

Dual Employment Policy

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§ 1. Purpose

The dual employment policy is a state-wide uniform policy to be followed when one state agency or university secures the services of an employee of another state agency or university on a temporary, part-time, consulting or contractual basis when the demand for an employee with special skills and abilities is required for the efficient operation of a program. It is recognized that conditions vary widely from agency to agency or university to university; 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 university, the employee and the public.

For employees engaged on a full-time basis, any additional work for an entity other than a state agency or university is termed secondary employment and is covered in the *Secondary Employment Policy*.

§ 2. Coverage

This Policy applies to all employees who are subject to State Human Resources Commission's policies issued under N.C.G.S. § 126-4(4), (5), and (6). Coverage under this policy includes, but is not limited to, probationary, time limited, exempt policymaking, and exempt managerial employees. It does not apply to temporary employees, public school employees, employees of the Community College system, or other employees who are exempt from State Human Resources Commission policies issued under N.C.G.S. § 126-4(4), (5), and (6).

This Policy applies only in situations involving the same employee working for two agencies or working for an agency and a university or working for two universities.

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For situations involving one employee assuming dual roles within the same agency, see Hours of Work and Overtime Compensation Policy, especially the section of that policy entitled "Occasional or Sporadic Employment in a Different Capacity."

§ 3. Definitions

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

Parent Agency/University: The State department, agency, or university having control over the services of the employee, and from which the employee receives his/her regular paycheck.

Borrowing Agency/University: The State department, agency, or university seeking on a temporary, part-time, consulting, or contractual basis the services of an employee of another State agency or university.

FLSA Not Subject: Employees primarily performing work that is not subject to overtime provisions of the Fair Labor Standards Act, usually executive or professional in nature. Overtime pay is not required by FLSA.

FLSA Subject: Employees primarily performing work that is subject to the overtime provisions of the Fair Labor Standards Act. Overtime of not less than one- and one-half times their regular rates of pay for hours worked in excess of 40 hours per week is required.

Work Week: The work week is based on the work week of the parent agency/university, even for employees on vacation.

Dual Employment Agreement Form: This form is used to acknowledge that one state agency or university is securing the services of an employee of another state agency or university on a part-time, consulting, or contractual basis and have entered into an agreement for an employee of the state to be employed dually and should be completed prior to the employee performing work for the borrowing agency/university. [Dual Employment Agreement Form](#)

OSC Timesheet: This timesheet is used for payment when both the parent and the borrowing agency utilize the HRIS/Payroll System. [Dual Employment Forms | NC OSC](#)

CP-30 Form: This form is used to request additional payment to an employee for work performed at another state agency or university when the parent agency does not use BEACON. The form is available at this link: [Link to CP-30 Form](#)

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§ 4. **Permission of Parent Agency/University**

The administrative head or designee of the parent agency/university must give approval in writing using the Dual Employment Agreement Form in each instance of an employee's performing services for pay for another State agency/university prior to the employee performing services for the other agency/university. Approval can be granted or denied after considering such factors as ethical consideration or conflicts of interest, or whether the dual employment would affect the employee's regular duties or pose an undue hardship on the parent agency/university.

If an employee does not receive a regular paycheck from the parent agency/university (i.e., the employee only does occasional work for the parent agency/university), the employee does not need to get approval from the parent agency/university to perform services for the borrowing agency/university, but the parent agency/university must complete a Dual Employment Agreement and an OSC timecard/CP-30 to ensure payment for services.

If the head of the agency/university is to perform services for pay for another State agency or University, the arrangements must be approved by the director of the Office of State Budget and Management.

§ 5. **Statement of Employee's Immediate Supervisor**

By signing the Dual Employment Agreement Form, the employee's immediate supervisor is certifying 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/university.

§ 6. **Payment**

1. No employee, even while on paid leave, may be paid additionally for services performed for the employee's parent agency/university.
2. 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.
3. Commuting expenses are not reimbursable.

