

Procedure: 4.3.2p6. [III.L.6]

Other Employment Procedure

Revised: March 16, 2016; October 29, 2014; January 9, 2013
Last Reviewed: March 16, 2016
Approved: June 1, 2007 (Procedure: Dual Employment)



I. PURPOSE:

The purpose of this procedure is to ensure that employees of the Technical College System of Georgia avoid any outside business activity or other employment relationship that creates or could be perceived as creating a conflict of interest with his/her assigned duties and responsibilities or the mission of the agency. In addition, the procedure is intended to ensure full compliance with the Fair Labor Standards Act. This procedure neither implies nor grants any employee the opportunity to initially engage in or continue an outside business activity or employment with another entity. Authorization to participate in these activities may, therefore, be denied or withdrawn, at any time.

In conjunction with the administration of this procedure, each applicant for employment is expected to truthfully disclose on his/her employment application whether he/she is currently employed in a full- or part-time capacity; whether he/she is currently employed with another State agency; whether he/she currently serves as a contractor or consultant for a fee or honorarium; and/or, whether he/she currently operates a personal business (i.e. is self-employed). Applicants are also expected to disclose whether they intend to continue such employment or business activities.

II. RELATED AUTHORITY:

Fair Labor Standards Act of 1938, as amended
Attachment: 4.3.2p1.a1. Governor Deal's January 2011 Executive Order on Ethics
O.C.G.A. § 45-10-22
O.C.G.A. § 45-10-23
O.C.G.A. § 45-10-24
O.C.G.A. § 45-10-26
Procedure: 4.1.4p. Categories of Employment
Procedure: 4.3.2p1. Ethical Responsibilities
Procedure: 4.3.2p3. Gifts, Honoraria, and Expenses
Procedure: 4.3.2p4. Standards of Business Conduct
Procedure: 4.2.1p. Working Hours, Overtime, and Compensatory Time State Personnel Board
Rule 7 – Outside Employment

III. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia

IV. DEFINITIONS:

Agency: for purposes of this procedure the term is defined as any state agency, department, board, bureau, commission, committee, office or instrumentality of the State of Georgia other than a political subdivision, including the Technical College System of Georgia and its colleges.

Appointing Authority: Within Georgia State Government, the person or persons authorized by law or delegated authority to make appointments to fill positions to include the Commissioner of the Technical College System of Georgia and technical college presidents.

Business: any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust, or other legal entity.

Exempt Employee: an employee who is not covered by or subject to the minimum wage and overtime provisions of the Fair Labor Standards Act based on the application of established exemption guidelines.

Family: spouse and dependents.

Full-time Employee: any individual who works thirty (30) hours or more per week for any state agency and whose appointment is for a period of nine (9) or more calendar months.

Limited Powers: those powers other than statewide powers.

Non-Exempt Employee: an employee who is covered by or subject to the minimum wage, overtime, and recordkeeping provisions of the Fair Labor Standards Act.

Other Employment: includes working as an employee for any business or organization, contracting to provide a service for a fee, serving as a consultant for a fee or honorarium, or self-employment. *NOTE:* other employment also includes service in any elected or appointed public office (i.e., federal, state, or local), or a position in a political party or organization. Guidelines governing such service are outlined in the TCSG Procedure governing Political Activities and Election Campaigns.

Primary Agency: the Technical College System of Georgia (TCSG) System Office, a technical college, or other State of Georgia agency which employs an individual at the time of his/her request to obtain other/secondary employment. *NOTE:* for pay delivery purposes, the term is also defined as the TCSG organizational work unit having primary control and responsibility for the employee's benefits and salary administration as determined by the employee's lowest record number in the PeopleSoft HCM System.

Part-time: any amount of work other than "full-time" as the term is defined in this procedure.

Public Official: any person elected or appointed to a public office that has administrative and discretionary authority to receive and expend public funds and to perform certain functions concerning the public which are assigned to him/her by law. For purposes of financial disclosure and the reporting of business transactions, the Commissioner is considered a Public Official.

Secondary Agency: the TCSG organization work unit or other State of Georgia agency seeking to employ, on a full- or part-time basis, the services of an employee currently working for another State agency or, as applicable, the TCSG System office or a technical college.

Secondary Employer/Employment: an employee's secondary place of employment.

Substantial Interest: direct or indirect ownership of more than 25% of the assets or stock of any business.

Transact Business: to sell or lease any personal property, real property, or services on behalf or oneself or on behalf of any third party as an agency, broker, dealer, or representative and/or to purchase surplus, real, or personal property on behalf or oneself or on behalf of any third party as an agent, broker, dealer, or representative.

V. ATTACHMENTS:

- 4.3.2p6.a1. Initial Request for Approval of Other Employment
- 4.3.2p6.a2. Request to Continue Other Employment
- 4.3.2p6.a3. Request for Approval of Other Employment for Adjuncts
- 4.3.2p6.a4. State Business Transaction Disclosure Report
- 4.3.2p6.a5. PeopleSoft Employment Records Worksheet
- 4.3.2p6.a6. FLSA Designation Worksheet
- 4.3.2p6.a7. Overtime Calculation Worksheet
- 4.3.2p6.a8. Frequently Asked Questions

VI. PROCEDURE:

A. General Provisions:

1. An employee of the Technical College System of Georgia's (TCSG) System Office or an associated technical college may, consistent with the provisions of this procedure and established conditions, pursue, hold, or continue secondary employment.
2. All state agencies are considered one employer for purposes of compliance with the Fair Labor Standards Act Regulations. *NOTE:* State Authorities (e.g. Georgia World Congress Center, Georgia Ports Authority); Community Services Boards; and, colleges and universities associated with the University System of Georgia are considered separate employers.
3. An employee must report any full or partial ownership of a company if that company is currently transacting business with or is seeking to transact business with the TCSG System Office or any technical college. *NOTE:* a "company" is considered a "business" as that term is defined above.
4. With the exception of service as an Interim President or temporary appointment to the System Office, a technical college president may not be employed in any other capacity.
5. Pursuant to applicable provisions of the Governor's Executive Order on Ethics, the Commissioner (as a Public Officer) is prohibited from any ongoing dual employment.
6. Provided a secondary employment relationship does not violate the provisions of this procedure, a newly hired employee who desires to continue employment with a previous employer; desires to continue to serve as a contractor or consultant; or, who desires to continue to operate his/her own business, may be authorized to do so for a period not to exceed six (6) calendar months after employment with the System Office or a technical college. Before this time period elapses, an employee must submit a Request to Continue Other Employment (See Attachment [4.3.2p6.a2](#)) and receive written approval from the appropriate official.

7. An employee who has previously received written approval to engage in secondary employment pursuant to the provisions of this procedure may not continue such employment while on authorized sick leave, authorized family leave with or without pay or, on authorized leave without pay without first submitting Attachment [4.3.2p6.a2](#) and obtaining written approval .
8. Any secondary employment request and authorization for a full-time or adjunct faculty member engaged in the delivery of academic instruction or teaching responsibilities with any public or private sector employer (to include another TCSG technical college or a college or university associated with the University System of Georgia) will be limited to a single academic term.
9. Any employee who violates the provisions of this procedure or corresponding federal or state law may be subject to disciplinary action up to and including dismissal.
10. Any exceptions to the terms of this procedure must be requested by the president and approved in writing by the Commissioner or designee. Any questions concerning the interpretation and/or application of these provisions should be directed to the System Office Director of Human Resources.

