

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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TITLE: SECONDARY STATE / DUAL EMPLOYMENT

POLICY

REFERENCE NUMBER: 8-2-100

DIVISION OF

RESPONSIBILITY: Human Resource Services

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DATE OF LAST REVISION: September 12, 2019

**DISCLAIMER**

**PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

**I. PURPOSE**

State agencies, colleges and universities occasionally require services not available within the expertise of their workforce that may be available within full-time equivalent (FTE) workforce of another state agency, college or university. Often considerable money may be saved by securing high quality service from the expertise available within state government. South Carolina Personnel Regulations (Section 19-713) provide for FTE employees to perform and be considered for compensation for secondary services provided for another state entity and/or their primary state employer.

This procedure sets forth guidelines which shall be adhered to in the approval and reporting of secondary employment services, provided by FTE employees of any of the following: other state agencies; state colleges or universities for any entity of the South Carolina Technical College System (SCTCS); or, FTE employees of the SCTCS for another state entity or their primary employer.

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**II. GENERAL POVISIONS**

A. The SCTCS and other state agencies, colleges and/or universities shall provide:

1. at no cost and as part of their regular services to the General Assembly, those services requested by the General Assembly. Employees performing such consultative, research, or other services shall receive no additional compensation for such services.
2. services to one another without charge whenever possible. When it is impossible to provide such services at no cost, services should be provided on a contractual basis between state entities.

B. No System/College President may be dually employed by another state agency or institution of higher education without prior approval by the Agency Head Salary Commission and the Department of Administration.

C. If a FTE state employee cannot be released from his/her primary assignment during the normally scheduled work day or the secondary services must be performed outside of the employee's normal work schedule, the employee may be considered for secondary state/dual employment and compensation within the provisions of this procedure.

Secondary state/dual employment compensation shall not be used to provide higher continuing salaries than those approved by the Division of State Human Resources (DSHR).

1. Dual Employment Between Two Agencies

No employee may receive additional compensation for services performed during regularly scheduled hours of work (to include mealtimes and breaks) unless the employee takes annual leave or leave without pay. Further, an employee's work schedule shall not normally be altered to allow time for secondary state/dual employment duties.

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### 2. Dual Employment within SCTCS/College

No System Office/College employee shall receive additional compensation from his/her primary employer or a secondary SCTCS employer while in any leave with pay status, including annual leave, faculty non-work days, state and/or college holidays and compensatory leave. Further, the System/College President should only approve dual employment within the SCTCS when circumstances exist based on the agency's business needs.

Services performed during hours other than the employee's normally scheduled hours of work for his/her primary employer, may be considered for secondary state/dual employment compensation if the duties are independent of and in addition to the duties and overall responsibilities of the employee's primary position.

However, assignment of such additional services to an employee shall be considered only when the duties cannot be performed by this or another employee during his/her normal work schedule, suitable temporary employment cannot be arranged and the services to be performed are to be considered temporary.

- D. No FTE employee may accept any work or remuneration that could reasonably be construed as a conflict of interest. Acceptance of secondary state/dual employment work without proper prior approval of work assignment or remuneration that is found to be a conflict of interest will be grounds for disciplinary action up to and including termination. The propriety of an employment situation or remuneration for services rendered shall be considered by all parties concerned. The System Office Human Resource Services shall solicit appropriate counsel, including but not limited to the Office of the Attorney General or the State Ethics Commission, if necessary, to make such determinations.
- E. FTE employees serving on South Carolina state boards, commissions or committees for whom per diem allowance is to be awarded are not eligible to receive such per diem allowance.
- F. Travel and subsistence paid to a FTE employee by a secondary state/dual employer shall be in compliance with provisions of the annual Appropriations Act and any regulations promulgated by the Department of Administration or the Comptroller General's Office.

