

PAYROLL: EMPLOYEE DEATH PAYMENTS

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PAYROLL: EMPLOYEE DEATH PAYMENTS

"Be of good cheer about death, and know this of a truth, that no evil can happen to a good man, either in life or after death."

I. INTRODUCTION

This chapter summarizes the various policies and procedures relating to payments made upon the death of a University employee. These payments include the following:

- 1) payment of the equivalent of one month's salary or wages (in addition to earned compensation) in certain cases;
- 2) compensation earned by the employee up to and including date of death, including accrued vacation and compensatory overtime;
- 3) refund of fees and deposits;
- 4) retirement system death benefits (UCRP, PERS, FCSRS, OCERS, and SCERA); and
- 5) life and accident insurance administered through the University.

A glossary of terms employed in the administration of estates is attached as Appendix II to explain some of the technical words and phrases used in this chapter and in the accompanying forms.

Note: The Benefit Programs' Retirement/Survivor Unit, Office of the Senior Vice President--Business & Finance, is referred to in this chapter as the "Retirement Office."

II. REPORTING THE DEATH OF AN EMPLOYEE

The death of an employee must be reported as follows:

- 1) The deceased employee's department should immediately notify, by telephone, the Chancellor or the appropriate Office of the President officer, or the delegated representative. The department also should prepare a personnel action form and forward it immediately for processing.
- 2) The death of any employee, active or retired, academic or staff, should be reported immediately, by telephone, to the President's receptionist by the Chancellor or Office of the President officer concerned. (The death of a student is likewise to be reported, regardless of employee status.) This enables the President to send a letter of condolence to the employee's (or student's) family and to notify other concerned officers within the Office of the President.
- 3) The death of an employee also should be reported at the earliest possible moment to the Retirement Office. The following information must be furnished by the office designated by the Chancellor or Office of the President officer:

Report by telephone and confirm in writing (see Sample 1):

- a) employee's name, position, and department;
- b) employee's retirement system, if any;
- c) date and hour of death;
- d) approximate cause and circumstances of death (accident, illness, on the job, at home, etc.);
- e) name, address, and birth date of spouse; eligible dependent(s), if known, or as shown on health insurance enrollment form; beneficiary(ies) designated in the University-paid life insurance policy, or name and address of nearest relative;
- f) name and address of person handling settlement of estate (attorney, relative, etc.), if known; and
- g) employee's insurance plans (health and dental insurance, life insurance, accidental death and dismemberment).

II. REPORTING THE DEATH OF AN EMPLOYEE (Cont.)

Report in writing (obtain from campus accounting office):

- h) final earnings, including accrued vacation and overtime;
 - i) amount of salary deduction for retirement; and
 - j) itemized list of refundable fees or deposits.
- 4) The accounting office should determine whether the decedent was paying any life or accident insurance premiums through payroll deductions, and, if so, should either provide notification of the employee's death to (a) the insurance company and the beneficiary(ies) on the prescribed forms, or (b) the office that processes death claims.
- ** 5) If the deceased employee owed money to the University, the assistance of General Counsel should be sought in order to ensure that the University's interests are fully protected. General Counsel may determine that a claim against the employee's estate should be prepared. A claim against the estate of a California resident must be prepared in accordance with specific regulations and filed within four months after the first publication of notice to creditors.

III. DEATH SETTLEMENTS

The procedures presented in this section cover financial settlements to be made following the death of an employee. These procedures are performed by the office designated by the Chancellor--usually accounting or personnel. The procedures may be modified to suit local circumstances provided all necessary actions are ultimately performed and compliance with Office of the President policy is assured. (The settlement of a decedent's retirement account is administered by the Retirement Office, as described in section IV., below.)

A. PAYMENT OF ONE MONTH'S SALARY EQUIVALENT

Determine whether a payment of the equivalent of one month's salary to the employee's spouse or eligible dependent(s) (as defined in Appendix IV) or designated beneficiary(ies) is appropriate under the provisions of Section 103.8 of the Standing Orders of The Regents

(Appendix III),¹ and, if so, authorize payment within 24 hours of notification of death. (See chart in Appendix I for the accounting treatment of such payments.) The letter described in step E. below should be attached to the payment.

B. COMPUTATION OF FINAL EARNINGS AND RELATED PAYMENTS

Compute the amount of final earnings to be paid and the amount of any deductions, including retirement. Also, determine whether any refundable fees and deposits are due the decedent; these amounts will be remitted with the final earnings check.

The final earnings of a deceased employee will consist of salary or wages earned through the date of death, plus any accrued vacation or compensatory overtime. In the case of a nine-month academic appointee whose nine-month salary is paid on a level pay basis, salary should be calculated as indicated in Appendix V.

The accounting treatment for the one month's salary equivalent and the decedent's final earnings is provided in Appendix I. These payments are taxable income to the recipient and must be reported by the University to the Internal Revenue Service on the forms indicated in Appendix I. For payments reported on either Form 1099-MISC or Form 1099-R, the University must make a reasonable effort to obtain the social security number (or other taxpayer identifying number) of the payee. Accounting officers should obtain these numbers in a manner appropriate to that particular case. For example, for the one month's salary equivalent, the employee's department, personnel office, or accounting office could request, by telephone, the social security number before preparing the payment; or, it could add a sentence to the letter transmitting the check or to the Survivor's Questionnaire to request that the number be supplied by return mail.

In the case of the final salary payment, the payroll office could obtain the social security number from the payee by telephone, by return mail after the check is transmitted, by telephone or letter from the attorney handling the estate, or by whatever other means is appropriate.

¹ When payment is appropriate but there is no spouse, eligible dependent, or designated beneficiary, the payment is made to the decedent's estate.

III. REPORTING THE DEATH OF AN EMPLOYEE (Cont.)B. COMPUTATION OF FINAL EARNINGS AND RELATED PAYMENTS
(Cont.)

The decedent's social security number may not be used, except in the following instances:

1. When earnings are included in a payroll check that was prepared, but not cashed, prior to the employee's death. In this case, the payment is reported on the decedent's Form W-2, regardless of the recipient of the final earnings check.
2. When a payment which was earned but not available prior to the employee's death is made to an executor, or other person, for the benefit of the decedent's estate, and the estate's social security number is identical to the decedent's social security number. Such a payment is reported on Form 1099-MISC.

C. PAYMENT TO DEPENDENT MINOR

If a payment under step A. or B. above is to be made to a minor, the following provisions of Sections 3400-3402 of the California Probate Code apply: If the minor has no guardian of his/her estate (or if such guardianship is terminated by the court), the payment may be made to a surviving parent of the minor, to be held in trust for the minor, if the parent receiving the payment verifies under oath that the minor's total estate, including the University's payment, does not exceed \$5,000 (see Appendix VI). These sections apply where a minor is in the custody of a surviving parent. The use of these sections, where applicable, makes it unnecessary to compel a widow or widower to seek letters of guardianship to enable the University to make payments for the account of the minor.

A Parent's Declaration form and a Parent's Affidavit form to be used under these sections are provided as Samples 2 and 3 of Appendix IX. Either form may be used, whether executed within or without California (other than a foreign country); either is legal and permissible. The Declaration is less troublesome for the parent to complete, and for this reason it should normally be used when executed within California. However, in a situation in which there is concern about the circumstances of the claim, use of the Affidavit may provide an additional deterrent to a fraudulent claim.

Copies of Probate Code Sections 3400-3402 and, if applicable, Section 103.8 of the Standing Orders of The

Regents should be enclosed with the Declaration or Affidavit so that the declarant or affiant can verify statements 5 and 6. A check in payment of one month's salary equivalent is issued after receipt of the completed signed Declaration or Affidavit.

Note: If Sections 3400-3402 procedures are being used in connection with final earnings, proceed with steps D. through H., below, before sending Sections 3400-3402 and the Declaration or Affidavit.

D. REMITTANCE OF PERS CONTRIBUTIONS

For an employee covered by PERS, prepare vendor checks payable to PERS for employer and employee contributions on the final earnings and forward the checks to the Retirement Office. If appropriate, deductions for OASDI and Medicare should also be made and should be entered in the deceased employee's earnings record.

E. LETTER TO SPOUSE OR OTHER SURVIVOR

Send a letter (see Sample 4) to the spouse or other survivor informing him or her of the amount of final earnings and fee and deposit refunds due the employee at time of death; send a copy to the Retirement Office. The Survivor's Questionnaire (Sample 5) should be included with this letter.

F. REVIEW OF QUESTIONNAIRE

Review the Survivor's Questionnaire, which is designed to determine the person (or persons) to whom the employee's final earnings and other credits should be paid and whether this person may collect all or part of these amounts without procuring letters of administration or awaiting probate of the will, as provided in Sections 13100-13116 and Sections 13600-13606 of the California Probate Code (Appendices VII and VIII, respectively).

In general, Sections 13100-13116 provide that, without procuring letters of administration or awaiting probate of the will, the successor of the decedent may collect any item of property that is money due the decedent if the gross value of the decedent's real and personal property in California does not exceed \$100,000 and if 40 days have elapsed since the death of the decedent.

*

In general, Sections 13600-13606 provide that, without procuring letters of administration or awaiting probate of the will, and regardless of the value of the estate,

III. DEATH SETTLEMENTS (Cont.)

F. REVIEW OF QUESTIONNAIRES (Cont.)

the surviving spouse has the right to collect immediately up to \$5,000 (net in the aggregate) of compensation for personal services owed to the decedent by all of the decedent's employers.

If Sections 13100-13116 and/or Sections 13600-13606 do not apply, payment must be made through a representative, such as the executor of the will, the administrator, guardian, or conservator of the estate, or the parent of a minor. The purpose of each question in the Survivor's Questionnaire is as follows:

Question 1 regarding place and date of death provides general information concerning the circumstances of the employee's death.

Question 2 asks whether there is a will. If there is, a copy must be obtained in order to assure that the University makes payment to the right person.

Question 3 asks whether there is an attorney for the estate, since the attorney can be helpful in answering questions about heirs and probate proceedings. Also, the attorney must be contacted if probate is required--see step H., below.

Questions 4, 5, 6, 7, 8, and 13, which concern the spouse, former spouses, children, parents, brothers and sisters, and other possible claimants, are intended to disclose:

- a) who is entitled to payment if the decedent died intestate;
- b) whether the procedure authorized by Sections 13100-13116 may be applied;
- c) whether the procedure authorized by Sections 13600-13606 may be applied; and
- d) whether there are any other persons who might have a claim on the decedent's salary and to whom the University might therefore be liable. No disbursement should be made until all questions as to the proper claimant are cleared up.