B. Prohibited Secondary Employment/Business Transactions

1. An employee must avoid any secondary employment relationship that could create an actual or perceived conflict of interest with his/her employment. Further, a secondary employment may not interfere/conflict with an employee's ability to effectively perform his/her assigned duties and responsibilities.
2. Employees are specifically prohibited from the following activities:
 - a. performing duties/tasks/activities for a secondary employer while "at work". Examples include the use of such communication devices/office equipment as a fax, copier, telephone or cellular device, computer, laptop, tablet, or any state-issued device;
 - b. selling products or services to other employees;
 - c. being "on call" for other employment;
 - d. engaging in any business activity/transaction involving the State of Georgia or the TCSG from which the employee may benefit financially except through his/her regular compensation provided by the System Office or technical college; and/or,
 - e. engaging in any business activity which results in a breach of confidentiality to include the falsification, destruction, inappropriate and/or unacknowledged collection, release, or other misuse of TCSG data, information or records pertaining to students, employees, or System Office or technical college operations or administration.
3. It is unlawful for a full-time employee, for himself/herself or on behalf of any business, or for any business in which the employee or member of his/her family has a substantial interest, to transact any business with the System Office or any technical college.

4. It is unlawful for a part-time employee, for himself/herself or on behalf of any business, or for any business in which the employee or member of his/her family has a substantial interest, to transact any business with the System Office or any technical college. Exceptions to this provision are as follows:
 - a. any transaction made pursuant to sealed, competitive bids;
 - b. any transaction when the amount of a single transaction does not exceed \$250.00 and when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;
 - c. any transaction involving the lease of real property to or from any agency if such transaction has been approved by the State Properties Commission; and,
 - d. the purchase of surplus state property at auction.
5. An employee who holds a non-exempt position is prohibited from working for any other TCSG work unit or state agency.
6. An applicant who holds a non-exempt position with another state agency and who is seeking secondary employment with the System Office or a technical college shall not be eligible for employment.
 - a. This prohibition is not applicable to those applicants who work with other state agencies who agree upon hire to resign their positions for primary employment with the System Office or a technical college.
 - b. Current employees who were hired before the effective date of this procedure may continue their employment provided the provisions requiring written authorization and the minimum rate and delivery of pay have been satisfied. Upon any break in service, however, the provisions of this procedure shall apply for their re-hire.

C. Fair Labor Standards Act Considerations and Accompanying Conditions Governing Employees' Secondary Employment :

1. Adjunct faculty are considered to be exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act and the accompanying Salary Basis Test. As such, Adjunct faculty are eligible to work in that capacity for more than one technical college during an academic term only with the written approval of each technical college president.
2. Both TCSG colleges/work units must be in compliance with the TCSG Procedure governing Instructional Staff Work Assignments. Both appointing authorities must approve the appointment, in writing, and agree that the total number of hours worked for both units will not exceed 29 hours per week.
3. If an adjunct faculty member works simultaneously for multiple technical colleges, the Human Resources Director for each technical college must work together to ensure that hours worked does not exceed the maximum allowable hours and that pay is delivered appropriately.

D. Secondary employment authorization for any employee must be reviewed immediately should the employee change positions within the college or transfer to another TCSG work unit. Requesting Other Employment:

1. Before accepting other employment, an employee must first request approval by submitting using Attachment [4.3.2p6.a1](#) to the Human Resources Director.
2. If the request is for secondary employment with another state agency, the Human Resources Director must certify in writing the employee holds a position that is not covered by or subject to the minimum wage and overtime provisions of the Fair Labor Standards Act (i.e. "exempt") and must also obtain written certification from the other state agency that the secondary position is exempt. Absent these certifications, the request may not be approved.
3. Once certified, the Human Resources Director will forward the request to the immediate supervisor and manager for review to ensure that the proposed employment does not:
 - a. conflict with the employee's currently assigned duties and responsibilities; and,
 - b. does not present an actual or perceived conflict of interest.
4. If the request complies with all applicable provisions of this procedure, the supervisor may recommend approval and forward the form through his/her reviewing manager to the appointing authority or designee for a final determination. *NOTE:* pursuant to applicable provisions of Categories of Employment Procedure,
5. If the request is denied, the reason(s) for the decision should be noted on the request form. A copy of the form should be provided to the employee with the original placed in the employee's official personnel file.
6. If approval is granted, an employee's authorization to engage in the other employment will continue until employment with that employer ends. Authorization may be rescinded should the secondary employment interfere with the ability to perform primary duties, become a conflict of interest, or conflict with the mission of the agency. *NOTE:* as provided in the Categories of Employment procedure, any secondary employment authorization for a full-time or adjunct faculty member engaged in the delivery of academic instruction or teaching responsibilities with any public or private sector employer (to include another TCSG technical college or a college or university associated with the University System of Georgia) will be limited to a single academic term. To provide sufficient time for review, the request should be submitted well in advance of the identified academic term.
7. If there are any changes in an employee's job responsibilities, established work/course hours, or FLSA designation with the primary or secondary employer after a request has been approved, the employee must submit Attachment [4.3.2p6.a2](#). (Request to Continue Other Employment) to the Human Resources Director for review and approval.
8. An employee may not begin other employment prior to obtaining written approval from the Commissioner, technical college president or his/her designee.

E. Pay Delivery Involving a Full-time TCSG Employee Working Part-Time Secondary Employment in the System Office or at Another Technical College:

1. When circumstances warrant and in addition to the Completed Request for Approval of Other Employment Form, a memorandum of understanding should be signed between the System Office and the technical college or, as applicable, between technical colleges when a full-time exempt employee is approved to work part-time with another TCSG work unit. The agreement should contain the expected length of part-time service, compensation for such service, and any other identified terms and conditions of employment.
2. Payment for all hours worked in both the full-time and the part-time, hourly-paid capacities will be delivered to the employee by the primary employer.
3. The secondary employer will then be responsible for reimbursing the primary employer for costs associated with the hours worked during the part-time employment.
4. Reimbursements must include the employer portion of fringe benefits and expenses provided to the employee (e.g. Medicare, OASDI, health insurance and, as applicable, retirement contributions);
5. The secondary employer will pay any other expenses incurred during an employee's part-time employment directly to the employee. (e.g., travel reimbursements, training conference costs) All such payments will be consistent with the provisions of established Statewide Travel Regulations.

