

Policy 1306

Extra Employment for Faculty and Exempt Staff Members Within the University

Date of Current Revision: July 2012

Primary Responsible Officer: Provost and Senior Vice President, Academic Affairs

1. PURPOSE

This policy provides guidelines for the assignment of and payment for work at the university in addition to or instead of the regular assigned work of full-time instructional faculty members, Administrative and Professional faculty members and exempt staff members.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia section 23-164.6; 23-9.2:3. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

The university's authority to grant additional pay for extra employment of faculty members is in some instances constrained by federal regulations. See the United States [Office of Management and Budget \(OMB\) Circular A-21](#).

3. DEFINITIONS

Academic Unit Head (AUH)

An academic department head or its functional equivalent.

Administrative & Professional Faculty (A&P faculty)

Administrative faculty and professional faculty are normally referred to collectively, as both require advanced learning acquired by prolonged formal instruction and/or specialized training and work experience. However, the university recognizes administrative faculty and professional faculty as distinct position types.

Administrative Faculty positions are generally senior administrators who perform work related to the management of the educational and general activities of the university, for at least fifty percent of their work. Typically, administrative faculty serve in executive leadership roles such as vice president, provost, vice provost, dean, assistant or associate vice president, assistant or associate vice provost, or assistant or associate dean. Other administrative faculty roles can include (1) those responsible for the administrative direction of separately designated divisions or departments of institutional activity; (2) positions whose primary responsibility is to attract external funds; or (3) positions that are characterized by active, continuing involvement in formulating, interpreting and implementing institutional policy and exercise substantial independence, authority and discretion in areas such as program planning, design and allocation of resources. The organizational reporting relationship for administrative faculty is normally not lower than three levels below Executive Council positions. For Academic Affairs, this would include: Vice Provost/Dean (level 1), Academic Unit Head/Director (level 2) and Associate Director (level 3).

Professional Faculty require advanced learning and experience acquired by prolonged formal instruction and/or specialized work experience. Typical professional faculty positions are librarians, counselors, coaches, physicians, lawyers, engineers and architects. Other professional positions may support education, research, University Life and other such activities. Professional faculty

positions must require the incumbent to regularly exercise professional discretion and judgment and to produce work that is intellectual and varied and is not standardized.

Contract Period

For the purposes of this policy, faculty members on an academic year appointment have a contract period defined by the university as lasting approximately nine months, from mid-August through mid-May. For faculty members on a 12-month, calendar or fiscal year appointment, this period is defined as lasting from July 1 through June 30. Other specific contract periods may be specified in the terms of an individual faculty contract. Exempt staff members are continuously employed throughout the calendar year but are not hired on a contract. For the purposes of this policy, exempt staff members are to be treated the same as faculty members on calendar year appointments.

Employment Period

The time period during which a faculty or exempt staff member is actively employed by the university. For faculty members on academic year contracts, this does not include the summer sessions.

Exempt Staff Member

A member of the classified staff who holds a position exempt from the overtime provisions of the [Fair Labor Standards Act](#).

Instructional Faculty Member

The members of the faculty who have responsibilities that include teaching, research and service as the majority of their duties.

Outside Employment

Work performed outside of any relationship with the University. The university policy on outside employment is Policy [1304](#).

Outside Funding Source

Any private, state or federal government entity providing funding to the university through a grant, contract, or other external sponsoring agency transaction with the university, including any other university and any foundation, including university-affiliated foundations.

Overload Employment

Any temporary, additional work accomplished by a faculty member or exempt staff member for the university during the employment period for extra compensation in addition to full, contracted workloads. The employee/employer relationship between the faculty member and the university remains intact during overload employment.

Reassigned Time

Time within the employment period during which a faculty member or exempt staff member is reassigned from normal duties to accomplish special assignments without additional compensation.

Sponsored Work

Any work performed by a faculty member or exempt staff member under a grant, contract or other external sponsoring agency transaction between the university and an outside funding source.

Summer Teaching

Classes taught by a faculty member on an academic year contract during one or more of the summer sessions at the university.

4. APPLICABILITY

This policy applies to all full-time instructional faculty members, A&P faculty members and exempt classified staff at the university. It applies to all work by the faculty member or exempt staff member for the university within or outside of the scope of the faculty member's or exempt staff member's regular assigned work, both during the term of the faculty member's or staff member's employment period and at times between contracted periods of employment (usually summer months).

5. POLICY

The assignment of duties for an instructional faculty member is determined by the AUH or supervisor in consultation with the faculty member and with the approval of the dean.

The assignment of duties for an A&P faculty member or an exempt staff member is determined by the faculty or staff member's supervisor.

Temporary assignment of extra work to be performed by the faculty or staff member during the employment period may result in additional pay or reassigned time only within the procedures herein.

No instructional faculty member, A&P faculty member or exempt staff member may be paid compensation by the university in addition to his or her regular salary for additional work unless the procedures of this policy are followed.

6. PROCEDURES

6.1. Overload vs. Reassigned Time during the employment period.

Instructional faculty members, A&P Faculty Members and exempt staff members may be temporarily assigned duties over and above their normal duties during the employment period. A faculty or exempt staff member may receive overload pay for assignments over and above his or her regular duties during the employment period. Alternatively, a faculty or exempt staff member may receive reassigned time from regular duties in order to perform special assigned duties during the employment period. Generally, reassigned time and overload pay may not occur at the same time. Reassigned time combined with overload pay, where the combination of extra duties and the duties remaining from the regular work load after reassigned time exceed the normal workload of the faculty or exempt staff member, require advanced approval in writing from the AUH or director, and the dean or the appropriate Assistant/Associate Vice President ("AVP").