Questions 9 and 10 relating to the decedent's real and personal property help to determine whether an heir of the decedent or beneficiary under the will may collect the decedent's final earnings under the provisions of

Sections 13100-13116, without procuring letters of administration or awaiting probate of the will.

Questions 11 and 12 help to determine whether the spouse of the decedent may immediately collect up to \$5,000 of compensation for personal services owed to the decedent, under the provisions of Sections 13600-13606.

G. PREPARATION OF SURVIVOR'S AFFIDAVIT(S)

1. Types of Affidavits

After the Survivor's Questionnaire has been reviewed, and if Probate Code Sections 13600-13606 and/or Sections 13100-13116 apply, a blank copy of either or both of the Affidavit forms included in Appendix IX as Samples 6 and 7 should be sent to the survivor for completion. A cover letter which must accompany the Affidavit(s) is included as Sample 5A.

The Affidavit for Collection of Money, Owed to a Deceased Spouse, Which is Held by The Regents of the University of California (Sample 6), should be sent to the spouse if the provisions of Probate Code Sections 13600-13606 apply. A copy of Probate Code Sections 13600-13606 should be enclosed.²

The Affidavit for Collection of Decedent's Personal Property Which is Held by The Regents of the University of California (Sample 7), should be sent to the spouse or other survivor if the provisions of Probate Code Sections 13100-13116 apply. A copy of Probate Code Sections 13100-13116 should be enclosed.³

The above affidavits are legal and permissible, whether executed within or without California (other than a foreign country).

² Other relevant sections of the code should not be sent to the survivor. The University should avoid any action which might indicate that it has undertaken to advise the survivor, or to provide the survivor with all of the relevant statutory material, with respect to the survivor's decision as to whether the provisions of Sections 13600-13606 and/or Sections 13100-13116 are appropriate to his/her circumstances.

³ Same as footnote 2.

III. DEATH SETTLEMENTS (Cont.)

G. PREPARATION OF SURVIVOR'S AFFIDAVIT(S) (Cont.)

2. Proof of Identity of Affiant(s)

Reasonable proof of the identity of the affiant (or of each affiant, if more than one) must be provided to the designated University officer (University officer)⁴. This requirement is satisfied if both of the following conditions are met:

- a) The person executing the affidavit is personally known to the University officer, and
- b) the person executes the affidavit in the presence of that officer.

If the affiant is not personally known to the University officer, the requirement that reasonable proof of identity must be presented to the University officer is satisfied if the conditions of either a) or b) below are met:

- a) The affidavit is executed in the presence of the University officer, and a written statement under penalty of perjury by a person personally known to that officer, affirming the identity of the person executing the affidavit, is presented. This statement should be attached to the affidavit.
- b) The affidavit is executed in the presence of the University officer, and one of the following documents is presented:
 - 1) An identification card or driver's license issued by the Department of Motor Vehicles of the state of California that is current or was issued during the preceding five years. (A Canadian or Mexican driver's license is unacceptable.)

⁴ For purposes of this chapter, "designated University officer" or "University officer" refers to a University employee responsible for preparing and/or reviewing Survivor's Affidavits.

- 2) A passport issued by the Department of State of the United States that is current or was issued during the preceding five years.
- 3) One of the following documents if the document is current or was issued during the preceding five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number:
 - (A) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service.
 - (B) A driver's license issued by a state other than California.
 - (C) An identification card issued by a state other than California.
 - (D) An identification card issued by any branch of the armed forces of the United States.
- 4) A notary public's certificate of acknowledgment identifying the person executing the affidavit is reasonable proof of such person's identity. This certificate should be attached to the affidavit.

*

If documents are provided under 1) 2) or 3) above, the University officer must complete the Statement by University Officer (or similar statement) and attach it to the affidavit. (Refer to the examples provided in Samples 6 and 7.)

If documents are provided under 4 above, an Acknowledgment by a Notary Public must be attached to the affidavit. (Refer to the example provided in Samples 6 and 7.)

**

Proof of the identity of each affiant (if more than one) must be obtained by one of the above methods.

III. DEATH SETTLEMENT (Cont.)

H. LETTER TO ATTORNEY FOR THE ESTATE (see Sample 8)

- * If Sections 13100-13116 and/or Sections 13600-13606 do not apply, a letter must be written to the attorney handling the estate, requesting a certified copy of the Letters of Administration or Letters Testamentary issued under the authority of the court in which the estate of the deceased employee is being administered. The Letters provide the name and title of the person, bank, or trust company serving as the representative of the estate.

I. ISSUANCE OF CHECK(S) FOR FINAL EARNINGS

One or more checks are issued to pay any fee or deposit refunds due the decedent as well as the decedent's final earnings (including accrued vacation and overtime pay) as follows:

- 1) If Probate Code Sections 13600-13606 apply, a check, not to exceed \$5,000, is issued to the decedent's spouse or to the guardian or conservator of the estate of the decedent's spouse, or to the designee of the above, after receipt of the completed, signed Affidavit for Collection of Money Owed to a Deceased Spouse (step G, above). If the person presenting the Affidavit claims to be the guardian or conservator of the estate of the surviving spouse, such person must present reasonable proof, satisfactory to the University, of his or her appointment to act as guardian or conservator of the estate. When the check is sent to the payee, a receipt form (Sample 9) should be enclosed.

If Probate Code Sections 13600-13606 do not apply, or if any monies remain after issuance of the above check, the following procedures apply:

- * 2) If Probate Code Sections 13100-13116 apply, i.e., if the estate is not to be probated, a check is issued to the decedent's widow, widower, or other heir or beneficiary after receipt of the completed, signed Affidavit for Collection of Decedent's Personal Property (step G, above). The Affidavit must have a certified copy of the decedent's death certificate attached and, if the decedent's estate includes any real property in

* California, must have an inventory and appraisal made pursuant to Probate Code Section 8800, et seq., attached. When the check is sent to the payee, a receipt form (Sample 10) should be enclosed.

- 3) If probate is required, a check is issued to the administrator of the estate or executor of the will (e.g., R. D. Reidwood, Executor of the Will of P. Angell, Deceased). A check issued to an executor or other person for the benefit of the decedent's estate should be annotated: "For the estate of (decedent), Social Security number (estate's Social Security number)." When the check is sent to the payee, a receipt form (Sample 10) should be enclosed.

J. RETENTION OF DOCUMENTS

Documents pertaining to the University's settlement with the decedent's heir, beneficiary, or estate are to be filed in the decedent's payroll file in the campus accounting office.

K. NOTICE OF EMPLOYEE DEATH--DEPARTMENT OF INDUSTRIAL RELATIONS

When the University does not have actual knowledge or notice that a deceased employee left a surviving dependent, the University is required to notify the administrative director, State of California Department of Industrial Relations, of the employee's death. Form DIA-510 is the form used for this purpose.

IV. SETTLEMENT OF DECEDENT'S RETIREMENT ACCOUNT

The settlement of a decedent's University of California Retirement Plan (UCRP) account is administered by the Retirement Office. That office is responsible for notifying the appropriate retirement system, if other than UCRP, of an employee's death. It is also responsible for administering the settlement of any Tax-Deferred 403(b) Plan or After-Tax Contribution Plan accounts, if applicable.

A. UNIVERSITY OF CALIFORNIA RETIREMENT PLAN

If the decedent was a member of UCRP, the employee's and employer's shares of the contribution, based on the decedent's final salary, are transferred to the Retirement Office by the accounting office.

IV. SETTLEMENT OF DECEDENT'S RETIREMENT ACCOUNT (Cont.)

A. UNIVERSITY OF CALIFORNIA RETIREMENT PLAN (Cont.)

A letter is written by the Retirement Office to the survivor and/or administrator or executor, outlining the benefits payable to the decedent and requesting the documentation required for payment of such benefits. Upon receipt of the proper documents, the Retirement Office will issue a UCRP benefit check and arrange for monthly payments, if applicable.

B. OTHER RETIREMENT SYSTEM

If the decedent belonged to another retirement system to which the University contributes, the Retirement Office must contact that system regarding settlement of the account.

C. TAX-DEFERRED 403(b) PLAN AND AFTER-TAX CONTRIBUTION PLAN

Even if the decedent did not belong to any retirement system, the Retirement Office should still be notified of the death, since the decedent may have been a participant in the Tax-Deferred 403(b) Plan and/or the After-Tax Contribution Plan.

V. REFERENCES

** Accounting Manual chapter R-212-2, Receivables Management.

Staff Personnel Policy 770, Death Payments.

Staff Personnel Administrative Guideline 770.1, Death Payments.

The Regents, Minutes authorizing salary payments for deceased nine-month academic appointees as described in Appendix V, October 14, 1960.

Standing Orders of The Regents, Section 103.8, Death Benefit, authorizing payment of one month's salary equivalent to deceased employee's spouse, eligible dependent(s), or designated beneficiary(ies) (see Appendix III).

State of California Probate Code:

Section 3300.
Sections 3400-3402 and 3410-3413.
Sections 13100-13116.
Sections 13600-13606.

State of California Code of Civil Procedure, Section 20
2015,5, Certification or declaration under penalty of
perjury.

Internal Revenue Code, Section 152(a), definition of
dependent.

State of California Labor Code, Section 4706.5(f).

Historical note: Much of the material in this chapter was
formerly published in Business and Finance Bulletin G-14 (now
rescinded) and in President Kerr's policy letter of March 16,
1961. Accounting Manual chapter first published 2/1/71;
revisions: 11/1/73, 2/1/79, 3/1/82, 6/15/83, 9/1/83, 12/1/85,
4/15/86, 3/1/90, 3/31/94, 9/30/95, 6/30/97, and 9/30/97; analyst
--Nancy Partovi.

(Glossary and legal forms were prepared by the Office of the
General Counsel of The Regents.)

APPENDIX I: ACCOUNTING FOR EMPLOYEE DEATH PAYMENTS (see subsection III.B.)

