dual career couples is an essential part of recruiting and retaining the highest quality faculty. A search waiver may be considered if the successful recruitment or retention of a senate faculty member is ultimately dependent on an academic appointment for the faculty member's spouse/partner. A spouse/partner hire into a campus appointment is not an entitlement. Every spouse/partner hire must meet the qualifications and criteria for the appropriate appointment. A spouse/partner hire is contingent on ultimate employment or retention of the associated individual, but otherwise of indefinite duration.
  
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2. **Target of Excellence:** A search waiver may be considered for cases where there is an unusual opportunity to hire an individual whose distinctive qualifications and extraordinary promise or accomplishments will contribute significantly to the excellence of the academic mission of the University; such a waiver may apply to hires at the tenured or tenure-track level. For example, individuals with the potential to make significant contributions to diversity and equal opportunity make a significant contribution to the excellence of the University. Campuses are expected to establish their own definition and qualifications for a Target of Excellence hire that are consistent with these guidelines. In all cases, the individual would be on the short list of top candidates if a search was conducted, would be highly sought after by peer institutions, and may be on the market for a very limited time period. Considerations for granting a waiver must include why it is not possible to conduct a search in which the individual would be an applicant. This search waiver is of indefinite duration.
  
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3. **President's and Chancellor's Postdoctoral Fellowship Recipients:** A search waiver may be considered if the candidate is a current or former recipient of a UC President's or Chancellor's Postdoctoral Fellowship. These UC postdoctoral fellowship programs support outstanding scholars in all fields whose research, teaching, and service will contribute to diversity and equal opportunity at UC. Fellows also have undergone a rigorous review and selection process conducted by campus faculty. A list of current and former fellows is available

at <http://ppfp.ucop.edu/info/fellowship-recipients/index.html>. This search waiver is of indefinite duration.

## B. NON-SENATE FACULTY AND OTHER ACADEMICS

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  1. **Emergency Hire:** There is an urgent and unanticipated need to fill a position, there is not enough time to conduct a search, and the candidate has the expertise and is available to begin immediately. Emergency search waivers are made for a limited period of time, not to exceed one year. If the position is to be filled beyond the duration of the waiver, a search must be conducted.
  
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  2. **Urgent Patient Care Need:** The appointment would alleviate a critical, unforeseen, and ongoing need in a specific area of patient care. An approved search waiver for urgent patient care need can be of indefinite duration.
  
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  3. **Spousal/Partner Hire:** The successful recruitment or retention of a senate faculty member or an individual in a senior leadership position (e.g., faculty administrator or senior management group [SMG] member) is ultimately dependent on an academic appointment for the individual's spouse/partner. A spouse/partner hire into a campus appointment is not an entitlement. Every spouse/partner hire must meet the qualifications and criteria for the appropriate appointment. A spouse/partner hire is contingent on ultimate employment or retention of the associated individual but otherwise of indefinite duration.
  
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  4. **Continuation of Training:** The candidate is a trainee of the campus (e.g., undergraduate or graduate student, postdoctoral scholar, fellow, resident) who remains for a short period of time to complete a research project begun while in student or trainee status, or for a trainee who is hired by the campus to complete a clinical training program.

Continuation of training search waivers are made for a limited period of time, not to exceed 18 months. (For represented positions subject to a collective bargaining agreement, refer to the current collective bargaining agreement regarding appointment length and whether additional documentation is required.)

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5. **PI/Co-PI/Leadership Status:** The candidate will be paid 50% time or more of the candidate's total effort from extramural funds awarded to the candidate and for which the candidate is named as PI/Co-PI or holds an equivalent leadership role on the extramural funds. A search waiver based on PI/Co-PI/leadership status may be granted for the duration of funding; however, appointments can be made for a shorter period of time. Waivers remain in effect as long as funding continues; this may encompass multiple awards.

- a. This search waiver category is also appropriate for appointees in the Adjunct Professor series who are not currently drawing salary from their extramural funds but may receive pay at a later date, when assigned university teaching.

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6. **Research Team:** A candidate is part of the existing research team of a new faculty member. A search waiver may be granted, but the waiver is only valid for an individual team member as long as the candidate remains with the same research team and in the same series.

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7. **Multiple Affiliated Employers:** Appointees whose position is dependent on two employers: a primary employer that is formally affiliated with UC and the UC campus. If a search equivalent to a UC-search is conducted by the affiliate, the appointee may be granted a search waiver for the UC position. Campuses should establish a list of qualifying affiliates.

## **POSITIONS EXEMPT FROM SEARCHES**

Certain categories of positions are exempt from open recruitment. They do not require search waivers; however, all other policies associated with a specific academic title apply to such exempt positions. An exemption is continuous in duration until one or more qualifying conditions are changed.

1. **Non-Salaried (0% time) and Without Salary (WOS) Appointments:** This exemption applies to appointees who are unpaid employees of the UC campus where the appointment is held.
  - The appointees in this category may have a UC employee ID number but will not receive salary from the University of California.
  - If an appointee is to receive salary from UC subsequent to the initial non-salaried or without salary appointment, a search or an approved search waiver is required.

