

Information about secondary employment rights

for professors, professors' representatives and deputies as well as for
academic personnel in public service (Beamten)

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1. Differentiation of secondary employment, leisure activities, business and external study trips

A) Secondary employment

The concept "secondary employment" includes secondary appointments and sidelines.

Secondary appointments are activities carried out on the basis of a public sector service or appointment relationship and cover a range of tasks which do not belong to the main appointment. A secondary appointment can only be carried out in the area of public service.

A sideline is any other employment which does not belong to the main appointment, whether as public service or not.

B) Leisure activity / Hobby

The term sideline does not include activities which in common opinion belong to the area of personal life and are on such a small scale that they cannot be considered to have any detrimental effect on the interests of service, e.g. typical leisure activities such as sport, hobbies or the membership of private clubs, which have no commercial orientation, e.g. sports or dance clubs.

C) Notifiable exceptions

The following activities are not considered as secondary employment, according to Article 81, Paragraph 2, Sentence 2, BayBG, but where notification must be made before taking them up:

- Assumption of public offices, e.g. in the fire service, in a local or town council, as an honorary mayor or judge (compare § 3 BayHSchLNV)
- non-remunerated guardianship, care of relatives

D) Educational trips

An educational trip is when the event attended serves education and further training because it furthers the ability of the public servant to carry out their work. They serve further vocational training, expand vocational knowledge, skills and experience and the adaptation to altered service requirements alongside the preparation for new and different tasks. That includes for example participation without active involvement (for example, poster presentation, charring groups) in subject-specific courses, symposiums, lectures, congresses or specialised workshops.

E) Business trips

Business trips mean travel away from the normal place of work in order to complete professional business as a result of written directive or which have been approved. For the speedy processing of an application for a business trip, exact information about the purpose of the trip is necessary. **The authorisation of a business trip and thus a possible reimbursement are not possible if the trip is undertaken by reason of secondary employment.**

Further information about business and external study trips, in particular about travel expense allowances and insurance cover, can be found in the relevant leaflet on the homepage of the university at <http://www.uni-regensburg.de/verwaltung/formulare/dienst-fortbildungsreisen/index.html>.

Should the legal classification of the planned activity not be clear, please get in touch with the personnel department.

2. Official duties

In addition to general official duties (e.g. according to Article 9, Article 16 and Article 21, BayHSchPG), the following activities are also normally included in your **main duties**, dependent on status.

- Holding courses in your subject in all study programmes and other course programmes, and the implementation of decisions made by the bodies of the university for guaranteeing the teaching range offered
- The creation of a manuscript for the publication of academic research results (this is valid until the manuscript is completed, in accordance with § 6 Paragraph 2 BayHSchLNV).
- Specialised lectures including participation in specialist discussions and interviews
- Acquisition of third-party funding and carrying out research so funded within the context of official duties
- Expert opinions which are assigned to Universität Regensburg through law, legal orders or by order of the Minister of Science
- Expert opinions for Universität Regensburg and appointment procedures vis-à-vis other institutes of higher education
- Collaboration in internal and state examinations
- Participation in external doctoral procedures and examinations
- Collaboration in external appointment committees
- Collaboration in the administration of the university
- Execution of responsibilities in academic reform and study guidance
- Collaboration in suitability assessment and selection procedures for university entry and the admission of students

3. Secondary employment where permission is not necessary (Article 82 BayBG)

According to Article 82 BayBG certain types of secondary employment are classified as not needing permission. These include in particular:

- Activities performed at the request, suggestion or instigation of the university or the Free State of Bavaria
- Unpaid activities, whereby there is nothing against the provision of appropriate compensation for expenses (for exceptions compare Article 82, Paragraph 1, Sentence 1, No. 2, Letters a)-c) BayBG)
- Voluntary activities for not-for-profit (e.g. sporting, scientific or other cultural), charitable, and church institutions and organisations, if the payment made for these does not exceed € 1,848 p.a.
- The management of your own assets
- Activities as an author, academic or artistic activities
- Non-specialised lectures (which are not given in the context of the main office held)
- A teaching assignment, as long as it is carried out on the suggestion or at the instigation of the university or the Free State of Bavaria
- Professors acting as referees, as long as this is related to their teaching or research duties (compare with §7 BayHSchLNV)
- Collaboration in accreditation procedures for DFG, AQAS, ACQUIN etc.
- Activities for the following organisations, so long as they are carried out at the request, on the suggestion or instigation of the employer:
 - Akademien der Wissenschaften
 - Akkreditierungs-, Zertifizierungs- und Qualitätssicherungsinstitut ACQUIN e.V.
 - Alexander-von-Humboldt-Stiftung
 - Arbeitsgemeinschaft industrieller Forschungsvereinigungen "Otto von Guericke" e.V.
 - Deutsche Akademie der Naturforscher LEOPOLDINA
 - Deutsche Bundesstiftung Umwelt
 - Deutsche Forschungsgemeinschaft (DFG)
 - Deutscher Akademischer Austauschdienst e.V. (DAAD)
 - Deutsches Institut für Normung e.V. (DIN)
 - Institutions of the "Blaue Liste"

- Fraunhofer-Gesellschaft zur Förderung der angewandten Forschung e.V. and all its institutes and other research institutions
- Hermann von Helmholtz-Gemeinschaft Deutscher Forschungszentren and all the research institutes that belong to it
- Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V. and all its institutes and other research institutions
- Stifterverband für die Deutsche Wissenschaft e.V.
- Stiftung CAESAR
- Studienstiftung des Deutschen Volkes e.V.
- Volkswagen-Stiftung
- Wissenschaftsrat
- An activity, e.g. on an advisory board, executive board, or board of a scientific association, so long as this is related to the main office held
- An activity representing professional interests in unions, professional associations or in self-help institutions for public servants

The commencement of secondary employment which does not need authorisation is still notifiable. In order to facilitate the assessment of any negative impact on service interests and to uphold trust-based cooperation, the personnel department requests notification in advance of the commencement of extensive secondary employment even if it needs no authorisation. The notification must include the temporal extent of the secondary employment, the expected time frame and the thematic content. There is a form for notifications on the university website.

4. Generally authorised secondary employment (§§ 11, 12 BayHSchLNV)

The general authorisation of a secondary employment is only valid if the timeframe (see no. 7) is adhered to and if work and service interests are not negatively affected. All generally authorised secondary employments are notifiable and there is a form for that purpose on the university's homepage. Among other situations, authorisation is considered granted:

- if all secondary employment is carried out outside working hours and the remuneration for all secondary employment which is subject to authorisation does not amount to more than € 1,848 per annum
- for teaching and examination employment of up to 4 hours per week per semester at non-state institutes of higher education, at the Hochschule für Politik (university for political science), at the Academy for Administration and the Academy for Commerce and at local schools.
- For professors, authorisation is additionally considered granted for
 - the ("simple") publication and editorship of the academic printed matter of others
 - the appearance as defence counsel at court and as agents in lawsuits at certain courts and the provision of extra judicial legal services according to § 5 of the Legal Services Act (Rechtsdienstleistungsgesetz)
 - the reimbursement for expert opinions which are created by academic staff under the personal guidance of the professor
 - the assumption of tasks for domestic customers in the framework of technology transfers, which are supervised by a contact point established at the institute of higher education or a comparable state institution.
 - the assumption of tasks for domestic customers in the framework of technology transfers, which are supervised either by an institution for technology transfer which is under the authoritative influence of the state.

5. Secondary employment subject to authorisation

All secondary employment which is subject to authorisation or not generally considered authorised is subject to authorisation. Authorisation must be applied for before commencement of the employment. There is an application form on the homepage of the university.

Retrospective authorisation is not possible. The nature and duration of the activity, the weekly time needed, the customer and the expected level of remuneration

must be stated. Authorisation must be given individually for each case of secondary employment. Subsequent changes to the facts stated in the application for authorisation must be reported immediately and in writing.