* Description of Payment	Tax Code	Payment Authorized by		Type of Check Issued	Payment Subject to Deductions for			Work Comp. Ins./Unemp. Ins. (3)	Tax ID # Reqd.	Reported on	Account Coding and Remarks
		Document	Approved by		With-hldg. tax	OASDI /MED (1)	UCRP,PERS, FCSRS, OCERS, SCERA(2)				
Compensation earned and made available prior to date of death of employee but check not cashed by him/her.	-	Form U5	University officer or designee	Vendor	Yes	Yes	Yes	Yes	Yes	Decedent's Form W-2	Uncashed check is redrawn payable to The Regents and deposited for credit to account 115015, Salaries and Wages Payable-- Deceased Employees. Payment to the heir or estate is charged to account 115015.
Compensation earned but not made available before death of employee (including accrued vacation and compensatory overtime).(5)	2	Form U5 (showing compensation and accrued vacation/compensatory overtime separately)	University officer or designee	Vendor	No	Yes (4)	Yes except for final vacation and overtime compensation	Yes (4)	Yes (7)	Form 1099 MISC (4)(6)	Financial entry prepared to credit net amount due to account 115015. Payroll deductions for insurance, taxes, etc., are credited to the usual liability accounts. Gross payroll amount is charged to the employee's departmental expenditure account, subbudget 0, 1, or 2, and object code 1700. Actual payment to the survivor or estate is charged to account 115015.
* Payment of equivalent of one month's salary.	D	Form U5	University officer or designee	Vendor	No	No	No	No	Yes (7)	Form 1099R	Charge employee's departmental expenditure account, subbudget 3, and object code 7400.
Payment of refundable fees and deposits.	-	Form U5	University officer or designee	Vendor	No	No	No	No	N/A	N/A	Charge appropriate payable account.
* UCRP benefits (PERS benefits handled by PERS office, Sacramento).	-	Form U5 (showing benefits and interest separately)	AVP--Univ. Benefit Progs. or designee	UCRP Benefits System	Yes (8)	No	No	No	Yes	Form 1099R	Charge appropriate UCRP account.

*	Payment of equivalent of one month's salary.	D	Form U5	Same	Same	No	No	No	No	Yes (7)	Form 1099R	Charge employee's departmental expenditure account, subbudget 3, and object code 7400.
	Payment of refundable fees and deposits.	-	Form U5	Same	Same	No	No	No	No	N/A	N/A	Charge appropriate payable account.
*	UCRP benefits (PERS benefits handled by PERS office, Sacramento)	-	Form U5 (showing benefits and interest separately)	AVP-- Univ. Benefit Progs. or designee	UCRP Benefits System	Yes (8)	No	No	No	Yes	Form 1099R	Charge appropriate UCRP account.

Footnotes

- * (1) Deductions for OASDI or Medicare apply only to those employees who meet the eligibility requirements for OASDI or Medicare (see Accounting Manual chapter P-196-30, Payroll: OASDI and Medicare Contributions).
- (2) Deductions for retirement apply only to those employees who are contributing members of a retirement system.
- (3) Unemployment insurance benefits are applicable only to those employees who are covered (see Accounting Manual chapter P-196-77.5, Payroll: Unemployment Insurance).
- (4) (a) Payment made to the heir, beneficiary, or estate after the calendar year in which the employee died is not subject to OASDI, Medicare, or unemployment insurance.
*
(b) However, when the payment is made to the heir, beneficiary, or estate before the end of the calendar year in which the employee died, the wages are subject to OASDI/Medicare contributions and unemployment insurance. Thus, the wages are reported as social security wages on the deceased's final Form W-2, even though they are not reported on the W-2 as wages for income tax purposes. The amount reported on the 1099-MISC is not reduced by any OASDI/Medicare withholding, or other required deductions [exception--see footnote (6)] even though only the net amount is actually paid to the heir, beneficiary, or estate.
*
*
(5) For payments other than regular time, refer to the type of payment for the applicability of deductions and benefits.
- (6) The required member contribution to UCRP, PERS, or OCERS is not reported on Form 1099-MISC; it is reported to the retirement system as tax-deferred. The contribution to all other retirement systems is reported on Form 1099-MISC.
- (7) The recipient's social security number (not the deceased's) is required. Exception: when earned-but-not-available wages are paid to the deceased's executor or other person for the benefit of the deceased's estate, the estate's social security number is required; this is often the deceased's social security number.
- (8) Tax withholding is required unless the recipient files a specified form with the retirement system requesting no withholding. (Refer to Accounting Manual chapter U-167-78, UCRP: Tax Withholding from Annuity Payments.)

APPENDIX II: GLOSSARY OF TERMS EMPLOYED IN THE ADMINISTRATION
OF ESTATES

Administrator--One appointed by a court of law to administer the estate of a decedent.

Administrator with the Will Annexed--An Administrator appointed by a court to execute the will of a decedent where the will fails to nominate an executor or where the executor cannot or declines to act.

Administration--The act of marshalling the assets, managing the estate, paying the debts, and distributing the balance of an estate of a decedent.

Affidavit--A formal written statement of facts sworn to be true.

Beneficiary--The generic word for a person who receives a gift or benefit under a will or trust or the laws of intestate succession.

Bequest--A gift of personal property, including money, by will.

Certificate--An unsworn written statement of fact "under penalty of perjury." A synonym of "declaration." Code of Civil Procedure Section 2015.5 makes a certificate the equivalent of an affidavit (a) if it shows the date and place of its execution within the State of California, or (b) if it shows the date of execution and that it is so declared under the laws of the State of California if executed within or without the State of California (other than a foreign country).

Certified Copy--A true copy of a document on file with a public official, such as the Secretary of State or a County Clerk, the authenticity of which is certified on the face of the instrument by that public official or his or her deputy.

Codicil--An amendment to a will. It must be executed with the same formality required in the execution of a will.

Community Property--Generally, all property acquired by husband and wife during marriage, other than by gift, bequest, devise, or descent, and the income of or the proceeds from the sale or other disposition of such property.

Consent to Transfer--A formal written document issued by a California Inheritance Tax Attorney for the Gift and Inheritance Tax Division of the Office of the State Controller authorizing the debtor of a decedent to pay money owed to the decedent to the representative of the estate, the beneficiary, or the heir. Not applicable to estates of decedents dying on or after June 8, 1982.

Conservatee--An adult whose person or property is cared for by a Conservator in a conservatorship proceeding. Similar to the ward of a guardian.

Conservator--A person appointed by a court of law to serve as the representative or fiduciary of a conservatee in a conservatorship proceeding. Compare "guardian."

Conservatorship--A legal proceeding designed to protect the person, the property, or both the person and property of "any adult person who by reason of advanced age, illness, injury, mental weakness, intemperance, drug addiction, or other disability or cause is unable properly to care for himself or his property."

Death Certificate--A formal document issued by a local health department or the State Department of Public Health certifying as to the fact, date, and cause of death of a person.

Death Tax--A generic term covering all forms of death taxes, including estate and inheritance taxes.

Decedent--A dead person.

Declaration--An unsworn written statement of fact "under penalty of perjury." A synonym for "certificate." Code of Civil Procedure Section 2015.5 makes a certificate the equivalent of an affidavit (a) if it shows the date and place of its execution within the State of California, or (b) if it shows the date of execution and that it is so declared under the laws of the State of California if executed within or without the State of California (other than a foreign country).

Descent--Technically, the transfer of real property on the death of the owner, who dies without leaving a will, to the person entitled thereto under the laws of intestate succession. Commonly used to refer to the transfer of all forms of property under the laws of intestate succession.

Devise--A gift of real property by will. The act of leaving real property by will.

Devisee--The recipient of a gift of real property by will.

Distributee--The recipient of property under a probate court's decree of distribution of the assets of the estate of a decedent.

Domicile--A person's fixed and permanent place of abode. Normally, a person's estate is administered at his or her domicile.

APPENDIX II: GLOSSARY OF TERMS EMPLOYED IN THE ADMINISTRATION
OF ESTATES (Cont.)

Escheat--The right of the State to take the estate of a person who dies without leaving an effective will or an heir.

Estate--The property left by a decedent. Also, the property of a ward or conservatee.

Estate Tax--An excise tax imposed on the act of giving at death and measured by the value of the property of the decedent.

Executor--A person appointed by a court of law to execute the will of a decedent pursuant to the decedent's nomination in his or her will.

Executrix--The female gender of "executor."

Fiduciary--Technically, a trustee of an express trust. Commonly used as a generic term to cover all types of trustees, including executors, administrators, guardians, conservators, et al.

Inheritance and Gift Tax Division--The division of the Office of the California State Controller which administers California's inheritance and gift tax laws for gifts made or estates of persons dying prior to the repeal (effective June 8, 1982) of these laws. It issues Consents to Transfer in estates still subject to California inheritance tax.

Guardian--A person, appointed by a court of law, to serve as the representative or fiduciary of a ward in a guardianship proceeding. Compare "conservator." The parent of a minor child is not, as such parent, the guardian.

Heir--Broadly, one who takes the property of a decedent, who dies without a will, under the laws of intestate succession.

Holographic Will--A will entirely written, dated, and signed in the hand of the decedent. No witnesses are required. California law recognizes such wills.

Inheritance--Property received from a decedent on his or her death under the laws of intestate succession.

Inheritance Tax--An excise imposed on the act of receiving property from a decedent on his or her death, under the will, a trust, the laws of intestate succession, the law of joint tenancy, or otherwise by gift.

Intestacy--The status of the estate or property of a decedent who dies without leaving a valid or operative will.

Intestate--The characterization of a person, or of the estate or property of a person, who dies without leaving a valid and operative will.

Intestate Succession--Inheritance from a person who dies without leaving a valid and operative will.

Joint Tenancy--An estate held by two or more persons jointly, with equal rights to share in its enjoyment during their lives, and having as its distinguishing feature the right of survivorship, by virtue of which the entire estate, upon the death of one joint tenant, passes to the survivor or survivors.

Laws of Intestate Succession--The laws of the state or country which determine the person or persons to whom a decedent's estate passes on his death, if he dies without leaving a valid and operative will.

Under the California laws of intestate succession, if a decedent leaves a surviving spouse alone, or a surviving spouse and a child or other lineal descendant, or parent, or brother, or sister, separate property descends as follows:

- 1) Leaving a spouse and neither issue, parent, brother, sister, nor descendant of deceased brother or sister: Generally, all to the surviving spouse.
- 2) Leaving a spouse and child or issue of deceased child: One-half to the spouse and one-half to the child or issue.
- 3) Leaving a spouse and children or child and issue of deceased child or children: One-third to the spouse and two-thirds to all lineal descendants. If all the lineal descendants are in the same degree of kindred to the decedent, they share equally; otherwise, they take by right of representation.
- 4) Leaving a spouse and parents or survivor or issue of deceased parents: One-half to spouse and one-half to parents or survivor or issue of either.