G. Business Transactions Disclosure Requirements:

1. An employee who has transacted business with the State of Georgia or any agency of the State of Georgia must electronically file a State Business Transaction Report (Attachment [4.3.2p6.a4.](#)) with the Georgia Government Transparency and Campaign Finance Commission prior to January 31 of each calendar year.
2. Neither the Commissioner (as a Public Officer) nor any other TCSG employee is required to file the State Business Transaction form if no transaction(s) have taken place.
3. Any employee who has transacted business with the State of Georgia or any agency of the State of Georgia and who fails to file a State Business Transaction Report by the required deadline date is subject to the penalties referenced in the Attachment [4.3.2p6.a4.](#)

VII. RECORD RETENTION:

Forms and other documents associated with an employee's request for secondary employment shall be maintained in his/her official personnel file.

Documentation of payments between the System Office and technical college(s) shall be maintained by the System Office of Human Resources and each technical college's Office of Human Resources and Business Office in accordance with the State of Georgia's published retention schedule for the particular type of document.

time position is increased and the adjustment results in the rate of pay for service as adjunct faculty falling below the time and a half threshold.

5. If an individual works in a part-time, non-exempt position with another State agency and is subsequently appointed as adjunct faculty in a technical college, his/her rate of pay and method of compensation will be based on which agency is considered the primary employer (i.e., at which agency does the employee work the most hours). If the technical college is considered the primary employer, the individual may be paid lump sum as the job of adjunct faculty is usually considered to be exempt from the Fair Labor Standards Act. If the other State agency is considered the primary employer, the individual must be paid an hourly rate and the provisions of Paragraph VI.D.3. are applicable in setting and managing the individual's rate of pay.
6. The provisions of Paragraphs VI.D.2 through VI.D.5. do not pertain to the appointment of an individual working for a state authority, a Community Services Board, or a college or university associated with the University System of Georgia.

E. Request for Other Employment:

1. Before accepting other employment, an employee must first request approval by submitting the Request for Approval of Other Employment form (Attachment 4.3.2p6.a1.) to his/her local Human Resources Director for review of any FLSA concerns listed in Paragraph VI.C.
2. If the request complies with the provisions of Paragraph V.C, it is then presented to the immediate supervisor for review in conjunction with the reviewing manager to ensure that the proposed employment does not:
 - a. conflict with the employee's currently assigned duties and responsibilities; and,
 - b. does not present an actual or perceived conflict of interest.
3. If the request complies with the provisions of this procedure, the supervisor will recommend approval and forward the form through his/her reviewing manager to the Commissioner, technical president, or his/her designee for review and a final determination. NOTE: pursuant to applicable provisions of Categories of Employment Procedure (4.1.4p.), adjunct faculty are eligible to work for more than one technical college during an academic term only with the written approval of each technical college president on Attachment 4.3.2p6.a3., Request for Approval of Other Employment for Adjuncts.
4. If the request is denied, the reason(s) for the decision should be noted on the request form. A copy of the form should be provided to the employee with the original placed in the employee's official personnel file.
5. If approval is granted, an employee's authorization to engage in the other employment will continue until employment with that employer ends. NOTE: as provided in the Categories of Employment procedure, any secondary employment authorization for a full-time or adjunct faculty member engaged in the delivery of academic instruction or teaching responsibilities with any public or private sector employer (to include another TCSG technical college or a college or university associated with the University System of Georgia) will be limited to a single academic term. To provide sufficient time for review, the request should be submitted well in advance of the identified academic term.
6. If an employee's job responsibilities and/or established work hours with the secondary employer as outlined in the original request for approval change

significantly, the employee must submit Attachment 4.3.2p6.a2. (Request to Continue Other Employment) for review and approval.

7. An employee may not begin other employment prior to obtaining written approval from the Commissioner, technical college president or his/her designee.

F. Pay Delivery Involving a TCSG Employee Working Part-Time in the System Office or at Another Technical College:

1. When circumstances warrant and in addition to the Completed Request for Approval of Other Employment Form, a memorandum of understanding should be signed between the System Office and the technical college or, as applicable, between technical colleges when a full-time employee is approved to work part-time with another TCSG work unit. The agreement should contain the expected length of part-time service, compensation for such service, and any other identified terms and conditions of employment. NOTE: neither the System Office nor a technical college will charge inter-agency fees associated with the part-time employment or temporary duty assignment.
2. With respect to payment for hours worked/services rendered, the following provisions will apply to employment relationships involving: a full-time System Office employee working part-time for a technical college; a full-time technical college employee working part-time for another technical college; or, a full-time technical college employee working part-time in the System Office:
 - a. payment for all hours worked in the part-time, hourly-paid capacity will be delivered to the employee by the System Office or technical college providing the full-time employment (i.e., the primary agency). NOTE: an employee whose full-time position is considered FLSA exempt and who is serving as adjunct faculty may be paid in one or more "lump sum" installments as outlined in a memorandum of letter of appointment;
 - b. all payments must be remitted to the employee's full time employer, i.e., the System Office or technical college. Such payments must include the employer portion of fringe benefits and expenses provided to the employee including Medicare, OASDI, health insurance and, as applicable, retirement contributions;
 - c. expenses incurred during an employee's part-time employment (e.g., travel reimbursements) will be paid directly to the employee by the System Office or technical college providing the part-time employment. All such payments will be consistent with the provisions of established Statewide Travel Regulations.
3. Unlike the provisions outlined in Paragraph VI.F.2., a part-time hourly-paid employee working in another part-time capacity either in the System Office or in another technical college shall be paid directly by each part-time employer for all hours worked. The only exception to this provision involves a part-time employee working for two technical colleges and these colleges are on differing pay schedules (i.e., monthly vs. semi-monthly payroll). In this scenario, the college with the lowest PeopleSoft record will bill the other college in a manner outlined in Paragraph VI.F.2. NOTE: if an adjunct faculty member or other part-time employee works simultaneously for multiple technical colleges, the Human Resources Director at each technical college should work closely together to ensure that taxes paid on behalf of the employee and employer remain in balance.

G. Pay Delivery Involving a TCSG System Office or Technical College Employee Who Also Works in Another State Agency:

A System Office or technical college employee who works in a full- or part-time capacity for another state agency shall be paid directly by that agency for the full- or part-time service.

H. Pay Delivery Involving an Employee of Another State Agency Who Also Works in the TCSG System Office or in a Technical College:

An employee who works in another state agency in a full- or part-time capacity and who also works in the System Office or in a technical college will be paid directly by the System Office or the technical college for his/her service to the System Office or technical college. Compensation shall for service as adjunct faculty shall be delivered in a manner consistent with the provisions of this procedure and is based on his/her employment status w/ the other employing agency (i.e., full- or part-time) and FLSA status (exempt or non-exempt).

I. Business Transactions Disclosure Requirements:

1. Pursuant to the provisions of O.C.G.A. § 45-10-26 and as outlined in Paragraph VI.B.3. and VI.B.4. an employee who has transacted business with the State of Georgia or any agency of the State of Georgia must electronically file a State Business Transaction Report with the Georgia Government Transparency and Campaign Finance Commission prior to January 31 of each calendar year.
2. Neither the Commissioner (as a Public Officer) nor any other TCSG employee is required to file the State Business Transaction form if no transaction(s) have taken place.
3. Any employee who has transacted business with the State of Georgia or any agency of the State of Georgia and who fails to file a State Business Transaction Report by the required deadline date is subject to the penalties referenced in attachment 4.3.2p6.a4.

