Dual Employment

Contact Steve Marr at smarr@email.wcu.edu or (828) 227-2585 if you have any questions.

Purpose

The dual employment policy is a statewide uniform policy to be followed when one state department secures the services of an employee of another state department on a part-time, consulting, or contractual basis. It is recognized that conditions vary widely from department to department, however this policy will attempt to cover as many different situations as possible and to strike a sound balance between the interests of the state, the department, the employee and the public. For employees engaged on a full time basis, any additional work for other than a state department is termed secondary employment and is covered in the State Personnel Manual (Section 1-5.2). Form CP-30 should be used for reporting purposes involving dual employment.

Applicatons and Exclusions

The policy applies to all state employees both subject to and exempt from the provisions of the State Personnel Act and to all state departments. It does not apply to employees in the public school system nor to employees of institutions in the community college system. Employees in these systems are not state employees (for the purposes of Dual Employment regulations); they are employed by local boards of education and local boards of trustees. This policy applies only in situations involving one employee and two agencies. For situations involving one employee assuming dual roles within the same agency, see the State Personnel Manual, Section 7, "Occasional or Sporadic Employment in a Different Capacity."

Definitions

Parent department

The state department, agency, or institution having control over the services of the employee, and from which the employee receives his or her regular paycheck.

Borrowing department

The state department, agency, or institution seeking, on a temporary or part-time basis, the services of an employee of another state department.

Straight-time employee

Normally, an employee with a 40-hour per week work schedule, including employees on rotating shifts and those with split shifts. Permanent employees filling positions subject to the State Personnel Act, with perhaps extremely rare exceptions, are straight-time employees for the purposes of this policy statement. Such persons, except when working odd or split shifts, are considered to be on their own time between 5:00 p.m. and 8:00 a.m. and on Saturdays, Sundays, holidays, and while on annual leave.

Variable-time employee

An employee, though considered to be the incumbent in a full-time budgeted position, may be required to maintain on-duty status (normally, at a fixed work station) for only a limited number of hours per week. An example of a variable-time employee is a teacher in an institution of higher education who for one semester might be scheduled to teach classes for fifteen hours a week, and for the next semester only ten hours but with the added duty of advising students. The hours during which the employee advises might be fixed, or the employee might have option of scheduling his/her own appointments. Variable-time employees are considered to be on their own time except at those hours when they are required to be in scheduled on-duty status.

Instructional Contractual Services
The employment by one higher education institution of a teacher under contract to another institution: An example of this practice is the exchange of teachers between two proximate institutions, such as the North Carolina School of the Arts and Winston-Salem State University.

> **Honoraria**
> Notwithstanding any definitions previously given or henceforth to be given to the word "honorarium", any payment by one agency to an employee of another agency for any type of services is subject to the procedures of the Uniform State-Wide Policy on Dual Employment.

Guidelines

Permission of parent department
The administrative head of the parent department must give approval in writing in each instance of an employee's performing services for pay for another state department.
Approval should be granted or withheld after a careful weighing of the circumstances, considering such factors as the character of the services to be performed, the effect on the morale of other state employees, the ethical considerations involved, the temporary loss of the services of the individual to the parent department, the possibly reduced efficiency of the individual as a result of fatigue or inattention to primary responsibilities, the urgency of the situation, possible alternative arrangements, and other pertinent factors. If the administrative head of the department is to perform services for pay for another state department, the Office of State Budget, Planning and Management must approve the arrangements.

Statement of employee's immediate supervisor
In any case of services performed for pay for a borrowing department during an employee's "own time", the employee's immediate supervisor must certify in writing that (a) the actual work and any related travel time will be performed outside of regularly scheduled working hours, and (b) The employee will not use "company time" to prepare for the services to the borrowing department.

Payment for services
It is assumed that certain officials will make outside appearances and speeches, which are in fact a part of their normal duties, and such officials should not expect to be paid for these occasions.

If payment is to be made for services, the rate must be agreed upon in advance and may not be increased merely because additional funds become available. Neither are retroactive payments permissible to persons who have already performed services without compensation. Commuting expenses are not reimbursable.

An employee under contract to an educational institution for an academic year (normally, nine months) is ordinarily considered to be a free agent during the summer notwithstanding that such employee may be paid on a twelve month basis.

Professional Service Contract
The state or one of its departments may contract with a professional corporation for the delivery of professional services by one or more of its employees who are also state employees as long as they are in compliance with all other regulations of the Dual Employment Policy. Historically, this situation has occurred most frequently in agencies/institutions employing physicians who, through their private practice, are also working for another agency/institution through contractual arrangement). Strict adherence to these policies must ensure that employers will know if the same person is working at more than one state job and will be able to see that time which is supposed to be spent at one job is in fact spent at that job and not at another job.

Procedures for Payment
All payments for services must be made by the borrowing department directly to the parent department of the employee borrowed, and not to the employee.