If there is no surviving spouse, but the decedent leaves issue, parents, or brothers and sisters, the rules with respect to the descent of separate property in California are as follows:

- 1) Leaving issue: All to issue. If the issue are of the same degree of kindred to the decedent they share equally; otherwise, they take by right of representation.
- 2) Leaving parents or survivor, but no issue: All to parents, or if one is dead, to survivor of parents.

APPENDIX II: GLOSSARY OF TERMS EMPLOYED IN THE ADMINISTRATION
OF ESTATES (Cont.)

- 3) Leaving brothers and sisters, but no issue or parent:
All to the brothers and sisters and to the descendants
of deceased brothers and sisters by right of
representation.

Upon the death of either husband or wife, one-half of the community property belongs absolutely to surviving spouse; and in the absence of a valid and operative will, the other one-half descends to the surviving spouse, subject to a couple of minor limitations or exceptions.

Legacy--Technically, a gift of money by will. Commonly a gift of any form of personal property by will.

Legatee--The recipient of a gift of personal property, including money, by will.

Letters of Administration--A formal document issued by a County Clerk, under the authority of the Superior Court, certifying as to the appointment of the person named therein as the Administrator of the decedent's estate there described.

Letters of Conservatorship--A formal document issued by a County Clerk, under the authority of the Superior Court, certifying as to the appointment of the person named therein as the Conservator of the person, estate, or both of the conservatee there described.

Letters of Guardianship--A formal document issued by a County Clerk, under the authority of the Superior Court, certifying as to the appointment of the person named therein as the Guardian of the person, estate, or both of the ward there described.

Letters Testamentary--A formal document issued by the County Clerk, under the authority of the Superior Court, certifying as to the appointment of the person named therein as the Executor of the will of the decedent there described.

Minor--A person under 18 years of age, unless emancipated by marriage, judicial declaration, or otherwise as prescribed by law.

Probate--Technically, the judicial act whereby an instrument is adjudged a valid will. Broadly, a characterization of all of the functions of a Court sitting in probate, including the admission of a will to probate, the settlement of the administrator's accounts, etc.

Probate Administration--The process of administering a decedent's estate. See "Administration."

Probate Estate--The portion of the decedent's gross estate which is subject to administration in a court of probate. Certain assets of the decedent, such as life insurance payable to a beneficiary other than his or her estate and joint tenancy property, are not subject to probate administration.

Probate Proceeding--A proceeding in a court of probate, such as the hearings on a petition for admission of a will to probate, a petition for instructions, a petition for distribution, etc.

Representative--A generic term covering all kinds of fiduciaries, such as executors, administrators, guardians, conservators, trustees, et al.

Separate Property--Generally, property acquired before marriage, after termination of marriage, or by gift, bequest, devise, or descent during marriage.

State Controller--The California State Officer in charge of the administration of California's inheritance and gift tax laws for decedents dying and gifts made prior to the repeal (effective June 8, 1982) of these laws. See "Inheritance and Gift Tax Division."

Succession--The taking of property by inheritance under the laws of intestate succession or under the will of a decedent.

Tenancy in Common--A tenancy under which two or more persons hold undivided interests in possession in the whole of a property, each of whose interests is assignable and inheritable.

Tenant in Common--A co-owner of property held in common with another or others.

Testament--A will.

Testamentary--Of or pertaining to a will or the act of making a will.

Testamentary Trust--A trust created by will.

Testator--The maker of a will.

Trust--A confidential relationship involving a trustee, a beneficiary, and a trust corpus or property.

Trustee--That person in a trust relationship who holds the legal title to the property subject to the trust, for the benefit of the beneficiary, with certain powers and subject to certain duties imposed by the trust instrument and the law.

APPENDIX II: GLOSSARY OF TERMS EMPLOYED IN THE ADMINISTRATION
OF ESTATES (Cont.)

Trustor--The creator of a trust.

Ward--A minor or incompetent under guardianship.

Will--An instrument executed by a competent person, in a manner prescribed by statute, whereby one makes a disposition of one's property to take effect on one's death, such disposition being revocable during one's lifetime.

Witnessed Will--A written testamentary instrument, subscribed by the testator, published and acknowledged by the testator in the presence of at least two witnesses at the same time, and attested by the witnesses at the end thereof pursuant to the request of the testator.

APPENDIX III: STANDING ORDERS OF THE REGENTS, SECTION 103.8
(see subsection III.A.)

Death Benefit

Upon the death of any Officer, faculty member, or regular employee of the University, or Officer or regular employee of the Corporation, who has been employed a minimum of six months, a sum equal to the salary of the deceased for one (1) month will be paid to the surviving spouse, or if there is no surviving spouse, to the deceased's eligible dependent(s), or if there is neither a surviving spouse nor eligible dependent(s), to the individual designated as the beneficiary of the deceased's University-paid life insurance policy. This payment is in addition to any other settlement provided under a pension or retirement plan in effect for the deceased person.

- Note:
- 1) "Dependent" is defined in Appendix IV.
 - 2) The eligibility requirement for this benefit is stated in detail in Staff Personnel Policy 770. This is applicable to all academic employees as well as to staff employees.
 - 3) One month's salary should normally be calculated as 1/12 of the annual salary rate times the percent of time worked; this applies to both academic and staff employees. The annual salary rate of full time employees who have supplementary earnings, as for summer research work or University Extension teaching, should exclude these supplementary earnings. For employees working a variable percent of time, earnings should be averaged over the period of time that seems to give the fairest result.
 - 4) In the case of a faculty member who dies while on sabbatical leave at two-thirds salary, the calculation of the one month's equivalent should be based on the full annual salary.

APPENDIX IV: DEFINITION OF DEPENDENT(see subsection III.A.)

Reproduced below is the definition of "dependent" as contained in the Internal Revenue Code, Section 152. This definition will be used in the interpretation of Section 103.8 of the Standing Orders of The Regents.

Sec. 152(a), GENERAL DEFINITION.--For purposes of this subtitle, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer¹. . .:

- 1) A son or daughter of the taxpayer, or a descendant of either,
- 2) A stepson or stepdaughter of the taxpayer,
- 3) A brother, sister, stepbrother, or stepsister of the taxpayer,
- 4) The father or mother of the taxpayer, or an ancestor of either,
- 5) A stepfather or stepmother of the taxpayer,
- 6) A son or daughter of a brother or sister of the taxpayer,
- 7) A brother or sister of the father or mother of the taxpayer,
- 8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer, or
- 9) An individual (other than an individual who at any time during the taxable year was the spouse. . . of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

¹For taxpayer, read "deceased employee."

APPENDIX V: FINAL EARNINGS OF DECEASED FACULTY MEMBERS (see subsection III.B.)

On October 14, 1960, The Regents authorized ". . . the continuation of present practices under which salary payments for deceased nine-months academic appointees who serve on a continuing basis are made on the same pro rata basis as in the case of eleven or twelve-months appointees. Thus, if death should occur in September, the July and August checks would have been received by the deceased, and payment for the regular workdays in September prior to death would be made to the estate."

The above policy statement covers situations where the deceased faculty member is "overpaid," that is, where earnings calculated on a level pay basis from July 1 are greater than earnings calculated on the basis of teaching days worked. However, if the faculty member is "underpaid," the estate must be compensated for additional salary due. "Underpaid," in this sense, means that earnings calculated on the level pay basis are less than earnings on the teaching day basis. The accounting office should calculate each decedent's year-to-date earnings by both methods; the higher of the resulting two figures should be used in calculating the final earnings due the decedent's estate.

Examples

Assume in these examples that the fall quarter begins October 1 and the spring quarter ends May 31. Each faculty member is serving on a continuing appointment, is scheduled to teach in the fall, winter, and spring quarters, and is being paid by the level pay method.

- 1) Professor A dies on September 15. He has already received salary payments for July and August.

Year-to-date earnings

Level pay basis: 2 months plus 15 calendar days
Teaching day basis: zero

Year-to-date earnings are calculated on the level pay basis, since this produces the higher figure. The accounting office must pay his estate an additional 15 calendar days' salary (2 months and approximately 10 working days minus 2 months already paid).

APPENDIX V: FINAL EARNINGS OF DECEASED FACULTY MEMBERS (see subsection III.B.) (Cont.)

- 2) Professor B dies on April 30 (10 months of fiscal year elapsed). He has already received salary payments for July through March (9 months).

Year-to-date earnings

Level pay basis: $1/12 \times 10$ months (= .833) x
annual rate Teaching day basis:

Assume a total of 171 teaching days
for the academic year, and assume
that on April 30, 152 have gone by.
Then year-to-date earnings = $1/171$
x 152 days (= .888) x annual rate.

Year-to-date earnings are calculated on the teaching day basis, since this produces the higher figure. The accounting office must pay his estate the year-to-date salary earned minus salary already paid through March 31.

APPENDIX VI: CALIFORNIA PROBATE CODE, SECTIONS 3400-3402 and 3410-3413 (see subsection III.C. and Samples 2 and 3)

CHAPTER 2. MONEY OR PROPERTY BELONGING TO MINOR

Article 1. Total Estate Not in Excess of \$5,000

Section 3400. Total estate of minor; deductions

(a) As used in this article, "total estate of the minor" includes both the money and other property belonging to the minor and the money and other property belonging to the guardianship estate, if any, of the minor.

(b) In computing the "total estate of the minor" for the purposes of this article, all of the following shall be deducted:

(1) "Custodial property" held pursuant to the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(2) Any money or property subject to court order pursuant to subdivision (c) of Section 3602 or Article 2 (commencing with Section 3610) of

** Chapter 4. (1990 ch. 79, operative July 1, 1991)

Section 3401. Delivery of money or property to parent

(a) Where a minor does not have a guardian of the estate, money or other property belonging to the minor may be paid or delivered to a parent of the minor entitled to the custody of the minor to be held in trust for the minor until the minor reaches majority if the requirements of subdivision (c) are satisfied.

Note: If the minor has a guardian of the estate, the money would be paid to the guardian not to a parent, unless paragraph (b) applies.