VII. RECORD RETENTION:

1. Forms and other documents associated with an employee's request for secondary employment shall be maintained in his/her official personnel file.
2. Documentation of payments between the System Office and technical college(s) shall be maintained by the System Office of Human Resources and each technical college's Office of Human Resources and Business Office.

(4.3.2p6.a1. ATTACHMENT)

INITIAL REQUEST FOR APPROVAL OF OTHER EMPLOYMENT

EMPLOYEE NAME:	DATE:
SYSTEM OFFICE WORK UNIT/TECHNICAL COLLEGE:	JOB TITLE/FLSA DESIGNATION (Exempt or Non-Exempt)
POTENTIAL OTHER EMPLOYER:	ADDRESS OF POTENTIAL OTHER EMPLOYER:
WORK HOURS:	DURATION OF EMPLOYMENT:
DESCRIPTION OF DUTIES/OBLIGATIONS AND JOB TITLE/FLSA DESIGNATION (Exempt or Non-Exempt):	

EMPLOYEE ACKNOWLEDGMENT

I have read the TCSG Other Employment Procedure and request approval to engage in other employment as described on this attachment. If my current position is considered non-exempt and if my potential other employer is a State of Georgia agency and the position I will be appointed to is also considered non-exempt, I have attached a written offer or employment which includes confirmation that all required conditions as provided in this Procedure have been agreed to. NOTE: I understand that I must seek and receive permission before continuing other employment for absences or projected absences of three (3) or more business days while on approved sick leave or while on an authorized leave of absence without pay.

If this request is approved, my other employment will not:

- Conflict or interfere with my current duties and responsibilities;
- Create the potential for improper decisions in System Office/technical college activities; or,
- Present an actual or perceived conflict of interest.

EMPLOYEE SIGNATURE:

DATE:

REVIEW AND APPROVAL

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Supervisor Signature:	Date:
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	President/Commissioner or Designee Signature:	Date:

Special Condition(s) Required for Approval (If applicable) or Reason(s) for Disapproval:

Human Resources FLSA Review:

- Approved
- Disapproved - Provide Reason(s) for Disapproval:

REQUEST TO CONTINUE OTHER EMPLOYMENT

EMPLOYEE NAME:	DATE:
SYSTEM OFFICE WORK UNIT/TECHNICAL COLLEGE:	JOB TITLE:
OTHER EMPLOYER:	ADDRESS OF OTHER EMPLOYER:
OTHER EMPLOYER WORK HOURS:	DATE OTHER EMPLOYMENT COMMENCED:
NATURE OF REQUEST (E.G., A SIGNIFICANT CHANGE IN ASSIGNED WORK HOURS) OR, AS APPLICABLE, THE DESCRIPTION OF NEWLY ASSIGNED DUTIES AND RESPONSIBILITIES AND FLSA DESIGNATION:	
EMPLOYEE ACKNOWLEDGMENT	
I have read the TCSG Other Employment Procedure and request approval to continue other employment as described on this attachment. NOTE: I understand that I must first seek and receive permission before continuing other employment for absences or projected absences of three (3) or more business days while on approved sick leave or while on an authorized leave of absence without pay.	
EMPLOYEE SIGNATURE:	DATE:
REVIEW AND APPROVAL	
The employee's immediate supervisor and appointing authority must review the employee's request to ensure that the request to continue other employment does not conflict with the reasons for which the leave of absence was granted or any incorporated terms and conditions of the leave.	
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Supervisor Signature: _____ Date: _____
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	President/Commissioner or Designee Signature: _____ Date: _____
Special Condition(s) or Reason(s) for Disapproval:	
Human Resources FLSA Review: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved – Provide Reason(s) for Disapproval:	

4.3.2p6.a3. ATTACHMENT

REQUEST FOR APPROVAL OF OTHER EMPLOYMENT FOR ADJUNCTS

EMPLOYEE NAME:	SEMESTER:	
PRIMARY TECHNICAL COLLEGE:	WORKLOAD UNITS:	
SECONDARY TECHNICAL COLLEGE:	WORKLOAD UNITS:	
SECONDARY TECHNICAL COLLEGE	WORKLOAD UNITS:	
LIST ANY SPECIAL ARRANGEMENTS:		
EMPLOYEE ACKNOWLEDGMENT		
<p>I have read the TCSG Other Employment Procedure and request approval to engage in other employment within the Technical College System as described on this attachment. I understand that the president of each college must approve this request prior to my beginning work with another college. A new request must be completed and approved each semester with a copy to Human Resources of each college.</p> <p>If this request is approved, my other employment will not:</p> <ul style="list-style-type: none"> • Conflict or interfere with my current duties and responsibilities; • Create the potential for improper decisions; or, • Present an actual or perceived conflict of interest. 		
EMPLOYEE SIGNATURE:	DATE:	
PRESIDENTIAL APPROVAL		
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	President* Signature:	Date:
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	President* Signature:	Date:
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	President* Signature:	Date:
<p>*Note that all hours worked within TCSG are combined under ACA to determine healthcare eligibility. Should the employee become eligible for healthcare benefits under ACA, the technical college with the lowest PeopleSoft record will pay the employer cost for the calendar year following the most recently ended measurement period.</p>		
Reason(s) for Disapproval (If applicable)		

**STATE BUSINESS TRANSACTION DISCLOSURE REPORT
FORM AND INSTRUCTIONS**

I. General Information

Section 45-10-25 of the Official Code of Georgia Annotated requires that all public officials and employees disclose, prior to January 31 of each year, all business transactions occurring during the previous calendar year which the public official or employee has transacted with the State of Georgia and any agency of the State of Georgia for himself or on behalf of any business, or any business in which such public official or employee or any member of his family has a substantial interest. Failure to disclose such business transactions will subject the public officer or employee or business to a civil fine not to exceed \$10,000.00, restitution to the State of Georgia of any pecuniary benefit received as a result of such violation, and, in the case of appointed public officials and employees, removal from office or employment.

II. Who must file?

- A.** Public Officials – Any person elected to a state office and any person appointed to a state office where, in the conduct of such office, the person so appointed has administrative and discretionary authority to receive and expend public funds and to perform certain functions concerning the public which are assigned to him by law.
- B.** Employees – Any person who, pursuant to a written or oral contract, is employed either on a full-time or part-time basis by any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia. This does not include persons employed by a political subdivision of the State of Georgia. A full-time employee is one who performs more than 30 hours of work per week for more than 26 weeks per year. A part-time employee is any employee who is not a full-time employee.

III. When to file?

All persons required to file a disclosure report must do so prior to January 31 of each year.

IV. Where to file?

The original disclosure report must be filed with the Secretary of State, 1104 West Tower, 2 Martin Luther King, Jr. Drive, SE, Atlanta, Georgia 30334-1505.

