

PPP-07 Outside Employment & Extra Compensation

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Policy

Full-time employment with East Tennessee State University (ETSU) demands an individual's full-time professional expertise, commitment, and energies, and the assigned teaching load of an ETSU faculty member constitutes a full-time assignment. However, ETSU recognizes the value to its students, its personnel, and to the citizens of Tennessee that arises from outside consulting and other professional experiences in which members of the faculty and staff may engage. Such activities contribute to the economic development of the state, enhance the reputation of the institution and its faculty, promote the fuller utilization of the University's capabilities to assist society in meeting its needs and problems, sharpen faculty skills in applied research and problem resolutions, encourage faculty to remain current in their area of expertise, provide examples of practical applications to enrich classroom activities, and aid in both recruitment and placement of students. These activities also create valuable links between the institutions and their communities.

The purpose of this policy is to outline the university's position regarding additional employment for employees who elect to **work, in addition to their regular job duties, within the university and/or outside the university**. Additional employment refers to any paid employment outside the employee's normal responsibilities of his/her university position.

Outside professional experiences, however, are always governed by three salient rules. First, these services cannot interfere with regular University duties. Second, the name and facilities of the University cannot be used to advertise any kind of private professional services. Third, performance of these services may not constitute a conflict of interest or compete with the institution's education, research, or public service programs.

Approval for permission to work outside the normal work schedule **within** or **outside** the university may be granted by the supervisor and Dean or Director. If the additional work is performed within the normal work schedule, annual leave (PPP-17) or a flex-time schedule (PPP-60) must be approved.

The department head will determine if the employee's performance in his/her regular position could be adversely affected with the additional employment. If permission has been granted and job performance subsequently deteriorates, the department head may request that the employee terminate the additional employment.

Private Consulting and Outside Employment

As defined herein, this policy section does not apply:

- To personnel classified as non-exempt wage and hour employees working outside the University;
- To normal, short-term professional activities, such as participation in symposia, accreditation visits, grant review panels, academic speaking engagements (e.g. sponsored talk at a convention, visiting professorship, keynote speaker at a symposium), exhibitions, or recitals, even though honoraria may be received for such participation;
- When the individual is not within the term of his or her contract period (e.g. summer for employees on an academic year contract) or is on leave;
- To salaries paid to academic-year employees for teaching in inter-session, summer and winter sessions, which are not considered extra compensation.

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- A) On at least an annual basis, employees, to whom this policy applies and who plan to engage in outside employment during the term of employment specified in the employee's contract, shall notify appropriate supervisor and Dean or Director of the nature of the employment and the expected commitment of time. This shall be done using Form PPP-07 - Request for Outside Employment.
- B) As required by Tennessee Board of Regents Policy 5:01:05:00, prior to accepting an extra assignment, the faculty or staff member shall have the approval of the institution's President or designee.
 - 1) At ETSU the employee's immediate supervisor, such as the department chair, and the person to whom the immediate supervisor reports, such as the dean of the college, serve as the President's designees.
 - 2) Their approval of the extra assignment will be indicated by appropriate signatures on Form PPP-07 - Request for Outside Employment.

If the immediate supervisor and/or that person's supervisor refuse to approve the extra assignment, the staff member may appeal to the ETSU Faculty or Staff Senate, as appropriate, which body shall constitute an ad hoc committee to review the appeal and make a recommendation to the President of ETSU, whose decision shall be final.

- C) The President or designee may approve outside service and extra service only for efforts that:
 - Are performed entirely outside of, and in addition to, normal working assignments and responsibilities;
 - 1) Do not interfere with assigned duties and responsibilities or with regular institutional operations;
 - 2) Are consistent with Tennessee Board of Regents policies and guidelines and with state law. For example, TCA 49-5-410 limits full-time faculty members to teaching no more than two credit courses per semester for extra pay in an institution of higher education other than the one that employs them. Additionally, 20 TCA 49-5-410 limits faculty to 15 clock hours per week, or 400 clock hours per nine-month period, for extra pay;
 - 3) Do not constitute a conflict of interest or compete with the institution's education, research, or public service programs;
 - 4) All individuals considering outside service shall read the ETSU Policy on Conflict of Interest (Faculty Handbook Section 1) and if a Conflict of Interest is suspected shall follow the procedures presented in that policy.
 - 5) Require only a reasonable time commitment from the employee.
 - 6) Are not undertaken with an inappropriate claim that the individual is officially representing the institution in connection with the employment.
- D) Use of University Facilities. The departmental chair and college dean will decide, subject (where appropriate) to final approval by the President, whether or not the University should accept a request for specialized services that require University facilities, equipment, or any other expenditure.

