

## **POLICY STATEMENT**

Recognizing that Clemson University and other South Carolina state agencies occasionally require services not readily available through established positions and that the University and other South Carolina state agencies have regular full-time equivalent (FTE) employees willing and able to meet this demand, the University allows for the temporary, part-time employment of FTE employees as established in this Dual Employment Policy. This policy applies to 1) Clemson University employees in FTE positions who wish to engage in dual employment with Clemson University or another state agency and 2) FTE employees from other state agencies who wish to engage in dual employment with Clemson University.

All individuals engaged in dual employment or hiring into dual employment arrangements with Clemson University are required to adhere to the practices and procedures established in this and other Clemson University policies and, when applicable, the *Faculty Manual*.

## **REASON FOR POLICY**

The Dual Employment Policy helps Clemson University achieve the following:

- A fair and effective dual-employment process that complies with state regulations
- Opportunities for employee growth and development
- Increased participation in partnerships with other South Carolina state agencies

## **ENTITIES AFFECTED BY THIS POLICY**

- All colleges/divisions of Clemson University
- State of South Carolina agencies (as primary or secondary agencies)
- Employees occupying FTE positions at Clemson University or other state agencies

## **WHO SHOULD READ THIS POLICY**

- Deans, directors and department chairs
- Managers and supervisors
- Human resources representatives
- Employees occupying FTE positions

## **WEB ADDRESS FOR THIS POLICY**

[http://media.clemson.edu/humanres/policies\\_procedures/Dual\\_Employment\\_Policy.pdf](http://media.clemson.edu/humanres/policies_procedures/Dual_Employment_Policy.pdf)

## CONTACTS

Subject Matter	Office	Telephone	E-mail/Web Address
Policy Clarification and Interpretation	OHR	(864) 656-3353	<a href="http://www.clemson.edu/employment/contact_hr/">http://www.clemson.edu/employment/contact_hr/</a>

## DEFINITIONS

Term	Definition
<b>Dual Employment</b>	An agreement by which an employee in an FTE position in a state of South Carolina agency accepts temporary, part-time employment with the same or another South Carolina state agency. Dual employment duties are outside the employee’s home department and are independent of and in addition to the duties of the employee’s primary, full-time employment. <ul style="list-style-type: none"> <li>• <b>Internal dual employment:</b> Dual employment of a Clemson University employee within Clemson University.</li> <li>• <b>External dual employment:</b> Dual employment of an employee of a South Carolina state agency by a different South Carolina state agency.</li> </ul>
<b>Primary (Home) Department</b>	The department for which the employee’s primary (FTE) duties are performed.
<b>Primary (Home) Agency</b>	The state agency in which the employee’s home department is located.
<b>Secondary (Requesting) Agency</b>	The state agency where external dual employment occurs.
<b>Secondary (Requesting) Department</b>	The department for which the employee’s dual employment duties are performed.

For more definitions, click [HERE](#) to go to the *OHR Glossary of Terms*.

## PROCEDURES

Outlined below are the requirements for engaging in a dual employment relationship. For more information on the dual employment procedure, please refer to the *Clemson University Policies and Procedures Manual: Dual Employment Procedures*.

### Dual Employment

Dual employment is temporary, part-time work performed by an employee of a South Carolina state agency in an FTE position for the same or another state agency outside the employee’s home department. Dual employment duties are independent of and in addition to the duties of the employee’s primary employment.

**Conflict of Interest:** No employee may accept dual-employment work or compensation that could be reasonably construed as a conflict of interest with the primary employment.

Eligibility:

1. Only employees (Clemson or other state agency) occupying FTE positions may participate in dual employment. Employees in non-FTE positions, including but not limited to temporary positions (temporary grant, time-limited project, temporary and intermittent) and student worker positions, are not eligible for dual employment.
2. No agency head may be dually employed by another agency or institution of higher education without prior approval by the Agency Head Salary Commission and the Department of Administration.

Requests for Dual Employment: Dual employment requests must be submitted to the Clemson University Office of Human Resources (OHR) on the Dual Employment Request form and must contain all required information and approvals as outlined on the Dual Employment Request form.

Approvals:

1. The agency heads (or designees) of the primary and secondary agencies, or the president (or designee) when the dual employment is within Clemson University, are responsible for approving dual employment requests prior to the beginning of the dual employment relationship.
2. OHR must receive, process and approve the dual employment request prior to services being rendered. Each Dual Employment Request form should address only one dual employment arrangement.
3. Dual employment requests must be initiated by the requesting department or agency.
4. All dual employment requests and services are subject to audit by Clemson University's internal auditors, state and federal auditors, and Clemson University Office of Human Resources.
5. The secondary agency is responsible for obtaining all required approvals of the dual employment request and any modifications of the dual employment as outlined in the Dual Employment Request form and the Dual Employment Revised Schedule Request form.
6. For each dual employment arrangement, both the home department and the secondary department must retain the written dual employment request.

Hours Worked/Leave:

1. An employee engaged in dual employment must satisfy the requirements of the secondary employment outside the established hours of work for the primary employment.
2. An employee can use annual leave to perform dual employment services for another state agency during normal working hours; however, no Clemson University employee can receive compensation for dual employment services performed for Clemson University while in leave-with-pay status. (See "Internal Dual Employment" below.)

Compensation:

1. No compensation for dual employment is to be paid to an employee prior to the approval of a dual employment agreement.
2. Compensation for dual employment services is to be determined by the requesting (secondary) agency/department and approved by the Clemson University Office of Human Resources. All dual employment compensation must be paid to the employee through the requesting (secondary) department or agency. Taxes and retirement are to be automatically deducted upon payment.
3. Employees cannot become eligible for any additional fringe benefits as a result of dual employment, including but not limited to annual leave, sick leave, military leave, state insurance or holidays.
4. Overtime/FLSA:
  - o Both the primary agency and the secondary agency are required to comply with the provisions of the Fair Labor Standards Act (FLSA). Nonexempt employees performing dual employment services in the same general occupational category as their primary (FTE) position must be paid 1.5 times their normal hourly rate (overtime rate).