V. What must be reported?

Generally, all business transacted with the State of Georgia or any agency of the State of Georgia by any public official or any employee, whether for himself or on behalf of any business, or any business in which such public official or employee or any member of his family has a substantial interest must be disclosed. “Business transacted” means the sale or leasing of any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative and means the purchase of surplus real or personal property on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative. “Any business” means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust, or other legal entity. “Family” means

spouse and dependents. "Substantial interest" means the direct or indirect ownership of more than 25 percent of the assets or stock of any business. This paragraph is not meant to be an exhaustive description of the items to be reported. For the precise requirements of what must be reported, please refer to O.C.G.A. § 45-10-20, et. Seq.

Transactions do not have to be reported when the amount of each transaction is less than \$250.00 and the aggregate of all such transactions does not exceed \$9,000.00 per calendar year. In addition, no report must be filed if there are no transactions to report.

VI. Transactions which must be reported but are exempted from further review.

Except as indicated in Section V, above, all transactions with the State of Georgia or any agency of the State of Georgia must be reported. However, where applicable, O.C.G.A. §§ 45-10-22(b), 45-10-24(b), and 45-10-25 provide that certain transactions with the State of Georgia or any of its agencies are not considered violations of the conflict of interest laws. These include, but are not limited to: transactions involving full-time officials, part-time officials, or part-time employees which are made pursuant to sealed competitive bids or involve a lease of real property approved by the State Properties Commission or the Space Management Division of the Department of Administrative Services; and certain approved transactions involving employees of the University System of Georgia where the transaction is with another unit of the University System. Any of these transactions must be indicated in the appropriate space on the report form.

VII. Instructions

A. Complete the cover sheet by:

1. Filling in the date of the report and your name, address, home and work telephone number.
2. Marking the box which describes your position with the State of Georgia and listing your agency, title, and
3. Completing and signing the certification.

B. Each transaction must be disclosed separately.

C. Amounts may be rounded to the nearest dollar.

D. For each heading, list the following information on each transaction:

1. Date of transaction.
2. Agency involved – The name of the agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia with whom the business was transacted.
3. Nature of transaction - Describe what the subject of the transaction was, e.g. "sale of 1500 cubic yards of concrete", "30 hours of security work", "lease of house", etc., and state any exception to the conflict of interest laws under which the transaction was undertaken;
4. Type of transaction:
 - a) If the transaction was personal or for oneself, list "personal";
 - b) If the transaction was on behalf of a business, list "business" and name the business;
 - c) If the transaction was for a business in which you or your spouse or dependents have a substantial interest, list "family" and name the business;
5. Amount of transaction – List the amount of the transaction in dollars;
6. Exception, if any, which applies – The exception, if any, which applies to remove the transaction from coverage under the conflict of interest laws (include appropriate explanation and any supporting documentation).

E. Mail the original report to the Secretary of State, 1104 West Tower, 2 Martin Luther King, Jr. Drive, SE, Atlanta, Georgia 30334-1505.

TO: SECRETARY OF STATE
1104 WEST TOWER
2 MARTIN LUTHER KING, JR., DRIVE, SE
ATLANTA, GA 30334-1505

STATE BUSINESS TRANSACTION DISCLOSURE REPORT
(Please type or print)

Date of this report:

Full Name:

_____ (First) (Middle) (Maiden) (Last)

Address:

_____ (Street) (City) (County) (State) (ZIP)

Telephone Number Home:

Work:

Type of Filing (Check and Complete)

Elected Official

Office Held: _____

Appointed Official

Name of State Agency _____

Position Held: _____

Employee: Full Time
 Part Time

Name of State Agency _____

Position Held: _____

CERTIFICATION

I hereby certify that the attached _____page(s) is/are a true and accurate report of all business transacted by me with the State of Georgia for myself, on behalf of my business, and for any business in which I or any member of my family has a substantial interest.

Sworn to and subscribed before me this _____ day of _____, 20____

(Notary Public)

**BUSINESS TRANSACTIONS WITH THE STATE OF GEORGIA
FOR CALENDAR YEAR 2____**

Transaction No: _____

Page # ____ of ____

1. **Date of transaction:** _____
 2. **Agency involved:** _____
 3. **Nature of transaction:**

 4. **Type of transaction:** _____
 5. **Amount of transaction:** _____
 6. **Exception, if any, which applies (supply explanation and attach supporting documentation, if any):**

-

Transaction No: _____

1. **Date of transaction:** _____
 2. **Agency involved:** _____
 3. **Nature of transaction:**

 4. **Type of transaction:** _____
 5. **Amount of transaction:** _____
 6. **Exception, if any, which applies (supply explanation and attach supporting documentation, if any):**

-

ATTACH ADDITIONAL PAGES, IF NECESSARY

Report of:

Full Name (First, Middle, Maiden, Last)

4.3.2p6.a5. Attachment

PeopleSoft Employment Records Information

To determine if a new employee is employed with another Technical College, State Agency, Authority or Board, one will need to review the "Job Summary" panels in PeopleSoft. If the new hire is employed by another State Agency, the Job Summary panels will indicate which agency and all active or terminated record numbers. Employees within the Board of Regents or units within the University System of Georgia are not accessible in the current PeopleSoft System. The agency having the employee on the lowest record number will own the primary responsibility for the employee.

Employment Records "0" and "1-9"

The following scenarios will explain dual employment within TCSG and the Technical Colleges.

Employees' active with TCSG or a Technical College with an employment record (ER) "0" (MSx & SSx pay groups) and an ER "1-9" (MHx or SHx pay groups) is not permissible. The employee with the ER "1-9" must be separated and compensated on the ER "0" with a TF1, TF2, or TF3 earnings coded.

If an employee is active with an ER "1-9" (MHx or SHx pay groups) and has an ER "0" (MSx & SSx pay groups) in TCSG or a Technical College, the ER "1-9" must be separated and both employing entities must coordinate the reporting of the time sheet with the employer having the ER "0" for the employee to be compensated. The employer with the ER "0" will then bill the entity utilizing the employee on a part-time, temporary basis for the employee's salary and fringes (Medicare, OASDI, SHBP, and Retirement when applicable) associated with the earnings.

It is impermissible for an employee to have multiple active ER "1-9." The employee should only have one employment record and if the employee is working two part-time jobs with a single employer, then only the lowest employment record number should be active and all other ER "1-9" should be terminated.

