

# UCOP Local Human Resources Policy – OUT-OF-STATE WORK POLICY – EXCEPTIONAL APPROVAL PROCEDURE

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## I. POLICY AND PROCEDURE REFERENCES

- A. UCOP Local Human Resources Policy – Out-of-State Work Policy

## II. SUMMARY

This University of California, Office of the President (UCOP) Out-of-State Work Policy Exceptional Approval Procedure describes the exceptional approval procedure – including core and qualifying criteria – to be considered for an exceptional approval; review and recall procedures; and approval terms. The Exceptional Approval Procedure applies to new exception requests and existing Out-of-State Work arrangements at the time of the UCOP Out-of-State Work Policy implementation. New exception requests and existing Out-of-State Work arrangements at the time of the implementation of the UCOP Out-of-State Work Policy will be rigorously reviewed and subject to narrow and defined criteria for approval under the UCOP Out-of-State Work Policy. Exceptions will be rare.

Any prior approvals for existing out-of-state work arrangements are considered provisional and may be changed. Existing work arrangements that do not meet the criteria will be subject to cancellation, and employees will be required to relocate to California. Failure to comply with a recall notification may result in disciplinary action, up to and including termination.

## III. EXCEPTION CONSIDERATION CRITERIA

- A. **Core criteria:** Core criteria are criteria that must be met for exceptional approval consideration. Core criteria are:

1. There must be no negative impact to work or the UCOP organization when work is done out of state;
2. For existing employees, the employee must have a rating of “solid performance” or above for the past three years or for all years employed if employment is less than three years. A rating of “New and Learning” in the first year of employment followed by successive years of at least “solid performance” is also acceptable; and
3. Exception requests must be supported by the employee’s supervisor, department head, and division leader prior to consideration by the President and the Executive Workforce Actions Committee (EWAC)<sup>1</sup>.

- B. **Qualifying criteria:** Qualifying criteria are used in the Qualifying Criteria Review completed when evaluating an exception request. Qualifying criteria are narrow and defined below. All requests are reviewed individually on a case-by-case basis to ensure they meet the core criteria and one or more of the qualifying criteria, and that performing work outside of California is consistent with UC’s mission as a public

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<sup>1</sup> The Executive Workforce Actions Committee consists of the EVP & Provost, the EVP & CFO, the EVP and COO, and the Chief of Staff to the President.

institution. The qualifying criteria are:

1. Temporary hardship, excluding financial hardship; or
2. Demonstrated specific, required skills, knowledge, experience, and abilities that are difficult to recruit in or relocate to California.
  - a. Exception requests based on difficult recruitments require:
    - i. A failed search for an in-state candidate or candidate willing to relocate to California. A search is considered failed if, after following all recruiting procedures to maximize the chances of identifying a robust, diverse, and qualified candidate pool, the recruiting process fails to identify an in-state candidate or out-of-state candidates willing to relocate to California. Failed searches, national recruitments, and candidate relocation efforts must be documented and verified by the Executive Director, UCOP Human Resources, prior to consideration by the President and the EWAC; and/or
    - ii. That the incumbent employee has niche skills and knowledge for which there is a limited pool of candidates and where a national search may be required to attract a diverse, robust, and qualified candidate pool; and
    - iii. That UCOP Human Resources and the hiring manager have offered the candidate a relocation package in alignment with relocation guidelines in an effort to relocate the out-of-state candidate to California.
3. Legacy Out-of-State Work arrangements approved under the policy or guidance in place on the date of hire or relocation. To be considered “legacy,” the employee must have been hired as an out-of-state employee prior to March 17, 2020.
4. Vacancy Exception related to an Out-of-State Recall (see Section VII.B.2.b).

#### IV. EXCEPTIONAL APPROVAL PROCESS

The following steps must be completed to request an Out-of-State Work Exceptional Approval. An Exceptional Approval request must be submitted, reviewed, and approved prior to the employee’s relocation or commitment to relocate. After-the-fact requests will not be considered. Requests from existing employees to permanently relocate outside of California without plans to return will not be considered.

##### **New requests – existing UCOP employees**

This process flow applies to new requests for Out-of-State Work starting July 1, 2023. See the footnote below table regarding the application of the policy to existing out-of-state employees.

