814 Outside Employment, Extra Compensation, and Dual Services Agreements

Approved by President ________________________________ Sidney A. McPhee, President

Effective Date: ________________, 2019

Responsible Division: Business and Finance
Responsible Office: Human Resource Services
Responsible Officer: Assistant Vice President, Human Resource Services

I. Purpose

This policy sets forth general provisions to cover the circumstances and limitations under which outside employment and/or extra compensation may be appropriate.

Full-time employment with Middle Tennessee State University (MTSU or University) demands an individual’s full-time professional expertise, commitment, and energies. All full-time personnel, including faculty (employee unless otherwise specified), shall be required to devote a minimum of 37.5 hours per week to the institution. The assigned faculty work load of an academic year, nine (9), ten (10), or eleven (11) month term, or a twelve (12)-month term faculty member constitutes a full-time assignment.

MTSU also recognizes the value to its students, personnel, and the citizens of Tennessee arising from external activities in which members of faculty, administrators, and staff may engage. Such activity contributes to the quality of instruction, enhances the competency of the individual, contributes to the economic development of the state, and brings credit to the institution. These activities also create valuable links between the University and the surrounding community.

Nevertheless, the employee must at all times place his/her primary emphasis on contributing to the University’s mission and be prepared to forego any external activities when they interfere or conflict with assigned duties. See Policy 12 Conflict of Interest. All outside professional activities for which there is remuneration must be disclosed by the employee to his/her supervisor. Where this policy applies, the activity must also be approved as provided below.

Additionally, under certain circumstances, faculty and administrative/professional staff may need to perform additional assignments for which extra compensation may be warranted.
II. Applicability

All outside professional activities that relate to an employee’s position or job duties and extra compensation must be disclosed pursuant to this policy. However, the prohibitions against engaging in extra compensation and outside employment do not apply in the following circumstances:

A. To faculty and staff who are not full-time employees;

B. Clerical and support staff (nonexempt) employees. However, any outside employment must not create a conflict of interest or interfere with a commitment to the employee’s University duties and responsibilities;

C. Graduate assistants and student personnel;

D. When work is performed outside the terms of an employee’s employment contract period or while the employee is on approved annual leave. However, any outside employment must not create a conflict of interest or interfere with a commitment to the employee’s University duties and responsibilities;

E. Normal, short-term professional activities such as participation in symposia, accreditation visits, speaking engagements, exhibitions, or recitals, even though honoraria, may be received for such participation;

F. If the employee is on a professional development assignment;

G. Salaries paid to academic year faculty for teaching in summer sessions which are not considered extra compensation. See Policy 221 Faculty Compensation during Summer;

H. Any activities of an employee that do not interfere, conflict, or compete with his/her duties and responsibilities to the University as determined by the employee’s supervisor in compliance with MTSU Policy 12 Conflict of Interest.

III. Definitions

A. Extra Compensation. Payment by the University for work that is: (1) performed on behalf of the University; (2) outside the employee’s normal work schedule; and (3) not within the scope of the employee’s standard work duties. Extra compensation is to be used primarily for non-credit work, public service activities of the institution, or, in extraordinary circumstances (typically off-campus or resulting from irregular schedules), for credit courses. Extra compensation is not intended for those regularly scheduled, recurring non-credit or credit courses.
which should be planned and budgeted as a regular part of the faculty teaching load.

B. Dual Services. An arrangement whereby a publicly funded higher education institution in the State, University of Tennessee (UT) system, or any agency of Tennessee state government desires to procure the services of an employee of another institution or state agency, or to provide the services of one of its employees to other institutions or state agencies.

C. Outside Employment. The activities that this policy applies to are limited to professional activities related to the employee’s position or job duties at MTSU and includes consulting and any other external activity for which there is remuneration. This is work provided to external employers or through external contracts that University employees assume outside their normal work schedule. Payments for work performed are remitted by the external employers or entities not directly related to MTSU. Self-employment for the purpose of consulting or performing services is considered to be outside employment.

IV. Steps for Approving Extra Compensation

A. Prior to accepting an extra assignment, the employee must obtain approval from his/her Department Chair or administrative head (supervisor). The Authorization for Payment of Extra Compensation form should be completed before the extra services are to be performed. The form should be maintained at the department level until the work is completed. After the work is completed, the completed form should be attached to the payment instrument to be processed on the next regular payroll. Payment will be processed on the next regular payroll after work has been completed, provided that a PEF with the properly completed Authorization for Payment of Extra Compensation form is received in the Human Resources Services (HRS) Office no later than the payroll deadline date of the first month in which it is expected to be paid. Credit instruction will be paid in March/April for Spring term, November/December for Fall term, and according to the Summer school schedule for Summer terms.

B. Supervisors may approve extra compensation only for efforts that:

1. Are performed entirely outside of, and in addition to, normal work schedules, assignments, and responsibilities of the position.
2. Do not interfere with assigned duties and responsibilities or with regular University operations.
3. Are consistent with MTSU policies and with state law. T.C.A. § 49-5-410 limits full-time faculty members to teaching no more than two (2) credit courses per semester for extra pay in an institution of higher education. This
additional work shall not exceed fifteen (15) clock hours per week or four hundred (400) clock hours out of any nine (9)-month period.