(b) Where the minor has a guardian of the estate, all the money and other property belonging to the guardianship estate may be paid or delivered to a parent entitled to the custody of the minor to be held in trust for the minor until the minor reaches majority if the requirements of subdivision (c) are satisfied.

Note: Subdivision (b) is designed to permit the entire guardianship estate to be paid over to a parent without the need for a court order when the requirements of subdivision (c) are satisfied. Such payment would not avoid the need for the termination of the guardianship by the court.

APPENDIX VI: (Cont.)

(c) This section applies only if both of the following requirements are satisfied:

- (1) The total estate of the minor, including the money and other property to be paid or delivered to the parent, does not exceed five thousand dollars (\$5,000) in value.
- (2) The parent to whom the money or other property is to be paid or delivered gives the person making the payment or delivery written assurance, verified by the oath of such parent, that the total estate of the minor, including the money or other property to be paid or delivered to the parent, does not exceed five thousand dollars (\$5,000) in value. (1990 ch. 79, operative July 1, 1991)

**

Section 3402. Written receipt of parent; effect

The written receipt of the parent giving the written assurance under Section 3401 shall be an acquittance of the person making the payment of money or delivery of other property pursuant to this article. (1990 ch. 79, operative July 1, 1991)

**

Article 2. Property in the Form of Money

Section 3410. Application of article; computation of money belonging to minor

(a) This article applies to both of the following cases:

- (1) Where the minor has a guardian of the estate and the sole asset of the guardianship estate is money.
- (2) Where the minor has no guardian of the estate and there is money belonging to the minor.

(b) This article does not apply to, and there shall be excluded in computing "money belonging to the minor" for the purpose of this article, all of the following:

- (1) Money or property which is or will be held as "custodial property" pursuant to the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

- ** (2) Any money or property subject to court order pursuant to subdivision (c) of Section 3602 or Article 2 (commencing with Section 3610) of Chapter 4. (1990 ch. 79, operative July 1, 1991)

Section 3411. Filing of petition; venue

(a) A parent of a minor entitled to custody of the minor, the guardian of the estate of the minor, or the person holding the money belonging to the minor may file a petition requesting that the court make an order under this article.

(b) The petition shall be filed in the superior court of:

- ** (1) The county where the minor resides if the minor has no guardian of the estate.
- (2) The county having jurisdiction of the guardianship estate if the minor has a guardian of the estate. (1990 ch. 79, operative July 1, 1991)

Section 3412. Order of court if guardianship exists

If the minor has a guardian of the estate and the sole asset of the guardianship estate is money, the court may order that the guardianship of the estate be terminated and, if the court so orders, the court in its discretion shall also order any one or more of the following:

(a) That the money be deposited with the county treasurer, provided that (1) the county treasurer has been authorized by the county board of supervisors to handle the deposits, (2) the county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code, (3) the county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money, (4) the county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing

as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4 of this code; or in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) That all or any part of the money be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(c) If the money belonging to the minor does not exceed twenty thousand dollars (\$20,000), that the money be held on such other conditions as the court in its discretion determines to be in the best interests of the minor.

(d) If the money belonging to the minor does not exceed five thousand dollars (\$5,000), that all or any part of the money be paid to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400). (1990 ch. 79, operative July 1, 1991, 1991 ch. 413)

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APPENDIX VII: CALIFORNIA PROBATE CODE, SECTIONS 13100-13116
(see subsections III.F. and III.G. and Sample 7)

CHAPTER 3. AFFIDAVIT PROCEDURE FOR COLLECTION OR
TRANSFER OF PERSONAL PROPERTY

Section 13100. Collection of Personal Property Without
Administration--Authority --Prerequisites--
Affidavit

* Excluding the property described in Section 13050,
if the gross value of the decedent's real and personal
property in this state does not exceed one hundred thousand
dollars (\$100,000) and if 40 days have elapsed since the
death of the decedent, the successor of the decedent may,
without procuring letters of administration or awaiting
probate of the will, do any of the following with respect to
one or more particular items of property:

(a) Collect any particular item of property that is
money due the decedent.

(b) Receive any particular item of property that is
tangible personal property of the decedent.

(c) Have any particular item of property that is
evidence of a debt, obligation, interest, right, security,
or chose in action belonging to the decedent transferred,
whether or not secured by a lien on real property.

Section 13101. Affidavit Required for Collection--Contents

(a) To collect money, receive tangible personal
property, or have evidences of a debt, obligation, interest,
right, security, or chose in action transferred under this
chapter, an affidavit or a declaration under penalty of
perjury under the laws of this state shall be furnished to
the holder of the decedent's property stating all of the
following:

- (1) The decedent's name.
- (2) The date and place of the decedent's death.
- (3) "At least 40 days have elapsed since the
death of the decedent, as shown in a
certified copy of the decedent's death
certificate attached to this affidavit or
declaration."

- (4) Either of the following, as appropriate:
- (A) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."
 - (B) "The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration."
- (5) "The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed one hundred thousand dollars (\$100,000)."
- (6) A description of the property of the decedent that is to be paid, transferred, or delivered to the affiant or declarant.
- (7) The name of the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the described property.
- (8) Either of the following, as appropriate:
- (A) "The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property."
 - (B) "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."
- (9) "No other person has a superior right to the interest of the decedent in the described property."
- (10) "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant."

APPENDIX VII: (Cont.)

(11) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) If the particular item of property to be transferred under this chapter is a debt or other obligation secured by a lien on real property and the instrument creating the lien has been recorded in the office of the county recorder of the county where the real property is located, the affidavit or declaration shall satisfy the requirements both of this section and of Section 13106.5.

(d) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

(e) If the decedent's personal representative has consented to the payment, transfer, or delivery of the described property to the affiant or declarant, a copy of the consent and of the personal representative's letters shall be attached to the affidavit or declaration.

Section 13102. Additional Evidence of Ownership--When Required

(a) If the decedent had evidence of ownership of the property described in the affidavit or declaration and the holder of the property would have had the right to require presentation of the evidence of ownership before the duty of the holder to pay, deliver, or transfer the property to the decedent would have arisen, the evidence of ownership, if available, shall be presented with the affidavit or declaration to the holder of the decedent's property.

(b) If the evidence of ownership is not presented to the holder pursuant to subdivision (a), the holder may require, as a condition for the payment, delivery, or transfer of the property, that the person presenting the affidavit or declaration provide the holder with a bond or undertaking in a reasonable amount determined by the holder to be sufficient to indemnify the holder against all liability, claims, demands, loss, damages, costs, and expenses that the holder may incur or suffer by reason of

the payment, delivery, or transfer of the property. Nothing in this subdivision precludes the holder and the person presenting the affidavit or declaration from dispensing with the requirement that a bond or undertaking be provided and instead entering into an agreement satisfactory to the holder concerning the duty of the person presenting the affidavit or declaration to indemnify the holder.

Section 13103. Inventory and Appraisement of Estate Real Property to Accompany Affidavit

If the estate of the decedent includes any real property in this state, the affidavit or declaration shall be accompanied by an inventory and appraisal of the real property. The inventory and appraisal of the real property shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant or declarant from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located.

Section 13104. Proof of Affiant's Identity Required--Items of Proof

(a) Reasonable proof of the identity of each person executing the affidavit or declaration shall be provided to the holder of the decedent's property.

(b) Reasonable proof of identity is provided for the purposes of this section if both of the following requirements are satisfied:

- (1) The person executing the affidavit or declaration is personally known to the holder.
- (2) The person executes the affidavit or declaration in the presence of the holder.

(c) If the affidavit or declaration is executed in the presence of the holder, a written statement under penalty of perjury by a person personally known to the holder affirming the identity of the person executing the affidavit or declaration is reasonable proof of identity for the purposes of this section.

APPENDIX VII: (Cont.)

(d) If the affidavit or declaration is executed in the presence of the holder, the holder may reasonably rely on any of the following as reasonable proof of identity for the purposes of this section:

- (1) An identification card or driver's license issued by the Department of Motor Vehicles of this state that is current or was issued during the preceding five years.
- (2) A passport issued by the Department of State of the United States that is current or was issued during the preceding five years.
- (3) Any of the following documents if the document is current or was issued during the preceding five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number:
 - (A) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service.
 - (B) A driver's license issued by a state other than California.
 - (C) An identification card issued by a state other than California.
 - (D) An identification card issued by any branch of the armed forces of the United States.

(e) For the purposes of this section, a notary public's certificate of acknowledgment identifying the person executing the affidavit or declaration is reasonable proof of identity of the person executing the affidavit or declaration.

(f) Unless the affidavit or declaration contains a notary public's certificate of acknowledgment of the identity of the person, the holder shall note on the affidavit or declaration either that the person executing the affidavit or declaration is personally known or a description of the identification provided by the person executing the affidavit or declaration.

Section 13105. Affiant's Entitlement to Collect Property--
Action to Compel Transfer

(a) If the requirements of Sections 13100-13104, inclusive, are satisfied:

- (1) The person or persons executing the affidavit or declaration as successor of the decedent are entitled to have the property described in the affidavit or declaration paid, delivered, or transferred to them.
- (2) A transfer agent of a security described in the affidavit or declaration shall change the registered ownership on the books of the corporation from the decedent to the person or persons executing the affidavit or declaration as successor of the decedent.

(b) If the holder of the decedent's property refuses to pay, deliver, or transfer any personal property or evidence thereof to the successor of the decedent within a reasonable time, the successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under this section, the court shall award reasonable attorney's fees to the person or persons bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to them as required by subdivision (a).

Section 13106. Acquittance and Discharge of Transferor

(a) If the requirements of Sections 13100-13104, inclusive, are satisfied, receipt by the holder of the decedent's property of the affidavit or declaration constitutes sufficient acquittance for the payment of money, delivery of property, or changing registered ownership of property pursuant to this chapter and discharges the holder from any further liability with respect to the money or property. The holder may rely in good faith on the statements in the affidavit or declaration and has no duty to inquire into the truth of any statement in the affidavit or declaration.

(b) If the requirements of Sections 13100-13104, inclusive, are satisfied, the holder of the decedent's property is not liable for any taxes due to this state by reason of paying money, delivering property, or changing registered ownership of property pursuant to this chapter.

APPENDIX VII: (Cont.)

