



## DEPARTMENT OF ADMINISTRATIVE SERVICES

450 Columbus Boulevard, Suite 1501, Hartford, CT 06103

TO: Agency Heads and Agency HR Directors

DATE: May 31, 2017

RE: General Letter No. 204 – Dual Employment (Revised)

### PURPOSE

The purpose of this General Letter is to ensure uniform procedures for dual employment assignments to guarantee compliance with state and federal law.

### POLICY

This policy is in accordance with Sec. 5-208a of the Connecticut General Statutes and supersedes General Letter 204 Dual Employment dated May 12, 2014 and all earlier memoranda on this subject.

### SCOPE

This General Letter applies to all employees except department heads\* in the executive branch, including higher education and quasi-public agencies where employees are construed to be state employees. Temporary Worker Retirees are covered (all hours worked count toward the 120-day maximum); employees of the Judicial and Legislative Branches who are engaged in a dual employment assignment are also covered. For the purpose of this policy, the term "state agency" or "agency" applies to all of these entities.

### REQUIREMENTS

In accordance with Sec. 5-208a of the Connecticut General Statutes, no state employee shall be compensated for services rendered to more than one state agency (or in more than one position in the same agency) during a biweekly pay period unless the appointing authority or designee of each agency approves a dual employment agreement. Agencies are responsible for certifying the dual assignment will not result in eligibility for additional benefits or overtime and any dual employment assignment that results in additional benefits or the necessity to pay overtime must be approved in advance by the Commissioner of Administrative Services through the Statewide Human Resources Management Division (DAS SHRM).

### RESPONSIBILITIES

*Prior to making an offer of employment*, agencies must determine whether or not the selected individual is currently employed by another agency. (Refer to "Scope" section.) When the agency's selection will result in a dual (or multiple) employment assignment, the hiring agency must contact the current agency

\*Section 4-8 of the Connecticut General Statutes restricts a department head ("appointing authority" or "agency head") from accepting any other employment while serving in the department head assignment.

directly and complete a thorough review of the individual's employment in both (or all) jobs. (Emphasis added)

Working directly with the current employing agency, the hiring agency completes the Dual Employment Request Form (CT-HR-25) to certify that:

- The duties to be performed in the dual employment assignment are outside the responsibility of the agency of principal employment.
- No conflicts of interest will be created as a result of the dual employment. Agency Ethics Compliance Officers have been consulted, as appropriate. (Review the [statutes](#) and [regulations](#) on this topic.)
- The hours worked in each assignment do not overlap and will not result in duplicate payment, provided:
  - If mandatory overtime is a condition of employment in either assignment, the request must be denied and
  - Travel time must be considered, such that:
    - Paid or unpaid leave time cannot be used to travel to or from one assignment to another or to work in either assignment;
    - The employee cannot use flextime or an Alternate Work Schedule if there is an expectation the employee must be available during hours outside of the approved schedule OR if the employee's work schedule reverts back to a standard workweek during a holiday week; and
    - The employee cannot use the Voluntary Schedule Reduction Program to work in or travel to another state job. (This is because although the employee is working a reduced schedule, benefits, including retirement credit and creditable service, are not diminished and therefore the employee must account for the hours of a full-time schedule.)
- The approval of the dual employment assignment will not result in the employee becoming eligible for additional benefits, including but not limited to eligibility for insurance and/or retirement benefits.
- The combined weekly hours in all positions will not result in overtime. Note: in dual employment situations, an employee's eligibility for overtime is determined by the [US Department of Labor \(US DOL\) Fair Labor Standards Act \(FLSA\)](#).
  - An employee has just one FLSA Status, either 'Exempt' (ineligible for overtime) or 'Nonexempt' (eligible for overtime). The FLSA Status is determined by the duties performed in the Primary job.
  - Typically, the Primary job is where the employee works the most hours; an employee may have only one Primary job.
- When the hours of two assignments are the same, the Primary job is based on hire date. The position where the employee was first hired is the Primary job and *unless it is clear the FLSA Status of both assignments is Exempt*, the duties of both positions must be reviewed by DAS SHRM to determine the employee's FLSA Status. (Emphasis added)

### **CERTIFICATION PROCEDURES FOR MAKING DUAL EMPLOYMENT APPOINTMENTS**

The hiring agency completes the CT-HR-25, certifies the information is accurate, and submits the CT-HR-25 to the current agency.

- If the employee is or will be employed with more than two agencies, all agencies must review, complete and approve the CT-HR-25 in order for the dual employment assignment to be valid.
- All agencies are responsible for ensuring the information on the CT-HR-25 is accurate.

- If there is any question as to the Primary job designation, the employee's FLSA status or whether the dual assignment will result in additional benefits, the agency questioning the information should direct the inquiry to DAS SHRM for an official review and response.
- Questions about conflicts of interest are to be directed to the agencies' Ethics Compliance Officers.

**APPROVAL PROCEDURES FOR MAKING DUAL EMPLOYMENT APPOINTMENTS**

This chart illustrates when a dual assignment may be approved by the agencies and when DAS approval is required:

FLSA Status of Primary Job	FLSA Status of Secondary Job	Approvals Required
Exempt	Exempt (same or fewer hours than Primary Job)	Agencies only
Exempt	Nonexempt (fewer hours than Primary Job)	Agencies only
Exempt	Nonexempt (same hours as Primary Job)	Agencies & DAS
Nonexempt	Nonexempt (same or fewer hours than Primary Job)	Agencies & DAS
Nonexempt	Exempt (fewer hours than Primary Job)	Agencies & DAS
Nonexempt	Exempt (same hours as Primary Job)	Agencies & DAS

In order for DAS SHRM to consider approving a request that may result in benefit eligibility or the payment of overtime, agencies must:

- Demonstrate the assignment is unique, specialized and extremely difficult to recruit;
- Document recruitment efforts and results from those efforts, including a copy of the job posting and selected candidate's application form;
- Complete and submit to DAS SHRM the CT-HR-25 along with the aforementioned information/materials, upon request.