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4. 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, however, a Dual Employment Agreement Form and CP-30 Form must be complete to ensure payment for services.
5. All payments for services provided under Dual Employment must be made by the borrowing agency directly to the parent agency/university of the employee borrowed, and not to the employee.
6. 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.
7. Employee's travel and/or subsistence expenses, if any, incurred in the performance of services for the borrowing agency/university, will be paid directly to the employee by the borrowing agency/university. (Commuting expenses are excluded.)
8. If the work (including preparation) is performed during the employee's regular work schedule (such as 8:00 a.m. to 5:00 p.m., Monday through Friday), and the employee is not on leave, the employee may not under any circumstances receive additional pay.
9. If the work (including preparation) is performed outside the employee's 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.
10. In a dual employment situation, the duties of both positions are combined to determine if the person is FLSA Subject or FLSA Not Subject. FLSA Subject 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 work week the employee does not perform any work for the parent agency/university, no overtime payment will be required unless the employee works more than 40 hours

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for the borrowing agency/university. For FLSA Subject employees, any overtime or comp time obligation shall be split between the parent and borrowing agency/university as follows:

(a) If the employee would have been entitled to overtime or comp time hours based solely on hours worked at the parent agency/university, the parent agency/university shall be responsible for the overtime payments or comp time for those hours worked at the parent agency/university.

(b) Compensation for any remaining overtime hours shall be the responsibility of the borrowing agency/university.

For FLSA Not Subject employees, no overtime or comp time will accrue from the work for the borrowing agency/university; instead, the borrowing agency/university will pay the employee on a straight-time basis.

11. If a straight-time employee is on authorized leave from regular duties with the parent agency/university, the employee may be paid for the extra work on the same basis as in 10 above.
12. In all cases of additional payment to an employee, the parent agency/university 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/university to the employee must be made from Salaries-Overtime budgeted line items.

§ 7. Maintaining Records

The parent agency/university should maintain the Dual Employment Agreement Form and OSC timesheet or CP-30 Form in the employee personnel file.

§ 8. Honorarium

Any payment by an agency/university to an employee of another agency/university as an honorarium or other payment for a speech is subject to these procedures. It is assumed that certain officials and staff will make outside appearances and speeches, which

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are in fact a part of their normal duties, and such officials and staff should not expect to be paid for these occasions.

§ 9. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(4\)](#) (empowering the Commission to establish policies on recruitment programs),
- [N.C.G.S. § 126-4\(5\)](#) (empowering the Commission to establish policies on hours and days of work and “other matters pertaining to the conditions of employment”), and
- [N.C.G.S. § 126-4\(6\)](#) (empowering the Commission to establish policies on appointment of employees).

§ 10. History of This Policy

<u>Date</u>	<u>Version</u>
July 1, 1971	Revised – Employment contribution for retirement are applicable only when borrowing agency is supporting a portion of employee’s regular salary.
February 1, 1976	Changed “Procedure – Dual Employment” to “Dual Employment Policy.”
February 1, 1984	Dual Employment policy moved from Section 3, General Pay Policy, Section 7, Administration of the Pay Plan when the new OSP Manual was developed 12-1-84.
February 1, 1988	Revised to allow provision for “occasional and sporadic” employment; and to revise reporting requirements.
September 1, 2002	Corrected to state that dual employment must be paid from dual employment line items – per OSBM policy.
April 20, 2023 (effective June 1, 2023)	Incorporated dual employment of university employees into the policy, removed definitions that are no longer utilized, added definitions of FLSA Subject, FLSA Not Subject, Work Week, and CP-30 Form, changed references to exempt/nonexempt to FLSA Not Subject/FLSA Subject, clarified Permission section, removed

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	Professional Services Contract, Instructional Services and Joint Appointments sections, updated Procedures for Payment and Maintaining Records sections, added Honorarium and Sources of Authority sections.
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