



WOODS HOLE OCEANOGRAPHIC INSTITUTION INSTITUTION POLICY

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN

POLICY INFORMATION

Responsible Member of the Directorate: Vice President of Finance & Administration
Responsible Office: Human Resources Office
Issued: April 19, 2005

POLICY STATEMENT

The Woods Hole Oceanographic Institution may reemploy former employees or transfer employees from casual to regular status when doing so is in the best interest of the Institution. The Institution will, at all times, comply with applicable law, as well as with provisions of The Retirement Plan for Employees of Woods Hole Oceanographic Institution.

REASON FOR POLICY

This policy has been developed to help ensure that reemployment or transfers of status of individuals who have taken distributions from the Retirement Plan are consistent with the standards that apply to making distributions from the Retirement Plan.

WHO SHOULD BE FAMILIAR WITH THIS POLICY

- Vice Presidents, Directors, and Department Heads
- Department Administrators and Managers
- Individuals considering retirement
- Supervisors of individuals considering retirement
- Individuals who have taken a distribution from the Retirement Plan

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REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

Casual Status	Employment status for those expected to work 1) less than 40 hours per each pay period worked or 2) up to 80 hours per each pay period worked for a period of no longer than three consecutive months.
Lump Sum	The single sum value of a Member's benefit under the Retirement Plan that may be paid to the Member on resignation or retirement, if he/she is a vested Member.
Member	An individual who is a Member of the Retirement Plan.
Normal Retirement Age	The Normal Retirement Age under the Retirement Plan, which is used in determining plan benefits and eligibility for payment. In general, Normal Retirement Age under the Retirement Plan is age 65; however, in the case of an employee who first performs service for the Institution after his/her 60 th birthday, Normal Retirement Age is the later of age 65 or the fifth anniversary of the date he/she first became a Member.
Regular Status	Employment status for those expected to work at least 40 hours per pay period for an indefinite period of time, but at least twelve (12) consecutive months.
Retirement Plan	The Retirement Plan for Employees of Woods Hole Oceanographic Institution.
Qualified Plan	A plan for providing retirement benefits that meets the requirements of Section 401(a) of the Internal Revenue Code. Employees participating in such plans receive significant tax advantages.
Vested Member	A Member whose right to receive a present or future pension benefit under the Retirement Plan is no longer contingent upon remaining in the service of the Institution.

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

OVERVIEW

Institution Retirement Plan

The Retirement Plan is a “qualified plan” and must comply with Internal Revenue Service (IRS) regulations and other applicable law. In addition, the Retirement Plan’s provisions must be administered prudently and in a consistent manner. Finally, the funding of the Plan is based on the assumption that the IRS’s requirements and the Plan’s terms are followed.

The terms of the Retirement Plan were revised, effective January 1, 1998, to allow certain vested Members of any age who terminated employment to receive payment of their Retirement Plan benefit in a lump sum. A vested Member can also choose among a number of lifetime annuity options in lieu of the lump sum. The Plan also provides that after reaching normal retirement age, a Member may commence benefit payments (as an annuity or a lump sum) if the Member is employed in casual status, as well as if the Member’s employment has terminated.

IRS Regulations

IRS regulations prohibit payment or commencement of benefits from a qualified plan before normal retirement age, unless there is a bona fide termination of employment. This requirement is incorporated into the terms of the Retirement Plan. Further, IRS rules require that qualified plans be administered in accordance with their terms. In the case of the Retirement Plan, this includes, among other things, the prohibition on payments to Members employed after normal retirement age unless they have transferred to casual status.

Consequences of Non-compliance

Variance from the standards in the paragraph immediately above could jeopardize the Plan’s qualified status and threaten the tax benefits received by all Members through the Retirement Plan.

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

PROCEDURES

Age at Distribution

Due to the terms of the Retirement Plan, different procedures apply to those who first receive a Plan distribution before reaching normal retirement age than to those who first receive a Plan distribution after reaching normal retirement age. In most cases, normal retirement age is age 65. For purposes of this policy, those who first receive distributions before normal retirement age are referred to as “Pre-Normal Retirement Age Persons” and those who first receive distributions at or after normal retirement age are referred to as “Post-Normal Retirement Age Persons.” If an individual who is over age 65 but has not reached normal retirement age takes a distribution, the individual will be treated as a “Pre-Normal Retirement Age Person” for purposes of this policy.

Rehire of Pre-Normal Retirement Age Persons

A former employee who is a Pre-Normal Retirement Age Person may be considered for rehire only if the termination of employment that led to the former employee’s receipt of a distribution was a bona fide termination of employment.

What is a Bona Fide Termination?

For purposes of this policy, a bona fide termination of employment will be considered to have occurred if:

- at least 12 months have elapsed between the date of the individual’s last day of active employment and the date of his/her application for reemployment, and
- an Acknowledgment Form signed by the individual seeking reemployment is on record with Human Resources. The Acknowledgment Form must have been signed no later than one (1) month after the individual elected to receive a distribution under the Plan and must state that:

he/she has not formally or informally requested of any employee or other representative of the Institution that he/she be reemployed by the Institution subsequent to payment of his/her Plan benefit, and

there is no express or implied agreement between any employee or other representative of the Institution and him/her that he/she be reemployed by the Institution subsequent to payment of his/her

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

Plan benefit, and

he/she understands he/she is not eligible for reemployment with the Institution for at least 12 months following payment of his/her Plan benefit unless his/her application for reemployment is approved by the President and Director of the Institution.