<b>Process step description</b>	<b>Responsible owner(s)</b>
1. Employee consults with manager to determine if manager supports request.	Employee Manager
2. Employee completes and submits the <a href="#">UCOP Out-of-State Exceptional Approval Request</a>	Employee

<a href="#">form</a> . Copy is sent to designated Human Resource Business Partner (HRBP), division chief of staff, and manager*	
3. Request is routed to manager, department manager (where applicable), and division leader for support	Automation in Smartsheet with regular review by designated HRBP to ensure requests are moving forward
4. Request and supporting documentation move forward to the Qualifying Criteria Review (see Section V)	

*\*The application of the policy to existing employees in June 2023 will follow the same process as outlined for new requests but will bypass steps 1 and 2.*

**New requests – Open recruitment**

This process flow applies only when a recruitment has failed to identify an in-state candidate or a candidate who is willing to relocate to California, and assumes all efforts were made to attract a diverse and qualified candidate pool (see criteria requirements outlined in Section III.B.2.a.i).

<b>Process step descriptions</b>	<b>Responsible owner(s)</b>
1. Hiring manager completes and submits <a href="#">UCOP Open Recruitment Out-of-State Exceptional Approval Request form</a> . Copy sent to designated HRBP(s) and division chief of staff	Hiring manager
2. Request is routed to department manager (where applicable) and division leader for support.	Automation in Smartsheet with regular review by designated HRBPs to ensure requests are moving forward
3. Request and supporting documentation move forward to the Qualifying Criteria Review (see Section V)	

**V. QUALIFYING CRITERIA REVIEW**

The Qualifying Criteria Review is initiated when a new request for Out-of-State Work is received or when reviewing existing out-of-state employees’ work arrangements for compliance with the UCOP Out-of-State Work Policy. The Qualifying Criteria Review requires a rigorous review of documentation and other supporting information to determine if a request for Out-of-State Work meets the criteria as defined by the UCOP Out-of-State Work Policy and the UCOP Out-of-State Policy Exceptional Approval Procedures.

**A. Factors and documentation** that reviewers may consider include:

1. The job level and function to evaluate talent availability in California and/or difficulty in recruiting in or relocating to California,
2. Recent failed recruitments for the position under review or recent (within the prior six months) failed recruitments for jobs in the same job title,
3. External indicators of in-state talent availability (where available),
4. An Out-of-State Work arrangement with provisional approval from the supervisor or department head,
5. Examples of documentation include executed telecommute agreements and offer letters.

**B. Review process:**

1. **Qualifying Criteria Review:** UCOP Human Resources will conduct the Qualifying Criteria Review to determine eligibility for exceptional approval based on the UCOP Out-of-State Work Policy and the criteria outlined in Section III of this procedure.
2. **Secondary review:** Upon completion of the Qualifying Criteria Review for existing out-of-state employees, UCOP Human Resources will review the recommendation with the Executive Director, UCOP Operations, and, where applicable, UC Legal, and finalize recommendations for EWAC review.<sup>2</sup>
3. **Executive Workforce Actions Committee (EWAC) review:** Upon completion of the Qualifying Criteria Review and secondary review (where required), the recommendation is moved to the EWAC for review and recommendation.
4. **Presidential review and approval:** Upon completion of the EWAC review, the recommendation is sent to the President for final review and approval.

**C. Potential outcomes of the Qualifying Criteria Review include:**

1. Approved for Out-of-State Work – Approved arrangements are reviewed annually.
2. Approved for temporary Out-of-State Work – Approved for a specified and temporary time period and reviewed every six months.
3. Conditional approval for Out-of-State Work – Conditionally approved arrangements are valid for the duration of the hardship condition and are reviewed every six months.
4. Not approved for Out-of-State Work - does not meet policy criteria and is subject to recall (if employee is currently residing out-of-state) or denial of request to relocate out-of-state (if the employee is residing in California).

**D. Communication of Determination:** Upon receipt of approval from the President, the determination decision is communicated in a Determination Letter to the employee, the manager of impacted employee and employee's Division Leader.

**E. Conclusion of Qualifying Criteria Review –** The procedure ends when the Determination Letter is sent, and the Recall Procedure begins, if applicable.