If an employee has an active ER "0" or ER "1-9" and another state agency also has this employee active with an ER "1-9" or ER "0", respectively; there is no action necessary from either employer. An employee cannot have two ER "0" in PeopleSoft. However, one will need to be cautious in hiring full-time employees from other agencies into part-time positions with TCSG or its Technical Colleges and continue to coordinate the hiring with the other agency. The following should be verified:

- 1) Hours of work do not overlap
- 2) Hourly rate
- 3) FLSA status
- 4) The Parent Agency does not prohibit their employees from working in a dual employment relationship
- 5) Complete an Other Employment Agreement form

(4.3.2p6.a6. Attachment)

FLSA Exempt and Non-Exempt Classifications:

Careful consideration must be given to the exempt or non-exempt status of the individual's primary employment. Part-time employees, students participating in the college work study program, and student employees within TCSG and the Technical Colleges are generally restricted to working no more than 29 hours per week. The employer with the lowest employment record number in PeopleSoft must determine the overtime liability based on the following:

- 1) If a non-exempt employee works full-time with their primary employer and is non-exempt with the secondary employer, the combined hours in excess of 40 hours per week are subject to overtime compensation with the exception to positions designated under the [Fair Labor Standards Act Section 13\(a\)\(1\)](#).
- 2) If a non-exempt employee works full-time with their primary employer and is exempt with their secondary employer, all hours worked in excess of 40 hours in a week will be subject to overtime compensation.
- 3) If an exempt employee works full-time with their primary employer and is non-exempt with their secondary employer, the additional hours with the secondary employer are paid at the straight time rate unless the overall work requirements exceed 20% non-exempt duties. When this occurs, the primary job has the potential to become non-exempt and the employee is entitled to overtime compensation.
- 4) If an exempt employee works full-time with their primary employer and is exempt with their secondary employer, then the combined employment is treated as exempt from overtime compensation. However, if the exempt employee spends more than 20% of the time in a workweek performing non-exempt work, the employee loses the exemption for the workweek and both jobs become non-exempt and subject to overtime compensation.

4.3.2 p6.a7. Attachment

Calculating Overtime

All examples are based on a 40 hour work week, Monday – Friday.

Example: Sarah currently works full-time with a technical college and due to reduced funding; her position is being reclassified to a part-time position. Sarah has accepted another appointment with a technical college near her service area and will work for them entering into an Other Employment scenario. Sarah now works 20 hours per week in her primary appointment earning \$20.00 per hour and 20 hours per week in her secondary appointment earning \$15.00 per hour.

$$\begin{array}{r} \text{Formula:} \quad \text{Total Number of Hours (Primary Appointment)} \\ \quad + \quad \text{Total Number of Hours (Secondary Appointment)} \\ \hline = \quad \text{Total Number of Hours per work week} \end{array}$$

Solution: Because Sarah worked a total of 40 hours in her designated work week, no overtime compensation was earned.

Example: John currently works full-time (hourly) with TCSG and due to critical staffing needs at one of the department's technical colleges, the Commissioner has agreed to reduce his primary appointment to half-time allowing him to work temporary, part-time with the technical college. Within the first week of his appointment at the college, John worked 35 hours. Utilizing the formula in the preceding example, John worked a total of 55 hours in the work week earning a total of 15 hours of overtime. John currently earns \$20.00 per hour in his primary appointment and \$25.50 per hour in his secondary appointment.

$$\begin{array}{r} \text{Formula:} \quad \text{Total Weekly Salary} \quad \quad \quad \$1,292.50 \\ \quad \div \quad \text{Total Hours Worked} \quad \quad \quad \div 55 \text{ Hours} \\ \hline = \quad \$ \text{ Weighted Average Salary} \quad \quad = \$23.50 \end{array}$$

Solution: The weighted average salary is the adjusted rate salary for purposes of calculating overtime earned in a particular work week. The weighted average calculation will need to be performed for each work week where overtime is earned. Continuing with John's example, his adjusted rate for calculating overtime compensation is \$23.50. John will earn 15 hours of overtime pay at a rate of \$35.25/hr (1.5 x \$23.50 = \$35.25).

(4.3.2p6.a8. Attachment)

**Technical College System of Georgia
Implementation/Application of Other Employment Procedure
Frequently Asked Questions**

1. When did the revised procedure become effective?

October 29, 2014

2. Does the procedure apply to secondary employment relationships for full-time and part-time employees, including adjunct faculty?

Yes, the procedure applies to all Technical College System of Georgia employees working in the System Office or any associated technical college, both full- and part-time, as well as adjunct faculty.

3. Are all currently employed full- and part-time faculty members covered by the provisions of Paragraph VI.D.5.?

Yes, the authorization for any current faculty member to engage in the delivery of academic instruction or teaching responsibilities with any public or private sector employer/educational entity (to include any other technical college associated with the Technical College System of Georgia or any college or university associated with the University System of Georgia) shall expire at the conclusion of the Spring Semester of calendar year 2014. If a faculty member desires to continue such employment beyond Spring Semester, it will be necessary for him/her to submit a Request to Continue Other Employment (Attachment B) in a timely manner and as provided by the Procedure.

4. What are the general conditions governing any secondary employment relationship?

No secondary employment relationship may interfere or conflict with an employee's ability to effectively perform his/her assigned duties and responsibilities in the System Office or the employing technical college. The employee cannot engage in any other employment activities during working hours to include selling products or services to other employees or using state issued equipment (e.g., a cellular device, computer, laptop, or tablet) to perform work for the other employer or on behalf of the employee's own business. The employment cannot violate any applicable federal or state law, regulation or, State Board policy or TCSG procedure. The outside employment cannot create an actual or perceived conflict of interest with the employee's employment with the System Office or technical college. Lastly, the employment cannot conflict with Governor Deal's Executive Order on Ethics.

5. How does Governor Deal's Executive Order on Ethics impact the Technical College System of Georgia Procedure on Other Employment?

Executive Orders issued by Governor Deal are controlling with respect to the operations and activities of Executive Branch agencies. The revised TCSG Procedures governing Other Employment, Ethical Responsibilities (III.L.1.), and Gifts, Honoraria and Expenses (III.L.3.) have been developed to fully comply with all provisions of the Governor's Executive Order on Ethics.

- 6. Within the scope of Governor Deal’s Executive Order on Ethics, can an employee whose personal business has been established as an LLC (i.e., a Limited Liability Company) also serve as the company’s Director or Corporate Officer (i.e., LLC Manager) and receive compensation from the business?**

No, the employee cannot receive any compensation from the business he/she owns if he/she also serves as the identified director or corporate officer (i.e., LLC Manager). Governor Deal’s Executive Order stipulates that “No employee shall serve for compensation as a corporate officer or director of any “for-profit or publically held company”. To remove any conflict with the Executive Order, the employee must either dissolve the LLC or name someone other than himself/herself as the director/corporate officer.

- 7. Can an applicant who works for another employer or who operates his/her own business continue this employment if subsequently hired by the System Office or a technical college? If the answer is yes, what conditions govern the continued employment?**

With the exception of full- and part-time faculty members who are covered by the provisions of Paragraph VI.D.5., and provided that the employment relationship does not conflict with the provisions of the Other Employment Procedure or the Governor’s Executive Order on Ethics, a newly hired employee who desires to continue to work with a previous employer, to continue to serve as a contractor or consultant or, who desires to continue to operate his/her own business after beginning employment with the System Office or a technical college shall be authorized to do so for a period not to exceed six (6) calendar months. If the employee wishes to continue such secondary employment beyond this time period, he/she must submit Attachment B (Request to Continue Other Employment) and receive written approval from the Commissioner or his/her designee (for a System Office employee) or a technical college president or his/her designee (for a technical college employee).