Notwithstanding the foregoing, a termination of employment will be considered to be a bona fide termination if the termination of the most recent period of active employment was initiated by the Institution as an involuntary termination, with no expectation of or express or implied agreement for reemployment. In that event, the 12-month standard and the Acknowledgment Form shall not apply.

What are possible examples of an express or implied agreement?

Examples may include, but may not be limited to: the employee's name appearing on a proposal submitted prior to their retirement; the employee's name appearing on a proposal submitted within twelve months following their retirement; an informal or formal understanding between any employee or other representative of the Institution and the individual for employment of the individual's services after retirement.

In certain circumstances, an implied commitment may be avoided by expressly disclaiming one (see Express Disclaimer in Forms below).

What if a former employee has not previously received a payment from the Retirement Plan?

The rehire of a former employee who has not previously received a payment from the Retirement Plan is not subject to the above bona fide termination of employment guidelines.

Rehire or Change in Status of Post-Normal Retirement Age Person

A Post-Normal Retirement Age Person may not be considered for employment in regular status unless:

- at least 12 months have elapsed between the date of the individual's last day of employment in regular status and the date of his/her application or other request for employment in regular status, and
- an Acknowledgment Form signed by the individual seeking employment in regular status is on record with Human Resources. The Acknowledgment Form must have been signed no later than one (1) month after the individual elected to receive a distribution under the Plan and must state that:

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

he/she has not formally or informally requested of any employee or other representative of the Institution that he/she be employed in regular status by the Institution subsequent to payment of his/her Plan benefit, and

there is no express or implied agreement between any employee or other representative of the Institution and him/her that he/she be employed by the Institution in regular status subsequent to payment of his/her Plan benefit, and

he/she understands he/she is not eligible for employment with the Institution in regular status for at least 12 months following payment of his/her Plan benefit unless his/her application for employment in regular status is approved by the President and Director of the Institution.

Notwithstanding the foregoing, if a Post-Normal Retirement Age Person's eligibility to take a distribution from the Retirement Plan was the result of an involuntary termination of employment or an involuntary transfer to casual status, with no expectation of an agreement, express or implied, for reemployment or transfer to regular status, the 12-month standard and the Acknowledgment Form shall not apply.

Reemployment and Change in Status Procedures

Reemployment or change in status will be per the Institution's procedures.

Exceptions

Exceptions to the 12-month standards under this Policy, either for Pre-Normal Retirement Age Persons or for Post-Normal Retirement Age Persons, may be made only by the Institution President and Director, or his/her designee. Exceptions may be made only if the President and Director (or his/her designee, if applicable), finds that: (1) circumstances have changed sufficiently since the Member took a distribution from the Retirement Plan such that reemployment or a change in status would not be inconsistent with the purposes of this policy; and (2) the Member acted in good faith when he/she signed the appropriate Acknowledgment Form. Under no circumstances will an exception be made if less than three months have elapsed between the date of the individual's last day of active employment (or, for Post-Normal Retirement Age Persons, employment in regular status and the date of his/her application for reemployment or, for Post-Normal Retirement Age Persons, transfer to regular status).

REEMPLOYMENT OR CHANGES OF EMPLOYMENT STATUS OF PERSONS WHO HAVE TAKEN DISTRIBUTIONS FROM THE RETIREMENT PLAN (contd.)

Exceptions to the requirement to have signed an Acknowledgment Form within one (1) month after electing to receive a distribution may be made only if the President and Director or his/her designee finds that: (1) an exception would not be inconsistent with the purposes of this policy; and (2) the failure to sign an Acknowledgment Form in a timely manner was not due to the existence of a prohibited express or implied agreement or any effort to avoid the restrictions of this policy.

This policy does not apply to unpaid Volunteers. Volunteer arrangements **must** be made through the Volunteer Program of the Woods Hole Oceanographic Institution coordinated by the Information Office. Information about volunteer procedures is available at x2252 or information@whoi.edu.

Effective Date

At all times, it would be a violation of this policy for any employee or other representative of the Institution and any Member to have any agreement, express or implied, for reemployment or transfer to regular status, if a purpose of the agreement is to evade the restrictions on distributions established by the Retirement Plan and applicable law. The 12-month restrictions on both Pre-Normal Retirement Age Persons and Post-Normal Retirement Age Persons apply to Members who took distributions under the Retirement Plan either before or after the date of issuance of this policy. The requirement for signing an appropriate Acknowledgment Form applies only to Members who elect to take distributions under the Retirement Plan after the date of issuance of this policy.

FORMS

<u>Forms</u>	<u>Use</u>
Pre-Normal Retirement Age Acknowledgement Form	Signed form on record with the Human Resources Office, satisfying the criteria for a Pre-Normal Retirement Age Person, as described above.
Post-Normal Retirement Age Acknowledgement Form	Signed form on record with the Human Resources Office, satisfying the criteria for a Post-Normal Retirement Age Person, as described above.
Express Disclaimer	Document that expressly disclaims assurance of future employment.

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