Section 13106.5 Transfer of Obligation Secured by Lien on Real Property; Recording Affidavit or Declaration; Effect of Transfer; Deed of Trust; Reliance by Trustee, Purchaser

(a) If the particular item of property transferred under this chapter is a debt or other obligation secured by a lien on real property and the instrument creating the lien has been recorded in the office of the county recorder of the county where the real property is located, the affidavit or declaration described in Section 13101 shall be recorded in the office of the county recorder of that county and, in addition to the contents required by Section 13101, shall include both of the following:

- (1) The recording reference of the instrument creating the lien.
- (2) A notary public's certificate of acknowledgment identifying each person executing the affidavit or declaration.

(b) The transfer under this chapter of the debt or obligation secured by a lien on real property has the same effect as would be given to an assignment of the right to collect the debt or enforce the obligation. The recording of the affidavit or declaration under subdivision (a) shall be given the same effect as is given under Sections 2934 and 2935 of the Civil Code to recording an assignment of a mortgage and an assignment of the beneficial interest under a deed of trust.

(c) If a deed of trust upon the real property was given to secure the debt and the requirements of subdivision (a) and of Sections 13100 to 13103, inclusive, are satisfied:

- (1) The trustee under the deed of trust may rely in good faith on the statements made in the affidavit or declaration and has no duty to inquire into the truth of any statement in the affidavit or declaration.
- (2) A person acting in good faith and for a valuable consideration may rely upon a recorded reconveyance of the trustee under the deed of trust.

(d) If a mortgage upon the real property was given to secure the debt and the requirements of subdivision (a) and of Sections 13100 to 13103, inclusive, are satisfied, a person acting in good faith and for a valuable consideration may rely upon a recorded discharge of the mortgage executed by the person or persons executing the affidavit or declaration as successor of the decedent or by their successors in interest.

Section 13107. Claim Against Estate Under Administration

Where the money or property claimed in an affidavit or declaration presented under this chapter is that of a deceased heir or devisee of a deceased person whose estate is being administered in this state, the personal representative of the person whose estate is being administered shall present the affidavit or declaration to the court in which the estate is being administered. The court shall direct the personal representative to pay the money or deliver the property to the person or persons identified by the affidavit or declaration as the successor of the decedent to the extent that the order for distribution determines that the deceased heir or devisee was entitled to the money or property under the will or the laws of succession.

Section 13107.5 Pending Action Against Decedent; Substitution of Parties Without Probate

Where the money or property claimed in an affidavit or declaration executed under this chapter is the subject of a pending action or proceeding in which the decedent was a party, the successor of the decedent shall, without procuring letters of administration or awaiting probate of the will, be substituted as a party in place of the decedent by making a motion under Article 3 (commencing with Section 377.30) of Chapter 4 of Title 2 of Part 2 of the Code of Civil Procedure. The successor of the decedent shall file the affidavit or declaration with the court when the motion is made. For the purpose of Article 3 (commencing with Section 377.30) of Chapter 4 of Title 2 of Part 2 of the Code of Civil Procedure, a successor of the decedent who complies with this chapter shall be considered as a successor in interest of the decedent.

Section 13108. When Affidavit Procedure Available--Effect on Later Administration Proceedings

(a) The procedure provided by this chapter may be used only if one of the following requirements is satisfied:

APPENDIX VII (Cont.)

- (1) No proceeding for the administration of the decedent's estate is pending or has been conducted in this state.
- (2) The decedent's personal representative consents in writing to the payment, transfer, or delivery of the property described in the affidavit or declaration pursuant to this chapter.

(b) Payment, delivery, or transfer of a decedent's property pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

Section 13109. Personal Liability for Decedent's Unsecured Debts--Enforcement Against Affiant

A person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable, to the extent provided in Section 13112, for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defenses, cross-complaints, or setoffs that would have been available to the decedent if the decedent had not died. Nothing in this section permits enforcement of a claim that is barred under Part 4 (commencing with Section 9000) of Division 7. Section 366.2 of the Code of Civil Procedure applies in an action under this section.

Section 13110. Personal Liability to Holder of Superior Right--Liability for Fraud--Actions to Enforce Liability

(a) Except as provided in subdivision (b), each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable to the extent provided in Section 13112 to any person having a superior right by testate or intestate succession from the decedent.

(b) In addition to any other liability the person has under this section and Sections 13109, 13111, and 13112, any person who fraudulently secures the payment, delivery, or transfer of the decedent's property under this chapter is liable to the person having such a superior right for three times the fair market value of the property. For the

purposes of this subdivision, the "fair market value of the property" is the fair market value of the property paid, delivered, or transferred to the person liable under this subdivision, valued as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter to the holder of the decedent's property, less any liens and encumbrances on that property at that time.

(c) An action to impose liability under this section is forever barred three years after the affidavit or declaration is presented under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

Section 13111. Liability to Decedent's Estate Under Later Administration--Liability for Fraud--Actions to Enforce Liability

(a) Subject to the provisions of this section, if proceedings for the administration of the decedent's estate are commenced in this state, or if the decedent's personal representative has consented to the payment, transfer, or delivery of the decedent's property under this chapter and the personal representative later requests that the property be restored to the estate, each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is liable for:

- (1) The restitution of the property to the estate if the person still has the property, together with (A) the net income the person received from the property and (B) if the person encumbered the property after it was delivered or transferred to the person, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.
- (2) The restitution to the estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from the property and (B) interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time of the disposition

APPENDIX VII (Cont.)

of the property, of the property paid, delivered, or transferred to the person under this chapter, less any liens and encumbrances on the property at that time.

(b) Subject to subdivision (c) and subject to any additional liability the person has under Sections 13109-13112, inclusive, if the person fraudulently secured the payment, delivery, or transfer of the decedent's property under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on the property at that time.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13109 or 13110.

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after presentation of the affidavit or declaration under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

(f) In the case of a nondomiciliary decedent, restitution under this section shall be made to the estate in an ancillary administration proceeding.

Section 13112. Satisfaction and Limits of Liability

(a) A person to whom payment, delivery, or transfer of the decedent's property has been made under this chapter is

not liable under Section 13109 or 13110 if proceedings for the administration of the decedent's estate are commenced in this state, and the person satisfies the requirements of Section 13111.

(b) Except as provided in subdivision (b) of Section 13110, the aggregate of the personal liability of a person under Sections 13109 and 13110 shall not exceed the fair market value, valued as of the time the affidavit or declaration is presented under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on that property at that time, together with the net income the person received from the property and, if the property has been disposed of, interest on the fair market value of the property accruing from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, "fair market value of the property" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 13111.

Section 13113. Remedies Against Affiant Not Exclusive

The remedies available under Sections 13109-13112, inclusive, are in addition to any remedies available by reason of any fraud or intentional wrongdoing.

Section 13114. Authority of Public Administrator to Refuse Distribution

(a) A public administrator who has taken possession or control of property of a decedent under Article 1 (commencing with Section 7600) of Chapter 4 of Part 1 of Division 7 may refuse to pay money or deliver property pursuant to this chapter if payment of the costs and fees described in Section 7604 has not first been made or adequately assured to the satisfaction of the public administrator.

(b) A coroner who has property found upon the body of a decedent, or who has taken charge of property of the decedent pursuant to Section 27491.3 of the Government Code, may refuse to pay or deliver the property pursuant to this chapter if payment of the reasonable costs of holding or safeguarding the property has not first been made or adequately assured to the satisfaction of the coroner.

Section 13115. Chapter Not Applicable to Transfers of Real Property

The procedure provided in this chapter may not be used to obtain possession or the transfer of real property.

Section 13116. Procedure Provided in Chapter as Additional and Supplemental to any Other Procedure

The procedure provided in this chapter is in addition to and supplemental to any other procedure for (1) collecting money due to a decedent, (2) receiving tangible personal property of a decedent, or (3) having evidence of ownership of property of a decedent transferred. Nothing in this chapter restricts or limits the release of tangible personal property of a decedent pursuant to any other provision of law. This section is declaratory of existing law.

APPENDIX VIII: CALIFORNIA PROBATE CODE, SECTIONS 13600-13606 (see subsections III.F. and III.G. and Sample 6)

CHAPTER 4. COLLECTION BY AFFIDAVIT OF COMPENSATION OWED TO DECEASED SPOUSE

Section 13600. Collection of Compensation Owed to Deceased Spouse--Authority--Limitations

(a) At any time after a husband or wife dies, the surviving spouse or the guardian or conservator of the estate of the surviving spouse may, without procuring letters of administration or awaiting probate of the will, collect salary or other compensation owed by an employer for personal services of the deceased spouse, including compensation for unused vacation, not in excess of five thousand dollars (\$5,000) net.

(b) Not more than five thousand dollars (\$5,000) net in the aggregate may be collected by or for the surviving spouse under this chapter from all of the employers of the decedent.

(c) For the purposes of this chapter, a guardian or conservator of the estate of the surviving spouse may act on behalf of the surviving spouse without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

Section 13601. Affidavit Required for Collection--Contents--Additional Proof of Identity or Authority Required

(a) To collect salary or other compensation under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the employer of the deceased spouse stating all of the following:

- (1) The name of the decedent.
- (2) The date and place of the decedent's death.
- (3) Either of the following, as appropriate:
 - (A) "The affiant or declarant is the surviving spouse of the decedent."
 - (B) "The affiant or declarant is the guardian or conservator of the estate of the surviving spouse of the decedent."

APPENDIX VIII: (Cont.)

- (4) "The surviving spouse of the decedent is entitled to the earnings of the decedent under the decedent's will or by intestate succession and no one else has a superior right to the earnings."
- (5) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."
- (6) "Sections 13600-13605, inclusive, of the California Probate Code require that the earnings of the decedent, including compensation for unused vacation, not in excess of five thousand dollars (\$5,000) net, be paid promptly to the affiant or declarant."
- (7) "Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has a pending request to collect compensation owed by another employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code."
- (8) "Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has collected any compensation owed by an employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code except the sum of _____ dollars (\$_____) which was collected from _____."
- (9) "The affiant or declarant requests that he or she be paid the salary or other compensation owed by you for personal services of the decedent, including compensation for unused vacation, not to exceed five thousand dollars (\$5,000) net, less the amount of _____ dollars (\$_____) which was previously collected."
- (10) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(c) Reasonable proof of the identity of the surviving spouse shall be provided to the employer. If a guardian or conservator is acting for the surviving spouse, reasonable proof of the identity of the guardian or conservator shall also be provided to the employer. Proof of identity that is sufficient under Section 13104 is sufficient proof of identity for the purposes of this subdivision.