6.2. Workload Adjustment or "Banking" Teaching Credit.

An instructional faculty member's workload may be adjusted by giving the faculty member reassigned time to reflect especially heavy teaching assignments in the immediate prior or current, semester. With approval of the AUH or supervisor and dean, an instructional faculty member may teach an especially heavy load in one semester and "bank" the course(s) taught, such course(s) to be exchanged for reassigned time (a reduced teaching load) during the next regular employment period semester.

6.3. Approval.

Overload employment must be approved by the department head or director, and the dean or the AVP.

6.4. Reassigned Time.

Reassigned time is determined and assigned by the AUH or director, with the concurrence of the dean or AVP. Reassigned time from normal duties (without a corresponding reduction in salary) is authorized only for official university or Commonwealth business. For an instructional faculty

member, reassigned time must be reflected on the instructional faculty member's Anticipated Activity Plan submitted to the AUH. See *Faculty Handbook*, Section III.E.4.a.

6.5. Externally Sponsored Work During the Employment Period.

Work performed under a university grant, contract or other sponsoring agency transaction with an outside funding source during the employment period is usually not considered an overload assignment. A faculty or exempt staff member may not be paid additional compensation for such work unless specific federal regulations are met. To meet federal regulations (OMB Circular A-21), the following three tests must be met:

1. Work must be in addition to the faculty or exempt staff member's regular duties,
2. Additional compensation for the work performed by the faculty or exempt staff member must be approved in advance by the granting or contracting agency, and
3. The work of a faculty or exempt staff member must either be across departmental lines or for a different division or college (i.e., from the division or college in which the faculty or exempt staff member performs under his or her regular employment), or must occur at a remote location from the faculty or exempt staff member's regular workplace.

The pay for such additional work must be proportional to the rate of pay under the faculty or exempt staff member's regular employment. For details, see the Office of Sponsored Programs.

6.6. Sponsored work outside of the Employment Period for Employees on Academic Year or Shorter Contracts.

Work performed and paid by an outside funding source during non-employment periods (i.e., the summer if the faculty member is on an academic year appointment) may be considered an overload assignment or a separate contractual arrangement, depending on the application of specific federal regulations (OMB A-21). In either case, the total compensation for such additional work and all other work performed outside of the employment period by the faculty or exempt staff member for the university is strictly limited to a proportional part of the regular base salary (i.e., for summer work by an academic year faculty member, one-third of the faculty member's regular academic year base salary for work taking all three months of the summer, or proportionally less for less time worked). If it is determined that such work constitutes an overload and all other federal requirements are met, the assignments will be made by submitting appropriate documentation to Human Resources to hire/rehire the faculty or exempt staff member as a temporary employee, as described in policies [1311](#) and [2201](#). For details, see the Office of Sponsored Programs.

6.7 A&P Faculty and Exempt Staff Members and Teaching

A&P faculty members and exempt staff members may only be compensated for teaching courses that are scheduled to meet outside their regular scheduled working hours. A&P faculty and exempt staff members may agree to teach courses during their regular scheduled work hours as reassigned time with the approval of their supervisor, but may not receive additional compensation for teaching the course(s).

6.8. State Regulations

Faculty and exempt staff members employed by the university are employees of the Commonwealth, and during the term of their employment they may engage in work for the Commonwealth in only one of the following four categories:

- As intended in their employment contract. (No extra compensation authorized.)
- As assigned by the president, senior vice president, dean or department head/director as reassigned time. (No extra compensation authorized.)

- As assigned by the president, senior vice president, dean or department head/director for a work overload. (Extra compensation as authorized; appropriate documentation must be submitted to Human Resources to affect the additional compensation.)
- In unusual circumstances, as a private contractor, when a proper contract has been duly negotiated and signed by the university in accordance with state directives. All service contracts of this nature will be issued by the AVP for Finance in accordance with state directives. In general, an employee may not have a personal interest in a contract with the university other than his or her employment contract. However, in certain circumstances, exceptions may apply. In these instances, Conflict of Interests regulations will be strictly enforced. See Policy [1106](#) - Conflict of Interest.

7. RESPONSIBILITIES

The AUH or supervisor is responsible for the assignment of duties to an instructional faculty member, in consultation with the faculty member.

The supervisor is responsible for the assignment of duties to an A&P faculty member or exempt staff member.

The dean or AVP is responsible for reviewing such assignments, and for approving any overload pay.

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

9. EXCLUSIONS

This policy does not apply to any instructional or A&P faculty member, or exempt staff member performing work entirely outside of the scope of employment with the university as an independent contractor. See Policy [1106](#) - Conflict of Interest.

This policy does not apply to work performed by the faculty member for any other employer. See Policy [1304](#) - Outside Employment of Faculty.

Payment for teaching that occurs outside of the employment period and is not part of the regular duties of an instructional faculty member, A&P faculty member, or exempt staff member is negotiated between the faculty member and his or her AUH or supervisor, and is not legally restricted in amount if no sponsored work is performed by the faculty member during the period outside of the employment period. However, in general, the pay should not exceed a rate of pay proportional to the faculty member's regular salary.

This policy does not apply to resources spent by the university as payment for professional development of faculty members.

This policy does not apply to bonuses, salary increments, or monetary awards given by the university in recognition of performance.

10. INTERPRETATION

The authority to interpret this policy rests with the president, and is generally delegated to the provost and senior vice president for academic affairs where it concerns instructional faculty and the appropriate senior vice president where it concerns A&P Faculty or exempt staff members.

Approved by the President: November 2005

Previous version: October 2008