If the departmental chair and the college dean agree that one or more faculty members may provide the service without interfering with their regular duties, the faculty member or members will then make arrangements with the Business Office to pay for equipment and material. This money will be

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credited to departmental accounts.

- 1) In addition, if released time is necessary, the sponsoring group will pay for the regular assignments from which employees are released. These amounts will be paid directly to the University Business Office.
 - 2) On occasion, it may be appropriate for the Business Office to delegate responsibility for collecting charges to a department, clinic, or bureau. If so, all receipts will be audited by the Business Office and credited to the proper account.
 - 3) A licensed business established by a University employee for the purpose of making a profit must be operated as a private business. Neither University facilities (including workspace, materials, and/or equipment), time, nor services required of University personnel are to be used in pursuit of objectives of the business.
- E) Fees to be received for private consulting and services are negotiated between the faculty member and the client, being subject to no University claim beyond reimbursement in full for the use of University services.
- F) It often arises that professional activity will generate pecuniary gain to the individual. For example, the publication of a text might well produce royalties that will accrue to the author. It seems consistent and economically rational for the individual to have proprietary rights on said royalties. Therefore, subject to the ETSU Policy on Patents and Copyrights, any pecuniary gain arising out of professional activity will be the property of the individual being subject to no University claim beyond reimbursement for the use of University facilities and services. Exceptions to the above are those that conflict with other University policy. Royalties from a faculty member's own book or materials used within this institution will be donated to any ETSU student scholarship fund. The faculty member making the donation of royalties will have no input into selection of individual recipients of the scholarships awarded from this fund.

Employment by Agencies, Departments or Institutions of the State of Tennessee

If the employment involves other agencies, departments, or institutions of State government, it is subject to prior approval of the President, Director, or appropriate representative of the other agency, department, or institution. Services rendered by a ETSU employee to another state agency or institution of higher education will be paid by the contracting agency to the institution, pursuant to TBR Guideline G-030, by means of a dual service agreement.

Overload Assignments

- A) Faculty acceptance of overload assignments, for instruction or other purposes, is strictly voluntary. Overload assignments should be employed only when situations arise which warrant such action. Overload assignments should not be employed on a regular basis or in lieu of hiring qualified faculty or instructors. Supervisors must be careful to protect untenured faculty when making overload assignments and should make every effort to distribute overloads fairly, as staffing needs allow.

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- B) The minimum rates per credit hour of instruction, as articulated in Tennessee Board of Regents (TBR) Guideline P-055, must be applied when calculating compensation for extra service for full-time faculty or staff teaching credit courses at community colleges or universities. Compensation for extra service must be commensurate with the instructor's highest degree, rank, and experience within their academic unit at their institution.
- C) With the approval of the Chancellor, Presidents or their designees may approve exceptions to these minimum rates when circumstances warrant. Presidents or their designees may approve rates that are greater than those stated in TBR Guideline P-055, as long as the rates are applied consistently for similar faculty (degree, rank, and experience) within the same academic unit.
- D) The minimum rates per clock hour of instruction, as articulated in TBR Guideline P-050, must be applied when calculating compensation for extra service for full-time faculty or staff teaching at technology centers. Compensation for extra service must be commensurate with the individual's highest degree, rank, and experience within their academic unit at their institution.

With the approval of the Chancellor, Directors or their designees may approve exceptions to these minimum rates when circumstances warrant. Directors or their designees may approve rates that are greater than those stated in TBR Guideline P-050, as long as the rates are applied consistently for similar faculty (degree, rank, and experience) within the same academic unit.

Extra Compensation Guidelines

ETSU also recognizes that, under certain conditions, employees may be requested to perform additional assignments for which extra compensation may be warranted. ETSU sets forth the following general provisions to cover the circumstances and limitations under which outside employment and/or extra compensation may be appropriate.