(d) If a person presenting the affidavit or declaration is a person claiming to be the guardian or conservator of the estate of the surviving spouse, the employer shall be provided with reasonable proof, satisfactory to the employer, of the appointment of the person to act as guardian or conservator of the estate of the surviving spouse.

Section 13602. Affiant's Entitlement to Prompt Payment

If the requirements of Section 13600 are satisfied, the employer to whom the affidavit or declaration is presented shall promptly pay the earnings of the decedent, including compensation for unused vacation, not in excess of five thousand dollars (\$5,000) net, to the person presenting the affidavit or declaration.

Section 13603. Acquittance and Discharge After Receipt of Affidavit

If the requirements of Section 13601 are satisfied, receipt by the employer of the affidavit or declaration constitutes sufficient acquittance for the compensation paid pursuant to this chapter and discharges the employer from any further liability with respect to the compensation paid. The employer may rely in good faith on the statements in the affidavit or declaration and has no duty to inquire into the truth of any statement in the affidavit or declaration.

Section 13604. Action To Compel Payment--Survivor's Attorney's Fees

(a) If the employer refuses to pay as required by this chapter, the surviving spouse may recover the amount the surviving spouse is entitled to receive under this chapter in an action brought for that purpose against the employer.

(b) If an action is brought against the employer under this section, the court shall award reasonable attorney's fees to the surviving spouse if the court finds that the employer acted unreasonably in refusing to pay as required by this chapter.

APPENDIX VIII: (Cont.)Section 13605. Effect of Payment of Decedent's Compensation on Later Administration Proceedings--
Liability of Affiant to Holder of Superior Right--Liability for Fraud

(a) Nothing in this chapter limits the rights of the heirs or devisees of the deceased spouse. Payment of a decedent's compensation pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

(b) Any person to whom payment is made under this chapter is answerable and accountable therefor to the personal representative of the decedent's estate and is liable for the amount of the payment to any other person having a superior right to the payment received. In addition to any other liability the person has under this section, a person who fraudulently secures a payment under this chapter is liable to a person having a superior right to the payment for three times the amount of the payment.

Section 13606. Collection Procedure Not Exclusive

The procedure provided in this chapter is in addition to, and not in lieu of, any other method of collecting compensation owed to a decedent.

APPENDIX VIII: (Cont.)Section 13605. Effect of Payment of Decedent's Compensation on Later Administration Proceedings--
Liability of Affiant to Holder of Superior Right--Liability for Fraud

(a) Nothing in this chapter limits the rights of the heirs or devisees of the deceased spouse. Payment of a decedent's compensation pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

(b) Any person to whom payment is made under this chapter is answerable and accountable therefor to the personal representative of the decedent's estate and is liable for the amount of the payment to any other person having a superior right to the payment received. In addition to any other liability the person has under this section, a person who fraudulently secures a payment under this chapter is liable to a person having a superior right to the payment for three times the amount of the payment.

* (1990 ch. 79, operative July 1, 1991)

Section 13606. Collection Procedure Not Exclusive

The procedure provided in this chapter is in addition to, and not in lieu of, any other method of collecting compensation owed to a decedent. (1990 ch. 79, operative July 1, 1991)

*

APPENDIX IX: SAMPLE FORMS AND LETTERS

The sample forms and letters on the following pages are of two types:

- 1) Samples 1, 4, and 8 were designed to assist campus accounting or personnel offices with death payment procedures. These forms may be revised by the campuses as required by local policy; no notification to the Office of the President is necessary.
- 2) The remainder of these samples were designed by the General Counsel's Office to insure that the University's legal obligations are fulfilled or to protect the University in case of a law suit. These are:

Sample 2	Parent's Declaration
3	Parent's Affidavit
5	Survivor's Questionnaire
**	5A Cover Letter to Accompany Blank Affidavit Forms
6	Affidavit for Collection of Money Owed to a Deceased Spouse
7	Affidavit for Collection of Decedent's Personal Property
9	Receipt for Collection of Money Owed to a Deceased Spouse
10	Receipt for Collection of Decedent's Personal Property

* These samples must not be substantively changed without prior approval from the General Counsel's Office and notification of the office of the Associate Vice President--Business and Finance.

Both types of samples may contain phrases that are inapplicable to particular death settlements. These phrases should be eliminated when the forms or letters are prepared.

SAMPLE 1: NOTIFICATION TO RETIREMENT OFFICE OF EMPLOYEE'S DEATH
(see subsection II.3))

RETIREMENT OFFICE:

We regret to inform you of the death of _____ (name) _____,
_____ (position title) _____, _____ (department) _____, a member of
the _____ Retirement System. The decedent
died _____ (date and hour) _____ of _____ (give approximate cause and
circumstances of death) _____.

The decedent is survived by (if no survivors, so indicate):

Relationship (list
spouse and other
dependent[s] and/or
beneficiary[ies]) _____ Name _____ Address _____ Birth Date _____

The estate is being handled by:
(name of attorney or other person representing heirs)
(address)
(relationship)

Health insurance plan: _____ (name of company)
Life insurance: \$ _____ (amount)
Accidental death and dismemberment insurance: \$ _____ (amount)

Net sum payable:

Gross salary	\$
Less retirement deduction	-
Accumulated overtime	
Accrued vacation	
Fees and deposits payable	_____
Net Sum Payable	\$ _____

(person designated by Chancellor or
Office of the President officer)

SAMPLE 2: PARENT'S DECLARATION TO COLLECT MONEY OWING TO
DEPENDENT MINOR (California Probate Code, Sections
3400-3402) (see subsection III.C.)

I, _____ (name of declarant) _____, declare
that:

1. I am the (father/mother) of _____,
a minor, and that as such parent I am entitled to custody of
said minor;
2. The minor has no guardian of his/her estate;
3. The value of the estate of said minor, computed
according to Section 3400 of the California Probate Code and
including the University's payment, does not exceed the sum
of Five Thousand Dollars (\$5,000);
4. _____ (name of decedent) _____ died on
_____, 19____, at which time said decedent
had been regularly employed¹ by the University of California
(for more than six months);
5. By virtue of Section 3401 of the California Probate
Code, (Section 103.8 of the Standing Orders of The Regents
of the University of California,) and the foregoing facts, I
am authorized to receive payment, for the account of said
dependent minor, of (a sum equal to the salary of said
decedent for one month) (the final earnings and refundable
fees and deposits due the decedent at the time of his/her
death);
6. I hereby acknowledge receipt from The Regents of the
University of California of the sum of _____
dollars (\$_____), in full
satisfaction of the obligation (created by Section 103.8 of
said Standing Orders) (to the decedent for services rendered
and for refundable fees and deposits);
7. Pursuant to Sections 3300 and 3401 of the California
Probate Code, I will receive the money for the minor until
his/her majority, at which time I agree to account to
him/her for it;

¹Applies only to one month's salary equivalent payment.

SAMPLE 2 (Cont.):

8. Further, I agree to execute a written receipt for the money and to fully release and hold harmless The Regents of the University of California on the payment or delivery to me of the money, and I agree to indemnify said The Regents of the University of California against all liability and all damages it may suffer by reason of making said payment to me.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ Place: _____

Signature

Name: _____

Address: _____

VERIFICATION

I, _____, am the Declarant named above. I declare that I have read the foregoing Declaration and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 19__, at _____,

_____.

State

Signature

SAMPLE 3: PARENT'S AFFIDAVIT TO COLLECT MONEY OWING TO DEPENDENT
MINOR (California Probate Code, Sections 3400-3402)
(see subsection III.C.)

State of _____)
County of _____) ss

(name of affiant), being
first duly sworn, states that

1. Affiant is the (father/mother) of _____,
a minor, and that, as such parent, affiant is entitled to
the custody of said minor;
2. The minor has no guardian of his/her estate;
3. The value of the estate of said minor, computed
according to Section 3400 of the California Probate Code and
including the University's payment, does not exceed the sum
of Five Thousand Dollars (\$5,000);
4. _____ (name of decedent) died on
_____, 19_____, at which time said decedent had
been regularly employed by the University of California (for
more than six months)¹;
5. By virtue of Section 3401 of the California Probate
Code, (Section 103.8 of the Standing Orders of The Regents
of the University of California,) and the foregoing facts,
affiant is authorized to receive payment for the account of
said dependent minor, of (a sum equal to the salary of said
decedent for one month) (the final earnings and refundable
fees and deposits due the decedent at the time of his/her
death);
6. Affiant hereby acknowledges receipt from The Regents of
the University of California of the sum of _____
dollars (\$_____), in full satisfaction of the
obligation (created by Section 103.8 of said Standing
Orders) (to the decedent for services rendered for
refundable fees and deposits);
7. Pursuant to Sections 3300 and 3401 of the California
Probate Code, affiant will receive the money for the minor
until his/her majority, at which time affiant agrees to
account to him/her for it;

¹Applies only to one month's salary equivalent payment.

SAMPLE 4: LETTER TO SPOUSE OR OTHER SURVIVOR
(see subsection III.E.)

Dear _____:

It was with regret that I learned of the death of your (husband, etc., as appropriate), _____ (name) _____, on _____. As a token of appreciation of your (husband's etc., as appropriate) past service to the University, I enclose a check payable to you in the amount of \$_____. The amount of this check is equal to one month's salary of your late (husband, etc., as appropriate), as provided by policy of The Regents of the University of California. This check is a direct benefit to you and is in addition to the amount of salary that was earned but not paid before death.

We are also holding the sum of \$_____, which represents net earned salary, accrued vacation, and refundable fees due your (husband, etc., as appropriate) at the time of his/her death, as follows:

Earned salary:	Hours or % of time x pay rate	\$ _____
	Less (UCRP or PERS) @ %	- _____ \$
Accrued vacation:	Hours x pay rate	
Accumulated overtime:	Hours x pay rate	
Refundable fees or deposits:	(itemize)	_____
	Net Total Due	\$ <u>_____</u>

The amount that we are holding is normally payable to the estate, but if certain conditions are met it will be possible for us to pay the sum due directly to you upon receipt of (a declaration) (an affidavit). So that we can determine whether or not such settlement is possible, please complete and return the attached Questionnaire. If probate proceedings are known to be necessary, please insert the name and address of your attorney on the Questionnaire and I shall communicate with your attorney regarding settlement of the University's obligations.

Your (husband, etc., as appropriate) was a member of the (name of retirement system). We have notified the University Retirement Office of your (husband's etc., as appropriate) death, and you will hear shortly from that office regarding the settlement.

