

# Faculty Senate



## **M2020.21.30 Motion to Recommend Approval of Changes to HR5011 Proposed by Human Resources**

**Originator: Research Policies Committee**

Whereas,

Human Resources (HR) is recommending changes to policy HR5011 Extra Compensation and Outside Employment. The Research Policies Standing Committee has consulted with the Director of HR and recommends approval of the proposed changes.

Be it resolved that,

The Faculty Senate recommends approval of the policy changes in the attached document to HR5011 Extra Compensation and Outside Employment, proposed by Human Resources.

Recipients:

Policy Review Board Faculty Senate Representative, William Pat Travis  
Maria Alum, Chief Human Resources Officer

Issued: August 15, 2017

Responsible Official: Executive Vice President and Chief Financial Officer

Responsible Office: Human Resources

POLICIES

Policy Statement

Policy Statement

Full-time employment with the University of Memphis demands an ~~individual's~~ individual's full-time professional expertise, commitment, and energies. The assignable load of an academic year/9-month term faculty member, in combination with teaching, research, administration, and service, constitutes a full-time assignment.

The University of Memphis also recognizes the value to its students, its ~~personnel~~ employees, and to the citizens of Tennessee arising from outside consulting and other professional experiences in which members of faculty and staff may engage. Such activities contribute to the quality of instruction, enhance the competency of the individual, contribute to the economic development of the State, and bring credit to the institution. Therefore, under certain circumstances, faculty and administrative/professional (exempt) staff may need to perform additional assignments for which extra compensation may be warranted. This policy contains the general provisions to cover these circumstances and limitations under which outside employment and/or extra compensation may be appropriate.

Purpose

~~To set forth the general provisions to cover the circumstances and limitations under which extra compensation and/or outside employment may be appropriate.~~

Definitions

Annual Leave

Leave time accrued by employees in regular positions to be used for regular periods of rest and relaxation away from the work environment. Accrual of annual leave does not apply to nine-month faculty employees. (Refer to policy HR5021 - Annual Leave)

Extra Compensation

Remuneration paid for work performed at the University of Memphis which is outside the employee's standard work duties as specified in the employee's position description. Extra compensation charged to

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Federal grants is a rare and unusual occurrence and will only be allowed with prior approval from the grant sponsor.

Remuneration paid for work outside the employee's normal work schedule or within the normal work schedule provided the supervisor has either approved the use of annual leave or has agreed to an adjusted work schedule. This includes Dual Services agreements (as defined below) and (2) not within the scope of the employee's standard work duties as defined by HR according to the position description and/or in consultation with the hiring department. Extra compensation charged to Federal grants is a rare and unusual occurrence and will only be allowed with prior approval from the sponsor.

**Dual Services**

The securing of an employee's employee's services by a Tennessee Board of Regents (TBR) institution, University of Tennessee, or other State agency or institutionUniversity. This includes: (1) an employee from the University of Memphis providing services for a TBR institution; (2) an employee from another State agency or TBR institution providing services for the University of Memphis. Either example requires the University of Memphis enter into a Dual Services Agreement with the other institution or agency for purposes of paying the employee. Payment received by an employee under a Dual Services Agreement is not considered extra compensation as specified in the definition of this policy.

Upon completion of the services, the agency/institution providing the employee will bill the contracting agency/institution for the cost of the employee's compensation and benefits and then will pay the employee through its standard payroll process. This effort will be a component of the Effort Certification process of the agency/institution providing the employee.

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**Non-exempt**

Employees who are paid hourly and are subject to the minimum wage and overtime pay provisions of the Fair Labor Standards Act.

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**Outside Employment**

External activity for employers other than the University of Memphis, a TBR institution, or other non-Tennessee State agency/institution for which an individual is paid. Self-employment for purposes of consulting or performing other non-University University-related activities is considered outside employment.

**Moonlighting**

A second job in addition to one's one's regular employment.