As defined herein, this policy section does not apply:

- To personnel classified as non-exempt wage and hour employees;
- To normal, short-term professional activities such as participation in symposia, accreditation visits, grant review panels, academic speaking engagements (e.g. sponsored talk at a convention, visiting professorship, keynote speaker at a symposium), exhibitions, or recitals, even though honoraria may be received for such participation;
- When the individual is not within the term of his or her contract period (e.g. summer for employees on an academic year contract), or is on leave;
- To salaries paid to academic-year employees for teaching in inter-session, summer and winter sessions, which are not considered extra compensation.

It is appropriate and, at times, necessary for employees of East Tennessee State University (ETSU) to receive extra compensation above their base salaries for performance of additional university duties. Common examples of Extra Compensation are the assignment of significant, but temporary, duties of greater responsibility for a specific period of time; or completion of a one-time project or task outside of the employee's job description.

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These guidelines do not apply to recurring appointments otherwise mentioned in university policy, such as department chairs, and overloads. The standard Request to Hire or Faculty Appointment forms should be used for these appointments.

**Support staff performing additional non-exempt work will be paid in accordance with overtime provisions within PPP-05 and should not be processed using this form. Time should be reported as overtime on his/her regular position's timesheet. Support staff performing additional exempt work or higher level non-exempt work on a temporary basis during regular hours, may be compensated by these guidelines using this form. To meet overtime law requirements, the support staff's annual base salary will be adjusted. The labor distribution may also be affected. When monthly stipend ends, it is the responsibility of the department to complete a fiscal year salary allocation form if the labor distribution is affected.*

Any extra duties intended to be performed by a graduate student with a graduate assistant contract or with a graduate tuition scholarship should be approved by the Dean of the School of Graduate Studies before work is performed. A Request to Hire (non *e-Jobs*), with hours per week completed, and the Notice of Temporary Appointment (contract) should be utilized for this process.

Any temporary or adjunct employee intending to perform extra duties must complete a Request to Hire (non-*e-Jobs*), with hours per week completed, and a Notice of Temporary Appointment (contract). As the primary employer, the university is expected to ensure that federal law and IRS regulations are followed. The university is accountable to the Tennessee Board of Regents (TBR), the citizens of the State of Tennessee, affiliated organizations (i.e., accrediting agencies), the National Collegiate Athletic Association, and the Fair Labor Standards Act. In order to meet these responsibilities, the following outlines the process for receiving extra compensation.

- A) Departments will utilize the “Request for Extra Compensation for ETSU Employees” form for extra compensation as defined above.
- B) Prior to payment, the following individuals/areas must approve the extra compensation before it can be processed:
 - 1) Employee’s direct supervisor
 - 2) Department head responsible for the fund charged
 - 3) Dean/Director responsible for the fund charged
 - 4) Vice President responsible for the fund charged
 - 5) Depending on the fund/grant, approval must be made by main campus grant Accounting, College of Medicine grant accounting or the Foundation
 - 6) Bursar (Dual Services Contracts only)
 - 7) Budget and Financial Planning (main campus or College of Medicine, depending on fund)
 - 8) Human Resources
 - 9) Requests of \$5,000 or more must also be approved by Equity and Diversity, and the Vice President of Finance and Administration or the President. The \$5,000 threshold applies to one-time requests, as well as multiple requests that total \$5,000 or more within a fiscal year.

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- C) All extra compensation must be paid in conjunction with a regular payroll process with applicable benefits and federal and state taxes being deducted, including FICA taxes owed by both employee and employer. The extra compensation form must be submitted to the Office of Human Resources by deadlines dates outlined in FP-15 in order to be considered for payment. Work must be completed prior to payment.
- **Total includes benefits:** The amount listed on the form is the total amount that will affect the budget. *Employee's gross wages are usually LESS THAN this amount.*
 - **Fund will pay benefits:** The amount that will affect the budget will be greater than the listed amount. *Employee receives this amount as gross wages.*

For further details contact the payroll department at 439-5320.

Source: Tennessee Board of Regents Personnel Policy No. 5:01:05:00; approved by The Vice President for Finance and Administration on May 9, 2012. Updated 7/8/14.