



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

OP 70.15: Multiple and Other Employment

DATE: March 11, 2020

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish policy regarding multiple and other employment by Texas Tech University (TTU) employees.

REVIEW: This OP will be reviewed in March of even-numbered years by the Assistant Vice President for Human Resources with substantive revisions forwarded to the Associate Vice President for Administration and Chief of Staff.

POLICY/PROCEDURE

1. Multiple State Employment Law

a. Article XVI, Section 33, of the Texas Constitution provides:

- (1) The accounting officers of this state shall neither draw nor pay a warrant or check on funds of the state of Texas, whether in the treasury or otherwise, to any person for salary or compensation who holds at the same time more than one civil office of emolument, in violation of Section 40.

b. Section 40 provides three major exceptions relative to state employees:

- (1) Payment may be made to members of military reserves and persons retired from military service.
- (2) Payment may be made to state employees serving without salary as members of governing bodies of school districts, cities, towns, or other local governmental districts. The state attorney general has found that the term “salary” as it is used in Section 40 means “compensation” in any form. Thus, state employees serving as members of these organizations may not receive any payment, including per diem, benefits, etc.
- (3) Non-elective state officers or employees may hold other non-elective offices or positions of honor, trust, or profit under this state or the United States, if the other offices or positions are of benefit to the state or are required by law, and there is no conflict with the original office or position for which the employee received salary or compensation. The implementing legislation also requires the employee to obtain a finding from the appropriate governing board or agency head that these two requirements have been met. The employee's agency must make an official record of both of the above findings and of any compensation, including per diem, associated with the second position.

c. Chapter 667 of the current Texas Government Code provides:

A person who is legally employed by more than one Texas state agency or institution of higher education may not receive benefits from the state in excess of those provided for one full-time employee. The person is subject to the following provisions and must be informed of them before the person becomes employed by more than one agency or institution:

- (1) Separate vacation and sick leave records must be maintained for each employment. When the person terminates from one employment, the person's leave balances that were accrued under that employment may not be transferred to the remaining employments.
- (2) The person accrues state service credit for all purposes as if the employee had only one employment.
- (3) The total state contribution toward the person's group insurance is limited to the amount specified elsewhere in this act for a full-time active employee.
- (4) Overtime compensation accrues to an employment independently of every other employment with the following exception. If the person is subject to the overtime provisions of the Fair Labor Standards Act of 1938 (FLSA) in an employment, the employing agencies and institutions must ensure that the person is compensated for all combined time worked in excess of 40 hours per week according to the FLSA overtime provisions. The agencies and institutions shall coordinate to determine which agency or institution is responsible for ensuring that the employee is properly compensated according to those provisions.

An employing agency or institution may not use multiple employments of an employee within the same agency or institution for the purpose of:

- (a) Paying the employee for working more than 40 hours in a week instead of earning compensatory time in accordance with state law; or
 - (b) Paying the employee a greater salary than is allowed for either of the employee's positions.
- (5) The person must inform the person's employing state agencies or institutions of higher education before accepting an additional employment with another agency or institution.

Special provisions for institutions of higher education—a university system may establish a policy that defines a person's employment as the total hours the person is assigned to one component of the system or, alternatively, the total hours the person is assigned to all components of the system. This policy may apply to a person only if the person is employed by more than one institution of higher education and all employing institutions are within the same university system.

2. Texas Tech Employment

An individual may be employed part time by two or more departments within Texas Tech University and Texas Tech University Health Sciences Center, provided the combined total of normally assigned hours of work does not exceed 40 hours per week (100 percent time) and all other conditions of employment are met. All appointments of TTU are aggregated for purposes of longevity pay and other benefits.

A full-time employee who works in excess of 40 hours per week (100 percent time) must be compensated in accordance with normal overtime or additional compensation policies.

3. Outside Employment

Outside employment is self-employment or any compensated service or employment by an entity or individual, other than the TTU system, of a TTU system employee. *Section 03.01.5, *Regents' Rules, Consulting or Outside Employment*

The primary responsibility of TTU employees is the full and complete execution of all assigned duties, the fulfillment of those professional obligations not ordinarily reduced to written assignment, and the maintenance of current professional skills. Outside employment must be compatible with the interests of TTU and of such a nature that it will not detract from the usefulness and performance of the employee.

4. Non-elective Offices

An employee desiring to accept an offer to serve in other non-elective offices or in a position of honor, trust, or profit with the state of Texas or the United States should submit a letter of request through administrative channels for Board of Regents' consideration.

5. Elective Offices

Employees may hold non-salaried public elective offices provided they meet their primary responsibilities to Texas Tech University.

An employee who is elected or appointed to another position that pays a salary, per diem, or benefits and, in instances where the two positions are such that they cannot be held at one time by the same person, qualification and acceptance of the second position will automatically be considered as a resignation of employment with Texas Tech University.

6. Multiple Employment with Other State Agencies/Institutions (other than TTU and TTUHSC)

a. Multiple Employment Defined

- (1) Multiple employment occurs either when a full-time employee of Texas Tech University accepts an additional appointment to a second position with another state or federal agency (other than TTU and TTUHSC) or a full-time employee of another state or federal agency accepts an additional appointment to a second position with TTU. Another state agency is defined to mean agency, board, office, department, commission, council, or institution of the state of Texas.