- 8. Can an applicant for a full- or part-time faculty position who also teaches for another educational entity continue his/her other employment if subsequently hired by a technical college? If the answer is yes, what conditions govern the continued employment?**

Yes, provided that the employment would not conflict with provision(s) of the Other Employment Procedure or the Executive Order on Ethics. The employee may continue such employment only through the remainder of the technical college’s current academic semester. If the employee desires to continue his/her secondary employment beyond this time period, he/she must submit Attachment B (Request to Continue Other Employment) and receive written approval. Any such approval will be limited to a single academic semester/term as outlined in the Procedure.

- 9. Can a full-time System Office or technical college employee whose position is designated as non-exempt be employed by another state agency in a temporary part-time, hourly-paid position? If the answer is yes, what conditions govern the part-time employment?**

Given that most state agencies prohibit these employment relationships, the approval of such a request is unlikely. As stated in the Other Employment Procedure, full-time TCSG employees who hold a non-exempt position are prohibited from working for another state agency in a temporary, part-time, hourly-paid capacity unless all of the following conditions are met: the employee’s request must be approved, in writing, by both appointing authorities or their designee; the rate of pay in the part-time position must be established at time and a half the employee’s “regular rate” (i.e., the equivalent hourly rate of pay based on the employee’s salary in his/her full-time position); and, as applicable, the rate of pay delivered for such part-time service must be adjusted if the employee’s regular rate of pay is increased by the System Office or his/her employing technical college. NOTE: for purposes of these requirements and as referenced in the response to Question 13, the term “state agency” does not include colleges and universities associated with the University System of Georgia.

- 10. Can a full-time System Office employee whose position is designated as non-exempt also work for a technical college in a part-time hourly-paid position? If the answer is yes, what conditions govern the part-time employment?**

Yes, provided the employee receives written approval from the Commissioner and technical college president (or their designee) for the secondary employment; the technical college agrees to establish the employee's hourly rate of pay for service in the part-time position at no less than time and a half of his/her regular rate of pay; and, as applicable, the technical college agrees to adjust the employee's rate of pay in the part-time position if his/her regular rate of pay in the salaried position is adjusted by the System Office and the adjustment results in the college's rate of pay falling below the time and a half threshold.

- 11. Can a full-time System Office employee whose position is designated as non-exempt also work for a technical college as adjunct faculty? If the answer is yes, what conditions govern the part-time employment?**

Yes, provided the employee's compensation is correctly established. Service as adjunct faculty is generally considered to be exempt from the provisions of the Fair Labor Standards Act; however, in this instance, service as adjunct faculty is also considered to be non-exempt work. For this reason, System Office approval of the secondary employment would only be granted if the employing technical college establishes the individual's rate of pay at no less than time and a half of his/her regular rate of pay (with the System Office) and also agrees to adjust the hourly rate of pay in the adjunct position if the employee's regular rate of pay in his/her full-time position is increased and the adjustment results in the college's rate of pay falling below the time and a half threshold. Further, the individual cannot be paid "lump sum" for service as adjunct faculty; instead, he/she must be considered an hourly employee and paid for all hours worked during the academic term. Additionally, the college must maintain accurate time records reflecting/capturing all "hours worked".

- 12. Can a full-time technical college employee whose position is designated as non-exempt work for the System Office or another technical college in a part-time non-instructional, hourly-paid position? If the answer is yes, what conditions govern the part-time employment?**

Yes, provided the employee first receives written approval to engage in other employment from both appointing authorities or their designee and the employee's hourly-rate of pay for service in the part-time position is established (by the System Office or other technical college) at no less than time and a half of his/her regular rate of pay. Additionally, the System Office or technical college agrees to adjust the hourly rate of pay in the part-time position if the employee's regular rate of pay in his/her full-time position is increased and the adjustment results in the System Office or technical college rate of pay falling below the time and a half threshold.

- 13. Can a full-time technical college employee whose position is designated as non-exempt also work for his/her technical college or another technical college as adjunct faculty? If the answer is yes, what conditions govern employment the part-time employment?**

Yes, provided the employee first receives written approval to engage in other employment from both appointing authorities or their designee. As noted in the response to Question 11, service as adjunct faculty (in this example) is also considered non-exempt work and the employee cannot be paid lump sum. Instead, the employee must be paid an hourly rate established at no less than time and a half the employee's regular rate in his/her full-time position. The college must also agree to adjust the hourly rate of pay in the adjunct position if the employee's regular rate of pay in his/her full-time position is increased and the adjustment results in the college's rate of pay falling below the time and a half threshold. The employee must be paid for all hours worked during the academic term and the college must maintain accurate time records reflecting/capturing all "hours worked".

- 14. Can a full-time System Office or technical college employee whose position is designated as non-exempt work for a University System of Georgia (USG) college or university in a part-time**

capacity? Do the conditions which govern part-time employment with another work unit of the Technical College System of Georgia or another state agency also apply to part-time employment with the USG?

Yes, provided such service does not conflict with the provisions of the Other Employment Procedure or the Executive Order on Ethics. Additionally, the employee must first receive written approval in the other employment. However, unlike a part-time employment arrangement with another work unit of the Technical College System of Georgia or a state agency, there are no restrictions regarding how the individual's rate of pay must be established.

15. Under what conditions must an employee request approval to continue other employment with an employer after the initial request has been approved?

A faculty member's employment for another educational entity in a teaching or instructional capacity is limited to a single academic semester/term. If the employee desires to continue such employment beyond the academic term, he/she submit Attachment B (Request to Continue Other Employment) and receive written approval.

For all other employees and for faculty members engaged in other duties, approval to engage in secondary employment is authorized until employment with the identified employer ends, unless the employee's assigned job responsibilities or work hours change significantly. If this occurs, the employee must submit Attachment B (Request to Continue Other Employment) for review and approval.

16. If a full-time System Office or technical college employee operates his/her own business or if he/she or a member of his/her family has a substantial interest in a business (i.e., direct or indirect ownership of more than 25% of the assets or stock of any business), can the employee directly or on behalf of the business contract with the System Office or any technical college associated with the Technical College System of Georgia to perform work or provide a service for a fee?

No, in this example, any such business relationship/transaction between a full-time employee and any work unit associated with the Technical College System of Georgia is prohibited by statute (i.e., O.C.G.A. § 45-10-23) and is considered unlawful.

17. If a part-time System Office or technical college employee (including adjunct faculty) operates his/her own business or if he/she or a member of his/her family has a substantial interest in a business (i.e., direct or indirect ownership of more than 25% of the assets or stock of any business), can the employee directly or on behalf of the business contract with the System Office or any technical college associated with the Technical College System of Georgia to perform work or provide a service for a fee?

Any such business transaction is prohibited by statute (i.e., O.C.G.A. § 45-10-24) and is considered unlawful unless one of the following exceptions apply:

- a. a transaction is made pursuant to sealed bids;*
- b. a single transaction does not exceed \$250.00 and the aggregate of all such transactions does not exceed \$9,000.00 in any calendar year;*
- c. a transaction involves the lease of real property to or from any agency and the transaction has been approved by the State Properties Commission; or,*
- d. the transaction involves the purchase of surplus of property at auction.*

18. Can a technical college hire a full-time non-exempt employee from another state agency to work in a part-time, non-instructional, hourly-paid position? If the answer is yes, what conditions govern employment in this capacity?

