



AM-P196-21: Damage Payments for Services Performed Before Loyalty Oath Is Signed

Responsible Officer:	EVP - Chief Financial Officer
Responsible Office:	FO - Financial Operations
Issuance Date:	April 10, 2015
Effective Date:	April 10, 2015
Last Review Date:	February 17, 2015
Scope:	This policy applies to campuses, Office of the President, Agriculture and Natural Resources, and the Lawrence Berkeley National Laboratory.

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I. POLICY SUMMARY

It is the policy of the University to make payment in the form of damages to a University employee, who, without knowledge of the State Oath of Allegiance requirements, performs services for the University prior to signing the Oath of Allegiance. A damage payment constitutes settlement of a claim by an employee based upon services rendered. This policy provides the accounting, payroll and tax procedures for processing such payments to University employees.

II. DEFINITIONS

N/A

III. POLICY STATEMENT

A. *Criteria for Claim*

Damages may be claimed where all of the following conditions are met:

1. The employee entered into University employment in good faith, with no knowledge of the State Oath of Allegiance requirement.
2. He or she would have executed the State Oath of Allegiance prior to commencing University employment had the University advised him or her of the requirement to sign it.
3. He or she did, in fact, sign the State Oath of Allegiance upon learning of the requirement.

IV. COMPLIANCE / RESPONSIBILITIES

The President, Campus Chancellor, Lawrence Berkeley National Laboratory Director, Vice President-Agriculture and Natural Resources, or Designated Officer is responsible for approving any damage claims covering a period of 120 days or more.

See section V., Procedures, for additional responsibilities and compliance.

V. REQUIRED PROCEDURES

The following procedures are to be followed before a claim for damage payment can be settled:

A. *Employee*

Submit claim for damage payment to employing department.

B. *Department*

A Damage Payment Report should be completed for the gross amount to which the employee would have been entitled if he or she had been on the payroll in employment status.

The Damage Payment Report is completed and sent to the President, Campus Chancellor, Lawrence Berkeley National Laboratory Director, Agriculture and Natural Resources Vice President, or appropriate administrative officer for review and approval. (Claims covering a period of 120 days or more must be approved by the officer mentioned in Section IV.)

Other legally required benefits, as well as comp time, accrued but unused vacation time, and UCRP contributions that were deducted or accrued prior to signing the State Oath of Allegiance should be paid out. Any accrued sick time is forfeited.

C. *Campus Chancellor, Lawrence Berkeley National Laboratory Director, Agriculture and Natural Resources Vice President, or Designated Officer*

Forward the Damage Payment Report to the campus payroll office (or UC Path Center when appropriate) after review and approval. Claims covering a period of 120 days or more must be approved by the Chancellor or above mentioned officer.

D. *Payroll Office*

Review claim for completeness and appropriate approvals, then process the check for payment. Deductions should be made for appropriate federal and state income taxes and FICA. The payment is subject to workers' compensation insurance and unemployment insurance. (Note that any contributions made by the employee to UCRP should be returned to the employee; someone who qualifies for a damage payment does not meet the UCRP definition of "eligible employee.")

Obtain a completed State Oath of Allegiance-Damage Payment Release form from the employee prior to releasing the damage payment. Retain this form as well as the Damage Payment Report in the employee's personnel file at the central campus payroll office.

Contact the [UCOP Payroll Coordination and Tax Services website](#) for additional procedures and forms to complete this process.

VI. RELATED INFORMATION

President Kerr, *Letter to the Chancellors and University-wide officers explaining the necessity of signing the State Oath of Allegiance*, November 16, 1965.

VII. FREQUENTLY ASKED QUESTIONS

N/A

VIII. REVISION HISTORY

Historical note: Materials in this chapter were formerly published in Business and Finance Bulletin A-45.

1/1/75: First Published

Revised:

7/1/80

3/1/90

12/31/03: Updated to include a revised damage payment report form and other technical changes.

3/31/08: Minor technical changes.

4/10/15: Updated to clarify that damage payments to employees who did not sign the Oath of Allegiance before working for the University are wage income and subject to federal and state income tax withholding, and employment (i.e., "FICA") taxes. The review and check processing responsibility was changed to the payroll office. Procedures and FAQs for campuses to follow were developed that are linked to the UCOP Payroll Coordination website.