Under extraordinary circumstances, DAS SHRM may approve a dual employment assignment which may result in benefit eligibility or may incur overtime. In this case, DAS SHRM will provide both agencies with the overtime rate. In addition:

- Fiscal managers at both agencies must approve the CT-HR-25 when there is a possibility of overtime.
- The specific amount and rate of overtime calculated is subject to change based on the number of hours the employee actually works each week in each assignment.
- Attendance must be reviewed by agencies each week and the amount of overtime must be calculated manually and on a weekly basis by the agency(s). Refer to CT-HR-25.

**Notes:**

The following are critical points and/or considerations:

- An employee who works a 10-month schedule but who is paid over 12 months is not considered to be dually employed when s/he is actively employed during the intersession in another position with the State of Connecticut. However, the dual employment process is to be followed when the employee accepts more than one additional assignment during the intersession and when the dates of those additional assignments overlap.
- When the employee will be employed in more than two assignments simultaneously, DAS SHRM review is required unless the FLSA Status of all of the jobs is Exempt.

- Some situations meet the US DOL definition of “occasional and sporadic” employment. Occasional and sporadic employment means “infrequent, irregular, or occurring in scattered instances” and performing work that is different than the employee’s Primary (or other) state assignment(s). In those cases, the hours are not included in the combined hours worked in a dual assignment. DAS SHRM will determine when this definition applies.
- The Overtime field in the Core-CT Job Data record reflects overtime eligibility in accordance with the employee’s collective bargaining agreement (CBA). The Federal FLSA field in the Core-CT Job Code Table record reflects either of the following: the default value from the Overtime field in Job Data or the FLSA value determined by DAS SHRM. The latter may or may not be different than the Overtime field. When the values of both fields are the same, agencies must conduct a review of duties to ensure the correct FLSA designation. Values for both fields are: Nonexempt (eligible for overtime) and No FLSA (Exempt).
- Dual employment requests requiring DAS SHRM approval must be fully executed prior to the employee working in the dual assignment.
- Dual employment requests that may be approved by agencies (and without DAS SHRM approval) must be fully executed prior to the employee working in the dual assignment except as follows:
  - When all jobs involve teaching assignments or when an emergent situation arises resulting in an immediate need for coverage and the employee’s FLSA Status is Exempt, *DAS SHRM will consider a CT-HR-25 to be in compliance with this policy provided it is fully executed within seven (7) business days from the first day the employee worked in the (emergency) assignment. An example of an emergent situation is a substitute teacher.* (Emphasis added)

#### Length of Assignment/Renewal

Dual employment requests may be approved for up to 12 months unless any of the assignments are scheduled by semester or school year.

- When an assignment is the length of a semester, approval expires at the end of the semester.
- When a dual assignment is the length of a school year, approval expires at the end of the school year.
  - If, at any time, the dual employment assignment fails to meet the above-listed criteria, the assignment must be terminated.
- If there are any changes to the employee’s jobs or schedule that involve or create the potential of an overtime obligation or benefit implication, the agency implementing the change must follow the procedures for requesting DAS SHRM review and approval of the dual employment assignment. The changes must be postponed or the dual employment assignment must be suspended unless and until a new approval has been granted.

#### Agencies’ Continuing Obligations

Once the CT-HR-25 is fully executed, agencies have a responsibility to continue to monitor the dual employment assignment.

- Agencies shall monitor employee dual employment assignments regularly. (Refer to “Other” section below).
- When there is a possibility of overtime, both agencies must manually review the employee’s attendance in both jobs each week to ensure the proper rate of pay. Refer to the CT-HR-25 for the “weighted average” overtime calculation.
- The employing agencies shall provide requested documentation or other information to DAS SHRM in a timely manner.

### POST-AUDIT


It is imperative all agencies involved with a dual employment arrangement comply with this policy, applicable federal and state law, and the collective bargaining agreements, as appropriate. DAS SHRM will periodically conduct post-audits of dual employment transactions for employees holding multiple positions in state service. Agencies must be able to provide fully executed Forms CT-HR-25 upon request during the post-audit. In addition, DAS SHRM will regularly review Primary/Secondary job indicators; agencies must promptly provide the requested information and must resolve these issues upon learning of a problem.

### OTHER

Agency Heads, through the agency Human Resources Office or other agency designee, have the following dual employment-related responsibilities:

- Ensuring all dual employment assignments are made in accordance with this policy.
  - Appropriately delegating the assignment of determining FLSA Status of a position to a trained staff member capable of performing the analysis.
  - Regularly monitoring the DUAL\_EMPLOYMENT\_REPORT for changes in employment that may impact on dual employment approval, to find dual assignments that are not in compliance, and to find assignments that are due to expire.
- Ensuring the prompt data entry of all dual employment activity, including terminations and correct Primary/Secondary job designations.
- Meeting all document retention requirements and
- Responding to all requests for information under the Freedom of Information Act (FOIA).

Please contact the assigned DAS HR Consultant for any questions regarding this General Letter.

 6/1/17

Melody A. Currey  
Commissioner  
Department of Administrative Services

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