Non-salaried (0% time) and without salary (WOS) titles covered by this exemption include:

- Volunteer Clinical Faculty
  - WOS non-senate faculty (e.g., HS Clinical, Adjunct) who do not receive pay from an institution affiliated with UC (see #7 above), excluding IX Unit titles
  - WOS non-faculty academics (e.g., Professional Research Series)
  - Research Associate (WOS)
  - Clinical Associate (WOS)
  - Research Fellow (WOS)
  - Visiting Scholar/Visiting Titles (WOS)
  - Emeritus – including academic appointees who are conferred emeritus status as the result of an academic review
2. **Salaried Visiting Appointments:** A visiting appointee, such as a visiting professor, who is on leave from an academic or research position at another educational institution, research institution, or industry and is visiting the campus for research activity and/or to teach a course in the visiting appointee's area of expertise is exempt from search requirements when appointed to a visiting academic position.

3. **Recall Appointments for Retired Academics:** The University of California may recall to active service, for a part-time term appointment, academic appointees who have retired from the University. This exemption acknowledges that these appointees would have previously undergone a search, been approved on a search waiver, or held an appointment exempt from a search for their pre-retirement appointment.
  
4. **Concurrent Academic Appointment:** A concurrent academic appointment may be made for an appointee who is employed by the University in a staff, senior management group (SMG), or non-faculty academic title and who is asked to supervise academic personnel or to participate in occasional teaching activities that are directly related to the individual's research or primary job. Normally, the concurrent academic appointment will be without salary. This exemption acknowledges that the primary paid appointment must have met the requirements for a search or search waiver under the appropriate personnel policy.
  
5. **Faculty Administrator Titles at Less Than 100% and Interim/Acting Positions:** A faculty member who is appointed to assume administrative responsibility in addition to, or in partial replacement of, faculty responsibilities is considered a Faculty Administrator. Faculty Administrators are normally compensated with stipends and/or additional summer compensation, when appropriate. This exemption acknowledges that the underlying faculty appointment required a search or approved search waiver and that the administrative responsibilities do not constitute a new position.
  
6. **Lecturer in Summer Session:** Faculty holding appointments in the associated department during the previous or following academic year and campus graduate students are exempt from recruitment requirements for assignment to Summer Session instruction. **Individuals who do not hold a faculty appointment or graduate student status are subject to search or waiver requirements.**
  
7. **Postdoctoral Scholars (Employee, Fellow, Paid Direct):** Postdoctoral scholar appointments are exempt from open recruitment due to the training nature of the positions. However, hiring departments are encouraged to announce opportunities in order to identify qualified candidates.



8. **Internal Hires (Change in Series):** Note that this exemption does not preclude a search for appointment to any academic series when required by the University or campus. Rather, it acknowledges that an exemption may be applied when the change in series is intended to recognize growth and development in professional skills, knowledge, and responsibility of the appointee. All initial appointments in the senate series require a search or a search waiver per the criteria above. Exemptions may apply for certain changes or transfers in series. As footnotes to this section detail, some (but not all) of these transfers are explicitly discussed in APM policy. In these cases, the Chancellor’s authority to grant exceptions can allow for the exemptions.

**CHANGE OR TRANSFER IN SERIES (#7 of exempt hires)**

From:	To:	Exemption Permitted?
Senate Faculty e.g., Ladder, In Residence, Clinical X  (For Lecturers with Security of Employment, see below.)	Non-Senate Faculty e.g., Adjunct, Health Sciences Clinical  or  Non-Faculty academic e.g., Specialist, Professional Research Series, Project Scientists, Academic Coordinators	Yes
Senate Faculty e.g., Ladder, In Residence, Clinical X  (For Lecturers with Security of Employment, see below.)	Senate Faculty e.g., Ladder, In Residence, Clinical X  (For Lecturers with Security of Employment, see below.)	Yes – as detailed in APM policy and provided that a national search was conducted for the initial senate series appointment <sup>1</sup>
Non-Senate Faculty e.g., Adjunct, Health Sciences Clinical	Senate Faculty e.g., Ladder, In Residence, Clinical X  (For Lecturers with Security of Employment, see below)	No – open recruitment or formal approval of a search waiver is required.  See APM policy.
Non-Senate Faculty e.g., Adjunct, Health Sciences Clinical	Non -Senate Faculty e.g., Adjunct, Health Sciences Clinical	Yes – excluding IX Unit titles. See section B.5.a. for a special circumstance. See also APM policy.

Non-Faculty academic e.g., Specialist, Professional Research Series, Project Scientists, Academic Coordinators	Non-Faculty academic e.g., Specialist, Professional Research Series, Project Scientists, Academic Coordinators	Yes – if appointment is within the same unit/lab or equivalent
Non-Faculty academic e.g., Specialist, Professional Research Series, Project Scientists, Academic Coordinators	Faculty (any series)  (For Lecturers with Security of Employment, see below)	No – open recruitment or formal approval of a search waiver is required
Lecturer with Security of Employment series	Senate Ladder-rank Faculty	No – open recruitment or formal approval of a search waiver is required
Senate Ladder-rank Faculty	Lecturer with Security of Employment series	Yes – provided that a national search was conducted for the initial senate series appointment <sup>2</sup>
Equivalent titles - APM -115 (e.g., Astronomer Series, Agronomist Series) with no underlying Senate Ladder-rank	Senate Ladder-rank Faculty	No – open recruitment or formal approval of a search waiver is required

1 Or a search waiver was approved for a target of excellence or spousal/partner hire or President's Postdoctoral Fellowship Program (PPFP) hire.

2 Or a search waiver was approved for a target of excellence or spousal/partner hire or PPFP hire.