Secondary employment subject to authorisation is, for example:

- Paid employment
- Consulting work in return for payment
- Teaching activities in return for payment (if these are not exempt from authorisation or generally considered authorised)
- A teaching assignment, as long as it is carried out on the suggestion or at the instigation of the university or the Free State of Bavaria (otherwise see no. 3)
- Freelance work in an office
- Joining the governing body of a company (executive board, supervisory board, administrative board, advisory board), even where the company serves a charitable purpose, with the exception of a cooperative.
- Activity as the director of a company
- Commercial activity, carrying out a profession or participation in such an activity
- Activities for associations, institutions or companies whose capital is predominantly and at least directly in the public sector, or which are financed predominantly by the public sector
- Work for international or supranational institutions in which a domestic legal entity under public law or its association is involved (if this activity is not within the framework of the main office held)
- The assumption or assignment of a part-time office according to Article 6, Paragraph 1, Sentence 3, No. 1 BayHSchPG
- Guardianship, supervision, care or the execution of a will of "non-relatives".

6. Prerequisites applicable for performing secondary employment

Official interests must not be impaired by the performance of any secondary employment. Such an impairment exists as a rule if

- the **usual times** are exceeded (see no. 7); if it becomes clear that the payments and non-cash benefits from activities subject to authorisation exceed 30% of the annual salary - based on full-time employment -, the grounds for refusal (exceeded times) will be especially examined
- the secondary employment could conflict with the public servant's duties
- the secondary employment is carried out in a matter in which the authority which the public servant belongs to is involved or could become involved
- the secondary employment could influence the neutrality or impartiality of the public servant
- the secondary employment could lead to a substantial limitation of future availability or commitment
- the secondary employment could be detrimental to the reputation of the public administration.

If necessary, authorisation will be given for three years, as a rule; at the most however, for five years. If the secondary employment is carried out for longer than this, a new application must be made.

Care is to be taken at all times, that there is a clear distinction between the main office held and the secondary employment. The secondary employment may not be carried out using the official name or logo of Regensburg University, which give rise to the impression that it is an official activity. Authorisation with a contractual agreement is necessary for the use of the Regensburg University logo.

This means that for all secondary employment, including **speaking and consultancy contracts**, the **private address** and if relevant the **private bank details** must always be used.

7. Secondary employment and working hours

Secondary employment may in principle only be carried out outside the regular working hours. This does not apply to secondary employment which the public servant carries out at the request, on the suggestion or instigation of the employer or in which the immediate superior has acknowledged a service interest in the acceptance of the employment. Furthermore, exceptions can be made if there is a public interest, if no official interests speak against them and if the working hours thus missed are made up for.

For full-time employees and in principle for part-time employees, the time commitment due to one or more secondary positions must not exceed **eight hours**.

Professors can use one fifth of their individual weekly working hours for secondary employment. This corresponds to one **individual working day**. Teaching, consulting hours, the collaboration on examinations etc, however, must not be compromised.

8. Obligation to surrender income from secondary employment in public service

Independently of the above-mentioned authorisation procedure for secondary employment and the utilisation of institutions, personnel or material of the university (no. 9), payment for one or several secondary positions which are carried out in the same or corresponding service or on the suggestion or instigation of the university or the Free State of Bavaria is in principle to be surrendered, if it exceeds the maximum amount for the calendar year. Further information can be found in the attachment

9. Utilisation of equipment, personnel or material of the university

Independently of the above-mentioned authorisation procedure and the obligation to surrender income (no. 8), the utilisation of equipment, personnel or material of the university for the carrying out of secondary employment requires advance authorisation by the university and a public or academic interest in the exercise of the secondary employment. University personnel may, in principle, only be tasked within their working hours and in the context of their usual tasks. All material resources are considered equipment, in particular offices and their equipment and the machines, apparatus and instruments in those rooms. Books and other academic works do not count as equipment.

An appropriate fee must be paid for the use of equipment, personnel or material belonging to the university. Payment of a fee can be dispensed with according to § 23, Paragraph 1, Sentence 3, BayHSchLNV if

- it concerns activities performed at the request, suggestion or instigation of the university or the Free State of Bavaria
- or if payment for the secondary employment does not amount to more than a total of € 1,230 in the calendar year, or
- if it only concerns the use of low-value materials.