All payments for services of borrowed employees must be made by the borrowing department from dual employment line items. They may not be made from salaries and wages line items. If funds for part-time services are presently budgeted in salaries and wages line items, the Office of State Budget, Planning and Management will give favorable consideration to requests to transfer these budgeted amounts to dual employment lines if needed. The same would apply to transfer of funds budgeted for temporary wages.

Employee's travel and/or subsistence expenses, if any, incurred in the performance of services for the borrowing department, will be paid directly to the employee by the borrowing department. (Commuting expenses are excluded.)

All payments to the parent department must include the following:

- Payment for employee's services.
- Employer's Social Security contributions computed on the payment for services.
- Employer's retirement contribution computed on the amount of payment from above, if applicable (applicable when the borrowing agency is merely supporting a portion of the employee’s regular salary; not applicable for additional compensation beyond the employee’s regular salary).

Subject to negotiation between the two departments, payments may include an amount for the overhead expenses of the lending department to cover administrative and other indirect costs; payments may also include amounts for direct costs incurred by the parent department, agency, such as identifiable related expenses for clerical and duplicating services.

If the work (including preparation) is performed during the employee's regular work schedule (normally 8:00 to 5:00, Monday through Friday), and the employee is not on leave, the employee may not under any circumstances receive additional pay.

Compensation must be in accordance with the minimum wage and overtime pay provisions, which require overtime payments of time and one-half the employee's regular rate of pay for the hours worked in excess of 40 in the week. However, if during any given workweek the employee does not perform any work for the parent department, no overtime payment will be required unless the employee works more than 40 hours for the borrowing department.

If a straight-time employee is on authorized leave from regular duties with the parent department, the employee may be paid for the extra work on the same basis as in the paragraph above.

In all cases of additional payment to an employee, the parent (lending) department must make the payment to the employee as an addition to the employee's regular pay. This is necessary to maintain the integrity of the retirement, social security, and federal and state income tax records.

The parent department will budget and receive all payments from the borrowing agency as agency receipts, in an account titled "Reimbursement-Dual Employment". It is not permissible to handle such payments as refunds of expenditures. If the conditions above (no additional pay) apply, any receipt from the borrowing agency will be handled by the lending department as an over-realization of the receipts line item.

Maintaining Records
The extent of the practice of cross-hiring in state government must be periodically assessed. Borrowing departments must, therefore, maintain the following information for each instance:

- Employee Information
    - Name of employee borrowed
    - Classification, rank, or title
    - Parent agency of employee
    - Character of services performed (lecture, consultation, etc.)
- Time (hours and days) employed by borrowing department:
    - During employee's regularly scheduled working hours
    - During employee's own time
- Amount of payment to parent department:
    - For services
    - For employer's retirement and social security contributions
    - For indirect expenses of parent department
    - For related direct costs of parent department.

Copies of the parent department head's approval must be attached. If applicable, the statement of the employee's immediate supervisor referred to under Guidelines, on page 6, must also be attached.

Instructional Services
For this type of regular-session dual employment, (and not applicable to summer school), the following procedures for payment will apply where the teaching covers one or more courses for an entire academic period (quarter or semester):

- The permission of the administrative head of the parent institution and/or the teacher's immediate supervisor is implied and need not be documented.

- The rate of pay and the amount of any related expenses must be agreed upon in writing in advance.

- Any additional salary payment made to the on-loan teacher for these outside services may be included on the parent institution's regular payroll and may be paid out of the salaries line item carrying the teacher's regular contract salary. In these cases it is not necessary to make payments from "Dual Employment Wages", and no budget revision is necessary unless the over-realized receipts from the borrowing agency are required for a substitute teacher.

- Ordinarily, any supplemental pay to the teacher for outside teaching would be handled on the parent institution's payroll as in the following example, where the regular contract pay is $1,500 per month and the pay for outside services is $200: Rate of Pay =$1500; Gross Pay = $1,700.

- If the parent institution suffers a loss as a result of the loan of the teacher; the teacher's total compensation should be adjusted. Example: There is a teacher whose nine-month salary for teaching four classes per semester is $9,000. By arrangement, the teaching assignment at the parent institution for the year is reduced to two classes per semester, but the teacher will teach two classes at another institution. The teacher's regular salary would ordinarily remain the same (the teacher on loan would not receive $13,500) [9,000 + 4,500] and the borrowing institution would provide one-half of the $9,000 to be paid. The remaining $4,500 is available to the parent institution for a substitute teacher.

- The teacher may not be paid for work not yet performed. This means that for each pay period the borrowing institution must send a transmittal (which may be a form letter) and a check to the parent institution. Form CP-30 will be required for these additional payments where the affected payroll is prepared by Central Payroll.

- The borrowing institution will make payments for services from a line item titled “Employee on Loan Payments", transferring funds, upon Office of State Budget, Planning and Management approval, from salaries line items as required.

Joint Appointments
It shall be mutually agreed between departments as to which department will be the parent department. Normally in most instances it will be the department who first employed the employee.

In cases of Joint Appointment (involving base pay) the borrowing department will reimburse the parent department for matching social security and retirement contributions. Employer portion of hospital medical insurance will be borne by the parent department and not prorated to the borrowing department.