# Policy Summary

It is the policy of the University of California to make a “Damage Payment” to an employee who, without knowledge of the State Oath of Allegiance requirement, would perform services for the University ***prior*** to signing the State Oath of Allegiance. A “Damage Payment” constitutes a settlement of a claim by an employee based upon services rendered.

This policy provides the accounting, payroll and tax procedures for processing such a payment. 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.
2. The employee would have executed the State Oath of Allegiance prior to commencing University employment had the University advised the employee of the requirement to sign the Oath.
3. The employee, in fact, signed the State Oath of Allegiance upon learning of the requirement.

# Processing Procedures

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

1. ***Employee***: Submit a claim for damage to employing department.
2. ***Department***: A “Damage Payment Report” should be completed for the gross amount to which the employee would have been entitled to if the employee had been in the payroll on an active employment status. Obtain a completed State Oath of Allegiance and Damage Payment Release form from the employee.
3. ***Controller***: The “Damage Payment Report” should be signed by the Controller for approval. Any claims covering a period of 120 days or more must be approved by the Chancellor.
4. ***Payroll Office***: Review the claim for completeness and appropriate approval; then, process the payment. The deductions should be made for appropriate federal and state income tax an FICA. The payment is subject to worker’s compensation insurance and unemployment insurance. ***Note****: 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*”. Retain a copy of the Damage Payment Report in the employee’s personnel file at the Central Payroll Office.

Refer to [AM-P196-21: Damage Payments for Services Performed Before Loyalty Oath is Signed](https://www.google.com/url?q=http://policy.ucop.edu/doc/3410258&sa=U&ei=bns-VYihIqrhsATjyoDQCA&ved=0CAUQFjAA&client=internal-uds-cse&usg=AFQjCNGv_LlR_Lb6j3_pNBVQ34I419Mvbg) for more details.

Please send the completed forms to HRPC at hrpc@ucmerced.edu. If you have any questions or concerns, please contact HRPC at hrpc@ucmerced.eduwith “**Damage Payment**” on the subject line.

# Damage Payment Report

This form is to be completed by the Department to initiate the Damage Payment for the employee.

***Note****: Departments are required to advise the employee that Damage Payment is subject to Federal, State and FICA withholding taxes. Vacation or other benefits accrued prior to signing the State Oath of Allegiance must be included (sick pay is excluded).*

|  |
| --- |
| *To Be Completed by the Department* |
| **Employee Name** (*Last, First Middle*) | **Department** | **Date** |
|  |  |  |
| **Date Services Performed** *Begin Date End Date* | **Date of State Oath of Allegiance Signed** | **Calculation of Damage Payment Amount Due** |
|  |  |  |  |
| **Explanation of Why Oath Was Not Signed Prior to Beginning Service** |
| *The policy of making Damage Payments in no way alters existing policy, based upon legal requirements, taking the State Oath of Allegiance 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.* |
| **Department Approver Name** | **Department Approver Signature** | **Date** | **Phone** |
|  |  |  |  |
| **Controller Name** | **Controller Approval Signature** | **Date** |
|  |  |  |
| **Chancellor Name** | **Chancellor Approval Signature** | **Date** |
|  |  |  |
| ***Note****: The Chancellor’s signature is required for any claims covering period of 120 days or more. Payroll Services will route the form as needed.* |
|  |
| *Payroll Office Only* |
| Processed By | Processed Date | Pay Date |
|  |  |  |
|  |

*Original: Employee’s personnel file*

*Copy: Central Payroll Office*

*Retention: See Records Disposition Schedules*

# State Oath of Allegiance – Damage Payment Release

This form is to be completed by the employee receiving the 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:

|  |  |  |
| --- | --- | --- |
| Begin Date | End Date | Sum of Amount |
|  |  |  |

I understand that this Damage Payment is subject to Federal, State and FICA tax withholding.

|  |  |
| --- | --- |
| Employee Signature | Date Signed |
|  |  |

This form is to be signed in the presence of a witness.

|  |  |
| --- | --- |
| Witness Name | Witness Title |
|  |  |
| Witness Signature | Witness Date |
|  |  |

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|  |

*Original: Employee’s personnel file*

*Copy: Employee and Central Payroll Office*

*Retention: See Records Disposition Schedules*