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**PolicyProcedures**

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**Extra Compensation**

**Steps for Requesting Extra Compensation**

The faculty or staff member shall notify appropriate supervisor(s) (verbally or in writing) of the nature of the employment and the expected commitment of time. Prior to accepting an extra assignment,

the faculty or staff member must obtain approval from his or her supervisors. Supervisors may approve extra service only for efforts that:

- Are performed entirely outside of, and in addition to, normal work schedules, unless the use of annual leave or an alternative work schedule is approved.
- Do not interfere with assigned duties and responsibilities or with regular University operations.
- Are consistent with state and federal laws. TCA § 49-5-410 allows full-time faculty members to be paid for additional part-time work outside regular hours up to 15 clock hours per week, not to exceed 400 clock hours per any nine-month period, or teaching no more than two credit courses per semester for extra pay in an institution of higher education.
- Do not constitute a conflict of interest or compete with the University's education, research, or public service programs.
- Require only a reasonable time commitment from the employee.

#### **Positions Not Eligible for Extra Compensation**

The following types of employees and work are not considered to be eligible for Extra Compensation (includes Dual Services agreements):

1. **Non-Exempt employees** – Not eligible for Extra Compensation. However, all hours worked by non-exempt employees must be recorded on his/her time cards and overtime compensation will be paid as appropriate through the payroll system and at his/her base rate of pay. NOTE: If the staff member should be paid a higher rate of pay for the extra service, contact Human Resources – Workforce Management for guidance.
2. **Graduate Assistants and Student Personnel** – The primary purpose for these individuals to be at the University is to be enrolled in an academic program. Therefore, they are ineligible for Extra Compensation.
3. **Certain Professional Activities** – Normal, short-term professional activities such as participation in symposia, accreditation visits, speaking engagements, exhibitions, or recitals, even though honoraria may be received for such participation, are not administered as Extra Compensation.
4. **When not on contract** – Work performed when the employee is not within the term of his or her employment contract period or if the employee is on professional development assignment is not included under the Extra Compensation policy. NOTE: See HR5012 – Summer Compensation for work performed by academic year/9-month term faculty during summer sessions and inter-sessions.
5. **Ineligible Administrative/Academic Professionals** – The following staff may perform services, but they may not receive Extra Compensation:
  - President
  - Provost



enrolled in an academic program. Therefore, they are ineligible for Extra Compensation.

3. Certain Professional Activities - Normal, short-term professional activities such as participation in symposia, accreditation visits, speaking engagements, exhibitions, or recitals, even though honoraria may be received for such participation, are not eligible for Extra Compensation.

4. Employees not on contract - Work performed when the employee is not within the term of his or her employment contract period (including during summer sessions and intercessions), or if the employee is on a professional development assignment are not eligible to be compensated as Extra Compensation under this policy.

NOTE: See Policy HR5012 - Summer Compensation for nine-Month Faculty.

#### Retirement Credit

The University of Memphis must ~~control the~~ reporting ~~all of the~~ Extra Compensation earnings to retirement systems. For retirement reporting purposes, TCA § 8-34-101(14)(D) limits credit for compensation from extra services to no more than 25% of base pay. Faculty and staff may earn more than 25% in any reporting period, but no more than 25% will be credited to the Tennessee Consolidated Retirement System (TCRS) or Optional Retirement Plan (ORP), as applicable.

#### Earnings Limitations

Employees may earn an unlimited amount of Extra Compensation; however, TCA § 49-5-410 limits full-time faculty work outside the University to 15 clock hours per week, not to exceed 400 clock hours out of during any nine-month period, or no more than two credit courses per semester.

#### Extra Compensation Limitations

#### Dual Services

##### General

When faculty and staff at the University of Memphis perform services for an institution in the Tennessee Board of Regents (TBR) system or for another State agency, the two institutions must enter into a Dual Services Agreement. The faculty or staff who provides the service will be paid by his or her employer institution after the institution invoices the other party for the ~~employee's~~ ~~employee's~~ gross cost of compensation and benefits.

Upon completion of the services, the agency/institution providing the employee will bill the contracting agency/institution for the cost of the

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employee's compensation and benefits and then will pay the employee through its standard payroll process. This effort will be a component of the Effort Certification process of the agency/institution providing the employee.

