

## Dual Employment

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### Contents:

[Purpose](#)  
[Coverage](#)  
[Definitions](#)  
[Permission of Parent Agency](#)  
[Statement of Employee's Immediate Supervisor](#)  
[Payment for Services](#)  
[Professional Services Contract](#)  
[Procedures for Payment](#)  
[Maintaining Records](#)  
[Instructional Services](#)  
[Joint Appointments](#)

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### Purpose

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

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### Coverage

The policy applies to all State employees both subject to and exempt from the provisions of the State Human Resources Act and to all State agencies.

It does not apply to employees in the public school system or 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 Hours of Work and Overtime Compensation Policy. (The definition of "occasional or

**Dual Employment (continued)**

sporadic employment in a different capacity” will be applied to employees subject to overtime and to employees exempt from overtime.)

**Definitions**

For purposes of this policy, the terms below mean the following:

Term	Definition
<b>Parent Agency</b>	The State department, agency, or institution having control over the services of the employee, and from which the employee receives his/her regular pay check.
<b>Borrowing Agency</b>	The State department, agency, or institution seeking on a temporary or part-time basis the services of an employee of another State agency.
<b>Straight-Time Employee</b>	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 Human Resources 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 vacation leave.

**Dual Employment (continued)**

<b>Variable-Time Employee</b>	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 the option of scheduling their 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.
<b>Instructional Contractual Services</b>	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.
<b>Honoraria</b>	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 is subject to these procedures.

**Permission of Parent Agency**

The administrative head of the parent agency must give approval in writing in each instance of an employee's performing services for pay for another State agency. 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 consideration involved, the temporary loss of the services of the individual to the parent agency, the possible reduced efficiency of the individual as a result of fatigue or inattention to primary responsibilities, the urgency of the situation, possible alternative arrangement, and other pertinent

## Dual Employment (continued)

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factors. If the administrative head of the agency is to perform services for pay for another State agency, the arrangements must be approved by the State Budget Officer.

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### Statement of Employee's Immediate Supervisor

In any case of services performed for pay for a borrowing agency 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 agency.

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### Payment for Services

1. No employee, even while on paid leave, may be paid additionally for services performed for the employee's parent agency.
  2. 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.
  3. 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.
  4. Commuting expenses are not reimbursable.
  5. 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.
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### Professional Services Contract

The State or one of its agencies 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

## Dual Employment (continued)

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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.

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### Procedures for Payment

1. All payments for services must be made by the borrowing agency directly to the parent agency of the employee borrowed, and not to the employee.
2. All payments for services of borrowed employees must be made by the borrowing agency 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 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.
3. Employee's travel and/or subsistence expenses, if any, incurred in the performance of services for the borrowing agency, will be paid directly to the employee by the borrowing agency. (Commuting expenses are excluded.)
4. All payments to the parent agency must include the following:
  - Payment for employee's services.
  - Employer's social security contributions computed on the amount of payment.
  - Employer's retirement contribution computed on the amount of payment, if applicable (applicable when borrowing agency is merely supporting a portion of employee's regular salary; not applicable for additional compensation beyond the employee's regular salary).

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

5. If the work (including preparation) is performed during the employee's regular work schedule (Normally 8:00 a.m. to 5:00 p.m., Monday through Friday), and the

## Dual Employment (continued)

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- employee is not on leave, the employee may not under any circumstances receive additional pay.
6. If the work (including preparation) is performed outside the employees regular work schedule, the employee may receive additional pay. All State employees are subject to the provisions of the Federal Fair Labor Standards Act. There are certain exceptions to the overtime provisions of the law when it is applied to persons in Professional, Administrative, or Executive positions. In a dual employment situation, the duties of both positions are combined to determine if the person is exempt. Nonexempt employees, therefore, when serving another State agency, 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 hours in the week. However, if during any given workweek the employee does not perform any work for the parent agency, no overtime payment will be required unless the employee works more than 40 hours for the borrowing agency.
  7. If a straight-time employee is on authorized leave from regular duties with the parent agency, the employee may be paid for the extra work on the same basis as in 6 above.
  8. In all cases of additional payment to an employee, the parent (lending) agency 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. If payments fall into the category of overtime, as the term is understood in federal and state wage and hour regulations, such overtime payments by the parent agency to the employee must be made from Salaries-Overtime budgeted line items. If additional payments do not fall into the overtime category, they are made from "Wages, Employees on Loan".
  9. The parent agency will budget and receive all payments from the borrowing agency as agency receipts, in a line titled 'Payments for Employees on Loan'. It is not permissible to handle such payments as refunds of expenditure. If the conditions in item 5 above (no additional pay) apply, any receipt from the borrowing agency will be handled by the lending agency as an over realization of the receipts line item.

## Dual Employment (continued)

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### Maintaining Records

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

- 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 agency:
  - During employee's regularly scheduled working hours, and
  - During employee's own time;
- Amount of payment to parent agency:
  - For services,
  - For employer's retirement and social security contributions,
  - For indirect expenses of parent agencies, and
  - For related direct costs of parent agency.

Copies of the parent agency head's approval must be attached. If applicable, the statement of the employee's immediate supervisor must also be attached.

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### 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):

1. The permission of the administrative head of the parent institution and/or the teacher's immediate supervisor is implied and need not be documented.
2. The rate of pay and the amount of any related expenses must be agreed upon in writing in advance.
3. 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

## Dual Employment (continued)

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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 "Wages, Employees on Loan", and no budget revision is necessary unless the over-realized receipts from the borrowing agency are required for a substitute teacher.

4. 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 service is \$200:

Rate of Pay	Gross Pay
\$1,500	\$1,700

5. 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 \$13,000 [\$9,000 plus \$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.
6. 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.
7. The borrowing institution will make payments for services from a line item titled "Instructional Contractual Services", transferring funds upon Office of State Budget Management approval from salaries line items as required.

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### Joint Appointments

It shall be mutually agreed between agencies as to which agency will be the parent agency. (Normally in most instances it will be the agency that first employed the employee.)



## Dual Employment (continued)

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

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