**VI. APPROVAL**

All Out-of-State Work approvals will be outlined in a telecommute agreement, will be reviewed annually, and apply only to the employee's current position. If an employee with an approved Out-of-State Work arrangement applies for a new position, they will be subject to a new review under the UCOP Out-of-State Work Policy.

**VII. RECALL PROCEDURE**

The UCOP Out-of-State Work Recall Procedure describes the process for recalling employees to California residency as required by the UCOP Out-of-State Work Policy. The Recall Procedure is initiated when an exceptional approval for Out-of-State Work for an existing employee is denied

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<sup>2</sup> For Exceptional Approval Requests related to existing out-of-state UCOP employees upon application of the policy, UC Legal will be consulted during the Secondary Review.

or rescinded, and recall is approved by the President in consultation with Executive Workforce Actions Committee (EWAC). Per the Exceptional Approval procedure (see Section IV), existing employees who relocate outside of California without prior approval will not be approved for out-of-state work.

- A. Recall Notification** – If an Out-of-State Work Exceptional Approval Request is not approved and the employee has relocated out of state, UCOP Human Resources will issue an Out-of-State Work Determination Letter and, if applicable, a Recall Notification and Recall Intent Form to the employee with a copy to their manager.
- B. Recall Intent Form (policy implementation in June 2023 only)** – The employee will have 30 calendar days from the Recall Notification issuance date to complete the Recall Intent Form, indicating either their intent to relocate to California or refusal to relocate in compliance with the Recall Notification.
1. **Compliance with recall relocation** - if an employee indicates intent to comply with the recall relocation requirements, the employee will have up to 12 months to complete their relocation. The UCOP Human Resources Business Partner (HRBP) initiates and oversees the Recall Relocation process.
  2. **Non-compliance with recall relocation** – If an employee refuses to comply with the recall relocation requirement and:
    - a. Is not eligible for a Vacancy Exception, UCOP HR will initiate the Termination of Employment process in accordance with PPSM-64.
    - b. Is eligible for an up to six-month Vacancy Exception while the department recruits a replacement, the employee will temporarily remain in their role. **Vacancy Exceptional Approval** is defined as approval for the employee to continue in the role for up to six months while the department recruits a replacement or until the role is filled, whichever is sooner. In the case of an approved Vacancy Exception:
      - i. The department must post the position within 30 calendar days of receiving notification that the employee will not comply with the Recall Notification. The department must recruit a replacement in a timely manner and make every effort to identify a California-based final candidate.
      - ii. The employee may continue to work full-time and is required to adhere to agreed-upon Vacancy Exceptional Approval conduct and work expectations.
      - iii. The Vacancy Exceptional Approval will end after the earliest of the following occurs:
        - The employee is notified by the department that a replacement has been hired and that the employee’s employment will be ending, or
        - Six months have passed from the start date of the Vacancy Exceptional Approval, or
        - The employee resigns from their position.
      - iv. When the Vacancy Exceptional Approval ends, HR initiates the

termination of employment process in accordance with PPSM 64 and local implementing procedures.

- C. Termination of Employment process** – a Notice of Intent to Terminate will be issued to the employee in accordance with PPSM-64 when:
1. The department determines during the exceptional approval review process that a Vacancy Exceptional Approval should not be granted and provides justification for not supporting a Vacancy Exception, or
  2. The employee has an approved six-month Vacancy Exception, and the department identifies a replacement prior to the expiration of the six-month period, or
  3. The Vacancy Exception period expires.
- D. Return of UCOP Property** – The employee is required to promptly return all UCOP property upon separation including computers, cell phones, and other equipment provided by UCOP.
- E. Conclusion of Recall Procedure** – The Recall Procedure ends when:
1. The employee relocates in accordance with Determination Letter, or
  2. The employee’s employment is terminated per Notice of Intent to Terminate, or
  3. The employee resigns.

## **VIII. PROCEDURE REVISION HISTORY**

- a. Effective date June 15, 2023
- b. January 2024 updates to Section IV to clarify that relocating without prior EWAC approval is prohibited and requests for permanent relocation will not be considered. Updates to Section VII to note relevant changes to the recall procedure based on the changes made in Section IV