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### The University of Tennessee

If the other institution is the University of Tennessee (UT), no Dual Services Agreement is required if:

- the services are provided on an infrequent or irregular basis;
- payment does not exceed \$700.00 per credit hour; and
- services involve teaching or instruction not in excess of two courses per semester.

Otherwise, the faculty or staff member must ensure that a Dual Services Agreement is executed between the University of Memphis and UT.

### Outside Employment

The University of Memphis supports its faculty and staff to undertake consulting and similar external employment for which they are qualified, and that does not interfere with University responsibilities. However, faculty and staff should not provide consulting services to an external organization when those services would conflict or be in competition with services offered by the University itself. See [UM1692 Conflict of Interest Policy- Policy GE2021 – Conflict of Interest](#).

Prior to undertaking any outside employment, faculty and staff will notify his/her department head (~~verbally or~~ in writing) of the nature of the employment and the expected commitment of time. The following outside activities are not considered to be covered by the provisions in this policy: (1)

- normal short-term professional activities, such as participation in symposia, accreditation visits, speaking engagements, exhibitions, or recitals, even though honoraria may be received, ~~or (2)~~
- activities carried on outside the employment contract period or while on leave from the University.

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Employees may assume outside employment with the understanding that:

- The University of Memphis is the primary employer
- Any additional employment must not jeopardize their ability to perform all the responsibilities of their position with the University of Memphis.

If the department head does not approve the proposed employment, the employee may seek approval from the Dean of the college or the appropriate Vice President. In the event a dispute develops regarding approval, faculty may contact the Faculty Ombudsperson;

staff ~~would~~ may contact ~~Employee Relations and Engagement~~  
~~in~~ Human Resources for assistance in resolving the conflict.

University property and facilities, e.g., offices, equipment, telephones, computers, services, etc., may not be used in outside employment activities unless the use has been approved in advance by the immediate supervisor/department head. If such arrangements are approved, compensation to the University may be required at rates established by the University.

University titles, offices, addresses, and telephone numbers may not be used ~~in directories~~ for the purpose of publicizing non-University interests.

Faculty and staff must make clear to any employer that the work to be performed has no official connections with the University. The University does not assume any responsibility for private consulting services provided by members of its faculty or staff.

Outside employment that involves other agencies of Tennessee state government, including institutions of higher education, is subject to prior approval by both the president of the University of Memphis, or designee, and the appropriate representative of the other agency. The two institutions will execute a *Dual Services Agreement* (~~see refer to policy HRXXXX Procurement and Contract Services on~~ Dual Services Agreements).

University employees (faculty and staff) may not employ through outside consulting or business activities with another university employee for whom they have direct supervision.

Outside employment must not interfere with the ~~employee's~~ employee's ability to perform their University job duties nor impede their meeting assigned work schedules.

#### **Conflict of Interest**

Faculty and staff should not provide consulting services to an external organization when those services would conflict or be in competition with services offered by the University itself.

Outside employment must not result in any conflict of interest and must not interfere with any University teaching, research, service assignments, administrative/professional duties, the University's interests, brand, mission, or business operations. (See Refer to Policy GE2021- Conflict of Interest Policy).

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#### **Links**



**Request for Outside Employment/Consulting for Faculty and Staff**

[Request for Outside Employment/Consulting for Faculty and Staff.](#)

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**Dual Services Agreements**

[HRXXXX - Dual Services Agreements](#)

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**Conflict of Interest Policy**

[GE2021 - Conflict of Interest](#)

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[Summer Compensation for nine-Month Faculty.](#)

[HR5012 - Summer Compensation for nine-Month Faculty.](#)

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**Revision Dates**

[HR5011 Revised](#) **DATE**

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HR5011 - Supersedes UM1490 March 29, 2018

UM1490 - Revised August 15, 2017

UM1490 - Revised May 18, 2017

UM1490 - Issued June 28, 2011

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**Subject Areas:**

Academic	Finance	General	Human Resources	Information Technology	Research	Student Affairs
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