V. Steps for Approving Outside Employment

A. Prior to engaging in outside employment, the employee must obtain written approval and shall begin the process by notifying his/her Department Chair or administrative supervisor of the nature of the employment and the expected commitment of time. The Individual Report on Outside Professional Employment or Continuing Business Activity form should be used in reporting outside employment.

B. After a conference with the employee, the supervisor will determine whether such activity would interfere, conflict, or compete with the employee's assigned duties or responsibilities to the department and the University. The supervisor will submit a written report setting out his/her determination and recommendation to the Academic Dean or the appropriate Vice President and provide the employee with a copy. In the case of a faculty member, the Academic Dean will review the report, make a recommendation, and transmit the report and recommendation to the Provost and the faculty member. The Provost/Vice President will make a final determination concerning whether such activity would interfere, conflict, or compete with the individual's assigned duties or responsibilities.

C. Requests concerning outside employment may be approved only for efforts that:

1. Are performed entirely outside of, and in addition to, normal work schedules, assignments, and responsibilities of the employee’s position.
2. Do not interfere with the employee’s assigned duties and responsibilities or with regular University operations.
3. Are consistent with MTSU policies and with state law.
4. Do not constitute a conflict of interest or compete with the University’s education, research, public service programs, and/or business operations as outlined in Policy 12 Conflict of Interest.
5. Require only a reasonable time commitment from the employee.
6. Are not undertaken with an inappropriate claim that the employee is officially representing the University in connection with the outside employment.

D. The employee engaging in outside employment shall not represent that he/she is engaging in such in his/her capacity as a University employee.
E. If the outside employment of the faculty or staff member is connected to an externally funded research project, the Office of Research Services shall additionally review the request.

VI. Use of University Property or Facilities

University property and facilities, i.e., offices, equipment, telephones, computers, etc., may not be used in outside employment unless the use has been approved in advance. Requests for use of campus property or facilities must be as set forth in Policy 100 Use of Campus Property and Facilities Scheduling. If such arrangements are approved, compensation to the University may be required at rates established by the University.

VII. Extra Compensation and Limitations

A. Retirement Credit: The University must control the reporting of extra compensation earnings to retirement systems. For retirement reporting purposes, T.C.A. § 8-34-101(14)(D) limits credit for compensation from extra services to no more than twenty-five percent (25%) of base pay. Faculty and staff may earn more than twenty-five percent (25%) in any reporting period, but the payroll system will report no more than twenty-five percent (25%) to the Tennessee Consolidated Retirement system (TCRS) or Optional Retirement Plan (ORP), as applicable.

B. Earnings Limitations:

1. Except as limited below, faculty and staff may earn an unlimited amount of extra compensation during the academic year.
2. See Policy 221 Faculty Compensation during Summer Session for limitations for academic year faculty during summer sessions.
3. The minimum rates per credit hour of instruction, as articulated in Policy 223 Faculty Compensation for Teaching Credit Courses as an Overload, must be applied when calculating compensation for extra service for full-time faculty or staff teaching credit courses.
4. Employee extra compensation paid on externally-funded grants and contracts is limited to 15% of the employee’s institutional base salary, pursuant to OMB Circular A-81 and Policy 224 Employee Compensation Charged to Sponsored Programs.

C. Salaries paid for teaching in summer sessions are not considered extra compensation.

VIII. Overload Assignments
Faculty acceptance of overload assignments for instruction or other purposes is strictly voluntary. Overload assignments should be used only when situations arise which warrant such action and should not be used 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.

IX. Dual Services

A. When a faculty or staff member at the University performs services for another publicly funded higher education institution in the State, University of Tennessee, or another Tennessee state agency, a Dual Services Agreement must be executed pursuant to MTSU Contract Procedures located on the Contract Office website. The procuring party is responsible for the initiation of the Dual Services Agreement. The contract template form for Dual Services Agreement is found on the Contract Office website. Upon completion of the services, the agency/institution providing the employee will bill the contracting agency/institution for the gross cost of the employee’s compensation and benefits. The employee will then be paid through the standard payroll process.

B. If the other institution is the University of Tennessee, no Dual Services Agreement is required if:

1. The services are provided on an infrequent or irregular basis;
2. Payment does not exceed seven hundred dollars ($700.00) per credit hour; and,
3. Services involve teaching or instruction not in excess of two (2) courses per semester.

Otherwise, the faculty or staff member must ensure that a Dual Services Agreement is executed between the University and UT.

Forms:
Authorization for Payment of Extra Compensation
Individual Report on Outside Professional Employment or Continuing Business Activity
Dual Services Agreement

Revisions: June 5, 2017 (original); ______________, 2019.

Last Reviewed: __________, 2019.

References: T.C.A. § 8-34-101(14)(D); § 49-5-410; Policy 12 Conflict of Interest; 100 Use of Campus Property and Facilities Scheduling; 221 Faculty Compensation during Summer
Session; 223 Faculty Compensation for Teaching Credit Courses as an Overload; 224 Employee Compensation Charged to Sponsored Programs.