



## DUAL EMPLOYMENT POLICY

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

### I. DEFINITION

**Dual Employment between Two Agencies:** This occurs when work performed by an employee of one state agency for another state agency which requires prior approval in a written, formal document between the employing agency and the requesting agency which sets forth terms and conditions for the dual employment of an employee.

**Dual Employment within an Agency:** This occurs when an employee who performs services during time other than normally scheduled hours of work for his/her employing agency may be considered to be performing dual employment and be paid additional compensation, if such services constitute independent, additional job duties from those of the employee's primary duties within the Agency.

### II. POLICY

Recognizing that South Carolina Department of Agriculture (SCDA) may occasionally require services not available within the agency and that SCDA has employees whose expertise is in demand, it is the policy of SCDA that:

- A. Divisions are encouraged to provide, whenever possible, such services as shall be required by other state agencies without charge.
- B. Divisions may provide, when it is not possible to provide such services at no cost, requested services on a contractual basis.
- C. SCDA employees may accept temporary, part-time employment of a consultative or technical nature with other state agencies, provided that prior approval is obtained in each instance from the supervisor, the Assistant Commissioner, and Human Resources.

- D. Supervisors may contract with an employee of another state agency to provide a specific temporary, part-time service of a technical or consultative nature provided that prior approval is obtained from the Assistant Commissioner, the employing agency, and Human Resources.

### III. EXCEPTION

SCDA will not approve any dual employment of SCDA employees which would put the SCDA in the position of being required to pay for overtime (premium time) under the requirements of the Fair Labor Standards Act, which SCDA would not have to pay absent the dual employment.

An employee in a non-exempt position shall not be approved for dual employment in another non-exempt position either within SCDA or with another agency. Exception: If the employee's regular rate of pay is not increased and if the dual employing agency agrees to pay or reimburse SCDA for any overtime payment resulting from all hours worked by the employee in excess of 40 hours in a workweek, non-exempt employees may be considered for dual employment. Exempt employees will not be approved for dual employment in any position that would be classified as non-exempt under the Fair Labor Standards Act.

An employee in a non-exempt position will not be approved for dual employment in an exempt position either within SCDA or with another agency unless those hours worked as an exempt employee occur after the conclusion of normal duties of SCDA workweek

Dual employment will not be approved for any employee who could create a possible overtime situation during the normal course of duties.

## **IV. CONFLICT OF INTEREST**

Employees may not accept work or remuneration under dual employment that could be reasonably construed as a conflict of interest. Acceptance without proper prior written approval of work assignment or remuneration that is found to be a conflict of interest shall be grounds for disciplinary action up to and including termination.

## **V. APPROVAL OF DUAL EMPLOYMENT**

It is the responsibility of the Assistant Commissioners of SCDA to determine the appropriateness of the dual employment request. Dual employment agreements within these policies shall be approved by the Assistant Commissioners and submitted to Human Resources for approval on the official Dual Employment Form. Each request for approval of dual employment shall apply to only one specific dual employment situation, and no compensation shall be paid prior to approval. Dual Employment shall be limited in duration to the specific time frame approved and cannot exceed twelve (12) months or extend beyond fiscal years. Modifications to or extensions of approved dual employment agreements in effect must be resubmitted to Human Resources for approval.

## **VI. GENERAL PROVISIONS**

Dual employment should not be used to provide higher continuing salaries than those approved by SCDA. An employee engaged in dual employment must satisfy the requirements of the established hours of work for the employing (primary) agency.

All dual employment, including related leave records, are subject to audit by appropriate authorities.

Employees must be on approved annual leave for dual employment work to be performed during SCDA normal working hours.

Dual employment cannot begin without the prior written approval of Human Resources. A Dual Employment Form must be submitted.

No employee can receive additional compensation for services performed during scheduled hours of work (this includes mealtimes and breaks) for their primary, full-time position. An employee's work schedule will not be altered or revised to provide time to perform dual employment duties.

Modifications to, or extensions of, approved dual employment agreements in effect must be resubmitted for further consideration by the requesting (secondary) agency.

Approval for dual employment may be withdrawn if the efficiency, effectiveness, or productivity of the employee deteriorates.

## **VII. COMPENSATION**

The maximum compensation that an employee will be authorized to receive for dual employment within SCDA a fiscal year shall not exceed 30% of the employee's annualized salary for the fiscal year. Compensation for dual employment outside SCDA shall be determined by the requesting (secondary) agency. The employing (primary) agency is responsible for ensuring that dual employment payments made to its employees within one fiscal year do not exceed the 30% limitation. The Department of Administration's Division of Human Resources is authorized to approve exceptions to the 30% limitation based on written justification provided by the agency.

Employees are not 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, and holidays. However, dual employment compensation is subject to such tax and retirement deductions, as current law requires.

Travel and subsistence paid by the requesting (secondary) agency shall be in compliance with provisions of the annual Appropriations Act and any regulations promulgated by SCDA and/or the Comptroller General's Office.