The university asks each spring whether equipment, personnel or material belonging to the university were utilised in the preceding calendar year.

10. Legal basis

- Article 9, Article 16 and Article 21, Bayrisches Hochschulpersonalgesetz (BayHSchPG).
- § 40 Beamtenstatusgesetz (BeamtStG)
- Articles 81 to 86, Bayrisches Beamtengesetz (BayBG)
- Bayerische Hochschullehrernebenbeschäftigungsverordnung (BayHSchLNV)

Information

For the calculation of payment for secondary employment and the use of equipment, personnel or material of the university whilst carrying out secondary employment

1.: Utilisation of equipment, personnel or material of the university

All material resources **are considered equipment**, in particular offices and their equipment and the machines, apparatus and instruments in those rooms. Books and other academic works do not count as equipment.

2.: Payment from secondary employment

Under number 2 only those payments⁽¹⁾ from secondary employment are to be declared which are in the public service sector⁽²⁾ or on an equal footing to it,⁽³⁾ or carried out at the suggestion or instigation of the employer.

Payments for the following are not to be declared:

- a) teaching work
- b) exam assistance
- c) activities as an author, academic or artistic activities or as a speaker
- d) activities in the field of applied or scientific research
- e) freelance consultancy by professors and junior professors in connection with teaching or research work
- f) activities as an expert in court or for the public prosecutor's office
- g) consultancy activities of doctors, dentists or veterinary surgeons for insurance services or for other legal persons under public law
- h) carrying out medical, dental or veterinary tasks by persons named under the letter g), for whom fees must be paid according to the schedule of fees,
- i) employee inventions
- j) activities which are carried out exclusively during leave of more than three months granted with discontinuance of the salary or in particular exceptions of more than one month.
- k) activities which are necessary for the maintenance of operational services, as far as the Ministry of State finds an exemption from the duty to declare necessary
- l) the filling of a post as a representative for an academic public servant at an institute of higher education
- m) activity as a professors' representative
- n) activities implementing state programmes and in state-funded organisations, which serve to promote innovation or the transfer of technology
- o) activities as a legal representative in court, commissioned by a corporation under public law

Number 2 on the form is generally only to be admitted if the sum of the payments received from one or more secondary activities exceeds the following maximum amounts according to § 16, paragraph 3, sentence 1, BayHSchLNV in the current calendar year (**Exceptions: see⁽⁴⁾**):

- a) € 4,908.00 for public servants of the pay grades A 13 to A 16, C 1kw to C
- b) € 5,520.00 for public servants of the pay grades C 4kw, W 3

⁽¹⁾ **Payment for secondary employment** is any reward in money or non-cash benefits. Expenses which are demonstrably incurred in connection with the secondary employment are to be deducted from the remuneration. If a payment has been made for an activity which was carried out in the previous calendar year, this must be specifically identifiable as such. Payments for activities in several calendar years must be split up accordingly. If no declaration has been made in cases where payment is made after the relevant period for the previous calendar year, this must also be declared later.

⁽²⁾ **Secondary employment in the public sector** is any secondary employment for the Free State of Bavaria, a federal state, a municipality, a municipal association or other corporations, institutions or foundations under public law within federal territory or employment for associations of legal persons under public law. This also holds true when the activity is carried out on the basis of a contractual relationship. Employment for legally recognised religious communities and their associations does not count.

⁽³⁾ **Secondary employment in the public sector is equivalent to** secondary employment for

- a) associations, establishments or enterprises whose capital is indirectly or directly wholly or predominantly publicly owned or which are continuously wholly or predominantly financed from public funds.
- b) intergovernmental or supranational institutions in which a legal person or an organisation participates by the payment of contributions or grants or in other form.
- c) natural or legal persons or associations of persons under private law who serve the protection of the concerns of a legal person or an organisation.

⁽⁴⁾ **Exceptions:** in the case of payment for activities as a member of a supervisory or managing board or in any other such organ or body of an enterprise organised under private or public law or in the case of payment for activities for corporations, institutions or foundations under public law (minus documented deductible expenses), **Position number 2** of the form is to be answered with "yes", if the total payments **amount to more than 100 Euros in the calendar year.**