- Dual employment services that fall under a different general occupational category and are performed on an "occasional and sporadic basis" may not be subject to overtime payment rates. The term "occasional and sporadic" is defined as work that is performed infrequently, irregularly, or occurring in scattered instances as defined by FLSA regulation 553.30. Please refer to the Department of Labor website for further information:  
<http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>
  - To fall in a different occupational category, the nature of the dual employment duties must be completely different from the duties the employee does in their primary position. For example, an administrative assistant working for the Wellness Center as an aerobics instructor would not be paid overtime for cumulative hours.
  - The hours worked in dual employment by an exempt employee are not considered overtime, nor do they count toward overtime.
5. Compensation from all dual-employment fund sources and agencies cannot exceed 30 percent of an employee's annualized salary in a fiscal year (July 1 through June 30).
  6. The practice of dual employment is not to be used to provide higher continuing salaries than those approved by the Department of Administration.
  7. Dual employment payments must be made from the following accounts:
    - Unclassified Employee: XX-XXX-5055-XXXX-XXX-XXXXXXXX
    - Classified Employee: XX-XXX-5004-XXXX-XXX-XXXXXXXX

Duration:

1. Dual employment arrangements are limited in duration to the specific approved timeframe, which cannot exceed 12 months.
2. Dual employment cannot cross fiscal years (July 1 through June 30). If services need to be continued into the next fiscal year, a new request must be initiated by the requesting (secondary) department and approved by OHR prior to the beginning of the fiscal year.

**Internal Dual Employment**

Internal dual employment occurs when a Clemson University employee engages in dual employment within Clemson University.

Hours Worked/Leave:

1. To accommodate dual employment for a compelling University need, normal work hours of classified and administrative unclassified staff may be adjusted as a limited exception with supporting documentation and supervisory approval for a period not to exceed eight months in a calendar year. All adjusted schedules must satisfy the employee's standard hours for the week, be documented and have necessary approvals.
2. Any leave taken to perform internal dual employment work or services must be taken as leave without pay. No Clemson University employee is to receive any compensation from Clemson University for internal dual employment while in a leave-with-pay status, including all designated state holidays, annual leave, and compensatory time.
3. Exempt employees may undertake internal dual employment within their home department if in a different capacity from their regular employment or outside their home department in any capacity.

### External Dual Employment

External dual employment occurs when an employee of a South Carolina state agency in an FTE position accepts temporary, part-time employment with another South Carolina state agency.

1. Clemson University employees may perform work or services for another state agency through dual employment.
2. Employees of other state agencies may perform work or services for Clemson University through dual employment.
3. Employees from other state agencies working for Clemson University are considered “intermittent” employees.
4. By interpretation of the United States Department of Labor, the state is considered one employer for the purpose of applying FLSA; therefore, the agencies employing a nonexempt employee should jointly determine whether the employee is owed any overtime compensation during a workweek.

### RESPONSIBILITIES

Responsible Party	List of Responsibilities
<b>Employee</b>	<ul style="list-style-type: none"> <li>• Agrees to perform the additional duties per the terms offered by the secondary department/agency by signing the Requesting (Secondary) Agency/Department portion of the Dual Employment Request form</li> </ul>
<b>Home Department</b>	<ul style="list-style-type: none"> <li>• Ensures the Requesting (Secondary) Agency/Department portion of the Dual Employment Request form is complete</li> <li>• Completes the Employing (Primary) Agency portion of the Dual Employment Request form</li> <li>• Ensures that dual employment payments made to its employees within one fiscal year do not exceed the 30 percent limitation. (The Division of State Human Resources is authorized to approve exceptions to the 30 percent limitation based on written justification submitted by the agency.)</li> <li>• Obtains required dual-employment approval for their unit</li> <li>• Sends request to OHR for approval</li> </ul>
<b>Human Resources (Office of)</b>	<ul style="list-style-type: none"> <li>• Approves and processes dual employment requests</li> <li>• Confirms the employee’s dual-employment eligibility</li> <li>• Notifies home department and secondary agency/department of approval and provides each with a copy of the approved dual employment request</li> <li>• Coordinates external dual employment requests with other state agencies</li> <li>• Submits annual dual employment report to the state</li> </ul>
<b>Primary Agency</b>	<ul style="list-style-type: none"> <li>• Approves dual employment requests</li> </ul>
<b>Secondary Agency/ Department</b>	<ul style="list-style-type: none"> <li>• Initiates dual employment request by completing the Requesting (Secondary) Agency/Department portion of the Dual Employment Request form</li> <li>• Obtains required dual employment approvals for their agency/department</li> <li>• Sends Dual Employment Request form to the employee's home department</li> <li>• Make first paycheck available to employee in a timely manner consistent with state law.</li> </ul>

## RELATED RESOURCES

<b>University Policies and Documents</b>
<a href="#">Clemson University Faculty Manual</a>
<a href="#">Dual Employment Policy</a>
<a href="#">Dual Employment Procedure</a>
<a href="#">OHR Glossary of Terms</a>
<b>South Carolina Laws and Regulations</b>
<a href="#">State of SC Regulation 19-713: Dual Employment</a>
<a href="#">State of SC Law Section 8-11-35</a>
<b>University Forms and Systems</b>
<a href="#">Dual Employment Request form</a>
<a href="#">Dual Employment Revised Schedule Request form</a>

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