Yes, although it is unlikely that a state agency will grant permission for a full-time non-exempt employee to work for another state agency in a part-time, hourly-paid position considered to be non-exempt. Most agencies prohibit such outside employment arrangements, by policy, so as to avoid potential wage and hour difficulties; however, if a state agency provides written approval for the individual to accept employment with a technical college, the college must establish the individual's hourly rate of pay at no less than time and a half the individual's regular rate of pay in his/her full-time position. Additionally, the college must adjust the individual's hourly rate of pay in the part-time position if the individual's regular rate of pay in his/her full-time position is increased and the adjustment results in the college's rate of pay falling below the time and a half threshold. As with any hourly-paid employee, he/she must be paid for all hours worked and accurate time records must be maintained that reflect/capture all hours worked.

NOTE: Before any hiring decision is finalized involving an applicant who currently works for a State of Georgia agency, the technical college should first contact the other agency to determine the individual's FLSA status in his/her current full-time position. If the individual's position is considered non-exempt, the above provisions apply with respect to establishing and maintaining his/her rate of pay. Additionally, no hiring decision can be finalized unless the applicant can first produce written approval from his/her state agency authorizing his/her part-time employment with the technical college.

19. Can a technical college hire a full-time non-exempt employee from another state agency to work as adjunct faculty? If the answer is yes, what conditions govern employment in this capacity?

Yes, although as referenced in the answer to Question 18, it is unlikely that a state agency will grant permission for a full-time non-exempt employee to work for another agency in a part-time position. As addressed in the answer to Questions 13, service as adjunct faculty (in this instance) is considered non-exempt work. For this reason, no hiring decision can be made unless the applicant can first produce written approval from his/her state agency authorizing his/her part-time employment with the technical college.

If written approval is granted, the individual's rate of pay must be established at no less than time and a half his/her regular rate of pay in his/her full-time position and the individual cannot be paid lump sum; instead, he/she must be paid for all hours worked. The college must also agree to adjust the hourly rate of pay in the adjunct position if the employee's regular rate of pay in his/her full-time position is increased and the adjustment results in the college's rate of pay falling below the time and a half threshold. The employee must be paid for all hours worked and the college must maintain accurate time records reflecting/capturing all hours worked.

NOTE: Before any hiring decision is finalized involving an applicant who currently works for a State of Georgia agency, the technical college should first contact the other agency to determine/verify the individual's FLSA status in his/her current position. If the individual's position is considered non-exempt, the above provisions apply with respect to establishing and maintaining his/her rate of pay as well as the method of pay delivery. If the position is considered exempt, it is permissible to pay the individual "lump sum" and the rate of pay need not be based on the employee's regular rate in his/her full-time position.

20. Is it permissible for a technical college to hire a part-time, hourly-paid employee from another state agency to serve as adjunct faculty? If the answer is yes, what conditions would govern the appointment?

Yes, although it is unlikely that a state agency will grant permission for a part-time non-exempt employee to work for another agency in a part-time position. If the state agency currently employing the

individual authorizes his/her employment in this capacity, a number of factors must be considered before providing the individual a conditional offer of employment.

As noted in the response to Question 11, the position of adjunct faculty is generally considered to be exempt from the provisions of the Fair Labor Standards Act. If exempt, "teachers and instructors" (whether full- or part-time) are not covered by the Salary Basis Test. The primary exception (to this rule) is in those instances in which a full-time non-exempt employee is hired for a part-time position.

The FLSA designation of the full-time position is controlling in these dual employment relationships and the part-time position, even if exempt, becomes non-exempt. In situations involving employment in two part-time positions, the determination of which is controlling would likely be based on the position in which the employee works the most hours. Therefore, the college, in conjunction with the other agency, should do its best to ensure that the individual works no more than 40 hours per week in both positions to avoid any overtime hours worked. As the individual would likely work no more than 29 hours per week in his/her other position, the technical college should limit his/her hours worked as adjunct faculty to no more than 11 hours per week so as not to exceed the 40 hour per week threshold. Additionally, the employee must be paid an hourly rate for all hours worked rather than in lump sum. NOTE: In these instances, all hours worked must be recorded on a time sheet for each established seven (7) day work period.

- 21. Is it permissible for a technical college to hire a part-time, hourly-paid, non-instructional employee working in the System Office or another technical college to serve as adjunct faculty? If the answer is yes, what conditions would govern the appointment?**

Yes – however, as referenced in the response to Question 20, it is important that the total hours worked (by the employee) for both entities does not exceed 40 hours each work week/seven (7) day work period. Ensuring that this threshold is consistently followed will reduce the potential for wage and hour difficulties. If the employee works, on average, 29 hours per week with the System Office, this employment will be considered "controlling". For this reason, the employee must be paid an hourly rate for all hours worked as adjunct faculty rather than lump sum.

- 22. If a full-time non-exempt employee working for another state agency or Technical College System of Georgia work unit has been hired in a part-time capacity by the System Office or a technical college and the employment relationship continues (for example) for multiple academic terms or for an appointment period in a manner authorized in the Categories of Employment Procedure, what are other considerations that must be monitored with respect to the individual's established rate of pay?**

The System Office or technical college must initially establish the employee's rate of pay at no less than one and one half times the employee's regular rate of pay in his/her full-time position. Moving forward, it is the responsibility of the System Office or technical college to ensure that if an employee receives a salary adjustment in his/her full-time position, that a subsequent adjustment to the rate of pay (with the System office or the college) may be necessary to maintain the rate at the time and a half standard.

- 23. If a technical college hires a non-exempt employee of a University System of Georgia college or university to serve as adjunct faculty what conditions, if any, must be considered when establishing the compensation for such service.**

There are no restrictions or conditions which govern how the individual's rate of pay is established for service as adjunct faculty. The individual can also be paid "lump sum" if this is the pay delivery method utilized by the technical college.

- 24. How will pay delivery be managed when a part-time System Office or technical college employee (including adjunct faculty) is hired by another Technical College System of Georgia work unit (i.e., a technical college or, as applicable, the System Office) to also work in a part-time hourly-paid position or to serve as adjunct faculty?**

Each Technical College System of Georgia work unit shall pay the employee directly for all hours worked or for all services rendered to include lump sum installments for service as adjunct faculty. The only exception would be in those instances in which the employing technical colleges or the System Office and the technical college are on differing pay delivery schedules (i.e., monthly vs. semi-monthly payroll). If this were to occur, the work unit with the lowest PeopleSoft record will bill the other college(s) or the System Office as outlined in the Other Employment Procedure.

25. If a System Office or technical college employee accepts employment with another state agency, how will pay delivery be managed for work performed for the other agency?

Provided such employment has been authorized pursuant to the Other Employment Procedure, the employee will be paid directly by the other state agency for all hours worked or services rendered for this employer.

26. If a System Office or technical college employee accepts employment with a University System of Georgia (USG) college or university, how will pay delivery be managed for work performed for the USG college or university?

Provided such employment has been authorized pursuant to the Other Employment Procedure, the employee will be paid directly by the USG college or university for all hours worked or services rendered for this employer.