

**DAMAGE PAYMENTS FOR SERVICES PERFORMED BEFORE
LOYALTY OATH IS SIGNED**

I. REFERENCES

- A. Letter of November 16, 1965 from President Kett to Chancellors and Systemwide officers, explaining the necessity of signing the loyalty oath.

- B. Accounting Manual
P-196-21 Payroll: Damage Payments for Service Performed Before Loyalty Oath is Signed

- C. UCSD Policy and Procedure Manual (PPM)

- D. Letter of February 16, 1996, from Vice Chancellor Steven W. Relyea to Assistant Vice Chancellor Donald A. Larson, delegating the authority to approve the payment of damage claims to the Assistant Vice Chancellor-Business and Financial Services.

II. BACKGROUND

Article XX, Section 3, of the California Constitution requires that all prospective employees of the University (other than aliens lawfully employed) sign the State Oath of Allegiance before commencing the duties of their University employment. Likewise, a former employee who is re-employed more than one year after the date he or she last signed the oath is required to execute a new oath before entering upon his or her duties. An alien who becomes a naturalized citizen while in University service must file with the Accounting Office a State Oath of Allegiance the same day he or she becomes a citizen.

III. CRITERIA FOR CLAIM

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

- A. The employee entered into University employment in good faith, with no knowledge of the oath requirement.

- B. The employee would have executed the oath prior to commencing University employment had the University advised him/her of the requirement to take it.

- C. The employee did, in fact, sign the oath upon learning of the requirement.

NOTE: In the event the prospective employee refuses to execute the oath, services must be terminated immediately and a claim submitted indicating the unwillingness to sign the oath.

IV. PROCEDURE

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

<u>Responsibility</u>	<u>Action</u>
A. Employee	Submits claim in writing for payment of service performed prior to executing the oath. Signs release upon receipt of check.
B. Department	<p>Completes Report of Damage Payment for Services Performed Before Signing <i>Loyalty Oath, Exhibit A</i>, and Check Request (Non-Payroll) Form U5-6, Exhibit B, for the gross amount to which the employee would have been entitled if he/she had been on the payroll in employment status. The explanation why the oath was not signed prior to beginning service must be given in detail on the Report of Damage Payment form.</p> <p>Complete Payroll Personnel System (PPS) entry on the EPER screen, updating the <i>Hire Date</i> to reflect the true date on which the employee signed the Loyalty Oath form.</p> <p>The Form U5-6 must charge the fund source to which the appointee's salary would have been charged, using the account for Supplies and Expense (637200); however, the department involved may request a transfer of salary funds to cover the payment.</p> <p>Administrative departments are to send the Report of <i>Damage Payment</i>, the Form U5-6, and the employment forms to the Assistant Vice Chancellor-Financial Services for review and approval. Academic departments are to send the forms via the Vice Chancellor-Academic Affairs for approval of appointment and forwarding to the Assistant Vice- Chancellor Financial Services.</p> <p>NOTE: Benefits such as sick leave, vacation, etc., are not earned for the period prior to signing the oath; during that period the appointee was technically not employed by the University.</p>
C. Assistant Vice Chancellor - Financial Services	After review and approval, forwards all forms to the Payroll Division of the campus Accounting Office.

PAYROLL

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- D. Payroll Division, Accounting Office Review claims. (Claims covering a period of 120 days or more are to be forwarded, via the Office of the Vice Chancellor-Business Affairs, to the Chancellor for approval.) After final review, processes the Form U5-6 for payment. Prepares the *Release Form, Exhibit C*, and distributes the check to the recipient after the release has been signed. Retains the Release and *Report of Damage Payment* forms in the employee's folder within the Accounting Office.

NOTE: No income taxes or retirement or any miscellaneous benefits are withheld. However, the payment is coded for purposes of income tax reporting.

EXHIBIT A

SAN DIEGO CAMPUS
REPORT OF DAMAGE PAYMENT FOR
SERVICES PERFORMED BEFORE SIGNING LOYALTY OATH

(To be filled out by the employing department
and forwarded with the Form 5 requesting payment.)

Name of employee _____
Date that services were first performed _____
Date that loyalty oath was signed _____
Calculation of payment and amount _____

Explanation of why oath was not signed prior to beginning service:

Note: Departments are requested to advise employees that damage payment is subject to Federal and State income taxes, although no tax is withheld.

The policy of making damage payments in no way alters existing policy, based upon legal requirements, that taking the State loyalty oath is a requirement of all prospective employees before commencing the duties of their University employment. It is the continuing responsibility of those involved in the hiring process to obtain properly executed oaths from all appointees and employees (except aliens) prior to the time they commence University service. No sick leave, vacation or other benefits are accrued prior to signing the State loyalty oath.

Department _____

By _____ Title _____

Approved _____
Assistant Vice Chancellor Financial Services

Original: Payroll
Copy: Department

Additional data may be requested on this form according to campus needs.

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EXHIBIT B

REQUEST FOR ISSUANCE OF CHECK

The above form can be found at the following website: <http://www-bfs.ucsd.edu/dis/pdf/f02017.pdf>

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EXHIBIT C

RELEASE FORM

To Be Signed by Recipient of Damage Payment

I, _____, hereby accept in complete satisfaction of any and all claims I may have against The Regents of the University of California on account of services performed by me during the period from _____ through _____ the sum of \$_____, it being understood, however, that a further claim may be presented to the extent of any uncompensated range adjustment which may be subsequently determined to exist and apply.

Signed: _____

Witness: _____

Original: Payroll
Copy: Employee