- (2) A person who is on an unpaid leave of absence from one agency and working for pay at another agency is not considered to have multiple appointments for the purpose of this OP.
- b. Multiple Employment Policy
- (1) Any person who holds a position with Texas Tech University and wishes to accept an appointment with another state or federal agency that may result in multiple employment must obtain a finding, and an official record thereof, from the Board of Regents that:
 - (a) Holding the additional position will be of benefit to the state of Texas or is required by law;
 - (b) There is no conflict between holding the two positions; and
 - (c) States the specific compensation to be received for the second position.
 - (2) Any person who holds a position with another state or federal agency and wishes to accept an appointment with TTU that may result in multiple employment must obtain a finding, and an official record thereof, from the governing body or, if there is none, the executive head of that agency that covers the same three items required above.
- c. Multiple Appointment Procedures
- (1) Regular Texas Tech Employee
 - (a) A person who desires, or is required, to accept an additional position with another state or federal agency will obtain approval to do so by submitting a request (see attachment) through normal administrative channels to the appropriate divisional vice president or comparable administrator. The request will specify the agency involved, the position to be held, the period for which the appointment is to be made, and the details of the compensation to be received. The request will also explain how the appointment will benefit the state of Texas and confirm that there is no conflict created by holding the two positions.
 - (b) The divisional vice president or comparable administrator, after coordination with the General Counsel and approval, will prepare and process an order to obtain the required finding by the Board of Regents at their next meeting.
 - (c) A copy of the official record of the finding will be provided to the Chief of Staff to the President by the person obtaining the Board order. The Chief of Staff to the President will provide copies to those offices involved in processing personnel action forms and payrolls. The official record of the finding must be filed in these offices before the effective date of the additional appointment.
 - (2) Regular Employee of another Agency
 - (a) When a Texas Tech University administrator desires to appoint a person employed by another state or federal agency to an additional position with TTU, the proposed details of the additional appointment will first be agreed to by the parties

involved. The administrator will then obtain approval for the proposed appointment by submitting a request (see attachment) through normal administrative channels to the appropriate vice president or comparable administrator. The same data required by paragraph 5.c.(1)(a) above will be provided.

- (b) The vice president or comparable administrator, after coordination with the General Counsel and approval, will prepare and process an order to obtain a Board of Regents finding at their next meeting. At the same time the order is prepared, the administrator will then notify the proposed appointee of this approval and request that a copy of the official record of the finding by the appointee's agency, which satisfies the requirements specified in 5.c.(1)(a) above, be provided.
- (c) Copies of these findings will be attached to the appointee's personnel appointment form at the time the TTU appointment is made. Reference to these findings will also be made in the "Explain" section of the form. Copies of these findings must be filed in Payroll Services before any salary payment is made to a multiple employed person.

d. Fringe Benefits

- (1) The pay and fringe benefits of a regular TTU employee will not be affected when a second compensated appointment with another state or federal agency is accepted. The employee should obtain information from the other state or federal agency as to the payroll deductions and/or fringe benefits that may be applicable to the additional compensation paid by that agency.
- (2) Compensation and fringe benefits paid to a regular employee of another state or federal agency holding a second compensated position with TTU will be subject to the following:
 - (a) Federal income tax will be withheld in accordance with federal law and Texas Tech University policies and procedures.
 - (b) All TTU earnings will be subject to retirement deductions and state matching contributions. If the other agency is a state agency, the employee will be required to participate in the same retirement program with the same carrier at both agencies.
 - (c) The employee will be required to participate in the group insurance program and receive premium sharing contributions, if any, from the primary agency and will not be eligible to participate in Texas Tech University's program or receive premium sharing from TTU unless TTU is the primary agency.
 - (d) The employee will be entitled to receive longevity payment for only one employment, which must be full time to be eligible for longevity. An individual partially employed/paid by one institution or agency and partially by another does not meet the "full-time" employment requirement to be eligible for longevity pay. TTU and TTUHSC work hours are aggregated for longevity eligibility purposes. The employee's primary agency will be responsible for payment of longevity pay if the employee is eligible.

- (e) The employee will be eligible for holiday leave from Texas Tech University based upon the holiday schedule for TTU.
- (f) Vacation and sick leave records will be maintained by TTU without regard to similar records maintained by the other agency. Upon termination of TTU employment, any leave balances accrued will not be transferred to the other agency and must be taken prior to the termination date.
- (g) Workers' Compensation Insurance benefits will be provided by the agency at which the employee is injured. Wages, for determining the weekly benefit rate, shall be the wages received from the agency where the injury occurred. Sick leave, for determining the weekly benefit start date, shall be the sick leave received from that agency.
- (h) Unemployment Compensation Insurance benefits will be paid based upon the pro rata share of employment by the agencies during the base benefit period.
- (i) The employee will be eligible for travel payments from Texas Tech University based upon the assigned duties and responsibilities at TTU but will not be eligible for travel payment from both agencies for the same period of time. The employee will not be eligible for travel payments from TTU for travel between the two agencies.
- (j) Compensatory time, emergency leave, jury leave, military leave, maternity leave, and other such leave benefits will be administered and provided by Texas Tech University in accordance with normal procedures applicable to other employees.

e. Obligation to Inform

An employee must inform the employee's or her/his employing state agencies or institutions of higher education before accepting additional employment with another agency or institution. * In accordance with the Texas Government Code, Section 667.007

All state employees have been informed of their obligations and responsibilities to inform both initial and second employers of their intent to accept additional employment with the state by way of the *Employee Affidavit* signed by all employees.

7. Procedure

Each administrative officer shall be responsible for devising procedures and/or other appropriate methods for enforcement of this policy within her/his individual areas of responsibility.

8. Right to Change Policy

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.

9. Authoritative References

Texas Constitution, Article XVI, Section 33 & Section 40
Texas Government Code, Section 667.007
Fair Labor Standard Act
Section 03.01.5, *Regents' Rules*, Conflict of commitment

All related forms can be found on the Human Resources website:
<http://www.depts.ttu.edu/hr/forms.php>.