Very truly yours,

(for the accounting officer)

cc: Retirement Office
Chancellor
Campus Personnel Office
Decedent's Department

SAMPLE 5: SURVIVOR'S QUESTIONNAIRE
(see subsection III.F.)

Information Regarding the Estate of _____, Deceased

1. Place of death _____ Date of death _____
2. Did the decedent leave a will? _____ If so, attach a copy to this sheet.
3. Is an attorney handling the settlement of the estate? _____
If so, give name and address: _____
4. Did the decedent leave a spouse? _____ If so, give name and address: _____
5. Did the decedent leave any children? _____ If so, give names, addresses, and birthdates:

6. Had the decedent been married previously? ___ Date _____
Name of former wife or husband _____
Was the decedent widowed _____ or divorced _____? Date of death or divorce _____ Are there any children living who were born of such prior marriage? _____ If so, give names, addresses, and birthdates:

7. Did the decedent leave any parent(s)? _____ If so, give name(s) and address(es) _____

8. Did the decedent leave any brother(s) or sister(s)? _____ If so, give name(s) and address(es) _____

9. Did the decedent own or have an interest in real and personal property in the State of California with a gross value in excess of \$100,000 as of the date of death?
*
[] Yes [] No
10. It is necessary to answer question 10 only if you answered "No" to question 9.

SAMPLE 5: SURVIVOR'S QUESTIONNAIRE
(see subsection III.F.)

Information Regarding the Estate of _____, Deceased

1. Place of death _____ Date of death _____
2. Did the decedent leave a will? _____ If so, attach a copy to this sheet.
3. Is an attorney handling the settlement of the estate? _____
If so, give name and address: _____
4. Did the decedent leave a spouse? _____ If so, give name and address: _____
5. Did the decedent leave any children? _____ If so, give names, addresses, and birthdates:

6. Had the decedent been married previously? ___ Date _____
Name of former wife or husband _____
Was the decedent widowed _____ or divorced _____? Date of death or divorce _____ Are there any children living who were born of such prior marriage? _____ If so, give names, addresses, and birthdates:

7. Did the decedent leave any parent(s)? _____ If so, give name(s) and address(es) _____
8. Did the decedent leave any brother(s) or sister(s)? _____ If so, give name(s) and address(es) _____
9. Did the decedent own or have an interest in real and personal property in the State of California with a gross value in excess of \$60,000 as of the date of death?

[] Yes [] No
10. It is necessary to answer question 10 only if you answered "No" to question 9.

What is the approximate value of the decedent's real and personal property in the State of California? \$_____

Note: The property listed below is excluded in determining the gross value of the decedent's real and personal property:

- a. Life insurance.
 - b. Property held by the decedent as a joint tenant.
 - c. Property in which the decedent had a life or other interest terminable upon the decedent's death.
 - d. Property which was held by the decedent and passed to the decedent's surviving spouse without the need for administration pursuant to Probate Code Section 13500 (Property passing to a surviving spouse without the need for administration under Section 13500 includes, in general, all property bequeathed or devised to decedent's surviving spouse when a decedent dies with a will, and the intestate share of community property, quasi-community property, and separate property passing to a surviving spouse when a decedent dies without a will.)
 - e. Any vehicle registered or titled under the Vehicle Code, any vessel numbered under the Vehicle Code, and any manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under the Health and Safety Code, of which the decedent is the owner or legal owner.
 - f. Up to \$5,000 of salary or other compensation, including compensation for unused vacation, owing to the decedent from any employment.
 - g. Any amounts due the decedent for services in the Armed Forces of the United States.
11. Does the surviving spouse, or anyone acting on behalf of the surviving spouse, have a pending request to collect compensation owed by another employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code?

[] Yes [] No

SAMPLE 5: (Cont.)

12. Has the surviving spouse, or anyone acting on behalf of the surviving spouse, collected any compensation owed by an employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code?

[] Yes, the sum of _____ dollars (\$_____) was collected from _____.

[] No

13. Are there any other persons who might assert a claim against any sums due the decedent's estate? _____ If so, list name(s) and address(es) and give other known relevant details _____

Date _____

Signature _____

Name _____

Address _____

(Campus option: Social Security Number _____)
(Note: Include privacy notifications.)

**SAMPLE 5A: COVER LETTER TO ACCOMPANY BLANK AFFIDAVIT FORMS
(Samples 6 and 7) (California Probate Code,
Sections 13100-13116 and 13600-13606) (see
subsection III.G)

Dear _____:

I am writing to you concerning the estate of _____,
deceased. It appears to us, based on the information you
provided on your completed questionnaire, that you may be
eligible to collect immediately certain amounts that normally
would be payable to the estate of the deceased. We will be able
to make a determination of your eligibility upon receipt of a
completed copy of the enclosed "Affidavit for Collection of
Decedent's Personal Property which is Held by The Regents of the
University of California" and/or "Affidavit for Collection of
Money, Owed to a Deceased Spouse, which is Held by The Regents of
the University of California."

However, in order to determine whether the facts and
circumstances of your situation entitle you to use one or both of
these affidavit(s), it is your responsibility to consult with a
legal advisor before completing the affidavit(s).

Very truly yours,

(for the accounting officer)

Enclosure(s)

cc: Retirement Office
Chancellor
Campus Personnel Office
Decedent's Department

SAMPLE 6: AFFIDAVIT FOR COLLECTION OF MONEY, OWED TO A DECEASED SPOUSE, WHICH IS HELD BY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (California Probate Code, Sections 13600-13606)

The undersigned hereby declares:

That _____ died in the City of _____, County of _____, State of _____ on or about the _____ day of _____, 19____.

That one of the following is true:

----- The affiant or declarant is the surviving spouse of the decedent.

or

----- The affiant or declarant is the guardian or conservator of the estate of the surviving spouse of the decedent.

That the surviving spouse of the decedent is entitled to the earnings of the decedent under the decedent's will or by intestate succession and no one else has a superior right to the earnings.

That no proceeding is now being or has been conducted in California for administration of the decedent's estate.

That Sections 13600-13605, inclusive, of the California Probate Code require that the earnings of the decedent, including compensation for unused vacation, not in excess of five thousand dollars (\$5,000) net, be paid promptly to the affiant or declarant.

That neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has a pending request to collect compensation owed by another employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code.

That neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has collected any compensation owed by an employer for personal services of the decedent under Sections 13600-13605, inclusive, of the California Probate Code except the sum of _____ dollars (\$_____) which was collected from _____.

SAMPLE 7: AFFIDAVIT FOR COLLECTION OF DECEDENT'S PERSONAL PROPERTY WHICH IS HELD BY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (California Probate Code, Sections 13100-13116)

The undersigned hereby declares (if more than one person signs, each person declares for himself/herself and not one of the other and all references to the singular include the plural):

That _____ died in the City of _____, County of _____, State of _____ on or about the _____ day of _____, 19_____.

That at least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit.

That one of the following requirements is satisfied (please check appropriate box):

- No proceeding is now being or has been conducted in California for administration of the decedent's estate.
- The decedent's personal representative has consented in writing to the payment transfer, or delivery to the affiant or declarant of the property described in this affidavit (attach a copy of the consent and of the personal representative's letters to the affidavit).

That the current gross fair market value of decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed one hundred thousand dollars (\$100,000).

* That, except as described in the attached inventory and appraisal made pursuant to Section 8800, et seq. of the California Probate Code by a probate referee selected by the undersigned, the estate of the decedent includes no real property in California.

That at the time of the death of said decedent said decedent was entitled to certain personal property held by The Regents of the University of California as follows:

_____ in the sum of _____
 (Description)
 _____ Dollars (\$_____).

(OPTIONAL)

Undersigned request and direct that the said sum and/or personal property described herein be delivered to _____, who is hereby designated and authorized to receive the same on their behalf and to receipt in his or her own name therefore; and the undersigned hereby jointly and severally agree to hold The Regents harmless against all liability, damage, or expense to which it may be put or which it may incur by reason of such payment and/or delivery.

(If the optional designation is used a separate written receipt from the designated recipient should be obtained.)

Signature
Name: _____
Address: _____

Signature
Name: _____
Address: _____

Signature
Name: _____
Address: _____

Signature
Name: _____
Address: _____

(For each affiant, or declarant, insert here one of the following:

- (1) Statement by University Officer, or
- (2) Acknowledgment by Notary Public)

STATEMENT BY UNIVERSITY OFFICER

_____ executed the within
(Name of affiant or declarant)

instrument in my presence on _____, 19____, and (check
one) [] is personally known to me [] presented the following
identification in accordance with Probate Code Section

13104 _____.
(Description of identification presented)

(Name of University officer)

(Signature of University officer)

SAMPLE 8: LETTER TO ATTORNEY REQUESTING CERTIFIED COPY OF
LETTERS TESTAMENTARY OR LETTERS OF ADMINISTRATION
(see subsection III.H.)

University of California
Accounting Office

_____ Campus

Date _____

(Name and address of attorney)

Re: Estate of _____, Deceased

Dear Mr./Ms. _____:

Kindly send me a certified copy of the Letters Testamentary or Letters of Administration issued in the above-entitled proceeding, so that I may arrange for the payment of the balance of the University's obligations to the decedent, which, as you know, consists of the following items:

Earned salary	\$	
Less retirement contribution	-	_____ \$
Accrued vacation		
Accumulated overtime		
Refundable fees or deposits		_____

Net Total Due \$

Very truly yours,

(for the accounting officer)

SAMPLE 9: RECEIPT FOR COLLECTION OF MONEY OWED TO A DECEASED SPOUSE

Address _____

Date _____

Received from The Regents of the University of California
_____ dollars (\$_____). Owed to
_____, Deceased, for all or a part
of compensation earned, including accrued vacation.

(signature of spouse)

(print name of spouse)

Witness:

(signature)

(print name)

Address _____

SAMPLE 10: RECEIPT FOR COLLECTION OF DECEDENT'S PERSONAL
PROPERTY

Address _____

Date _____

Received from The Regents of the University of California
_____ dollars (\$_____). Owed to
_____, Deceased, for salary earned up
to and including the date of (his/her) death and for accumulated
overtime, accrued vacation, and refundable fees and deposits, if
any, due.

(signature of payee(s))

(print name of payee(s))

(relationship to decedent)

Witness:

(signature)

(print name)

Address _____