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### **III. COMPENSATION**

- A. The maximum compensation for secondary state/dual employment that any non-faculty FTE employee may be authorized to earn for all secondary state/dual services performed during the fiscal year (July 1 thru June 30) shall not exceed thirty percent (30%) of the employee's annualized salary with the primary employing agency for that fiscal year. The maximum compensation for secondary state/dual employment that any faculty FTE employee may be authorized to earn during a fiscal year shall not exceed thirty (30%) of the employee's annualized salary, excluding summer employment, with the primary employing agency. The primary employing agency is responsible for ensuring that dual employment payments made to its employees within one fiscal year do not exceed the thirty percent (30%) limitation. The Division of State Human Resources is authorized to approve exceptions to the thirty percent (30%) limitation based on written justification submitted by the agency.
- B. The hourly rate of compensation shall be based on the appropriate salary range for the services to be performed and the employee's relevant qualifications.
- C. No compensation shall be paid to any FTE employee for secondary state/dual employment services rendered for the primary or secondary state/dual employer prior to the specific approval of the conditions and amount of compensation under the provisions of this procedure.
- D. No FTE employee shall be eligible for any additional fringe benefits as a result of secondary state/dual employment, including annual leave, sick leave, military leave, insurance, and holidays. However, compensation for secondary state/dual employment services shall be subject to such tax and retirement deductions as the current law may stipulate.
- E. Both the primary and secondary state/dual employers must comply with the provisions of the Fair Labor Standards Act (FLSA).

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### **IV. REQUESTS FOR SECONDARY STATE/DUAL EMPLOYMENT SERVICES**

- A. It is the responsibility of the secondary and primary employers to determine the need for the secondary state/dual employment services and to determine if it is appropriate to compensate the employee for the services to be rendered.
- B. The secondary state/dual employer's designated representative shall be responsible for the preparation, internal/external communications, and processing of all requests for secondary state/dual employment services. All requests for secondary state/dual employment services must be in writing and shall contain the following information:
  - 1. Official name of the secondary state/dual employer; and the section/department in which the services are to be performed.
  - 2. The employee's full name and personal identification number other than social security number.
  - 3. Complete description of the services to be performed, the actual beginning and ending dates, day(s) of week, time and total hours of work and the FLSA status of services to be performed.
  - 4. Proposed hourly rate, gross compensation for total hours and travel and subsistence, if applicable.
  - 5. Amount of compensation previously approved for employee for other secondary state/dual employment services provided to the secondary state/dual employer during the current fiscal year.
  - 6. Signature of the employee.
  - 7. Signature of secondary state/dual employer's designated representative.

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- C. The primary employer's designated representative is responsible for the review of requests for secondary state/dual employment services, certification of all secondary compensation previously approved for the employee during the current fiscal year, obtaining all internal concurrences required to authorize the employee to provide the secondary state/dual services as requested and to respond to the secondary state/dual employer in a timely manner. The following information shall be provided to the secondary state/dual employer:
1. The official name of the primary employer and the employee's primary employment section/department.
  2. Employee's primary position classification title, class code, slot number, the FLSA status of the employee's position, current annualized salary, normal scheduled days and hours of work.
  3. Total amount of secondary state/dual employment compensation approved for the employee during the current fiscal year.
  4. Authorization for the secondary state/dual employer to pay the employee travel and subsistence, if appropriate.
  5. Indicate if the employee will be required to take annual leave or leave without pay to perform the requested services.
  6. Signature of the employee's supervisor.
  7. Signature of the primary employer's designated representative authorizing the secondary state/dual employer to enter into this secondary state/dual employment arrangement.
- D. Requests for secondary state/dual employment services shall apply to only one specific secondary state/dual employment situation. Modifications to, or extensions of, approved secondary state/dual employment requests must be submitted to the primary employer for authorization prior to final approval.
- E. Secondary state/dual employment agreements shall not exceed a 12-month period and may not be approved beyond the end of the fiscal year.

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### V. APPROVAL AND REPORTING OF SECONDARY STATE/DUAL EMPLOYMENT

- A. The System President of the SCTCS delegates authority for Secondary State/Dual Employment actions to the college presidents upon written agreement. The System President reserves the right to withdraw delegation authority from an individual college based on non-compliance with State Board for Technical and Comprehensive Education (SBTCE) procedures. Each college shall be required to develop an institutional policy and procedure for secondary state/dual employment. Such procedure must clearly define the internal review and approval process for the various types of inter-agency and/or intra-agency secondary/dual employment services provided by FTE employees.
- B. The System Office will develop and disseminate reporting procedures to the colleges. The colleges shall be required to submit annual reports to the S.C. Office of Comptroller General for post-audit. If post-auditing reveals actions that do not comply with the provisions of this procedure the college will be required to take corrective action.
- C. Detailed records must be maintained by the secondary and primary employers. All requests for secondary state/dual employment services and subsequent agreements, employee work schedules and related leave and/or payroll records are subject to audit by appropriate authorities.