

Sectoral scheme covering ancillary activities

July 2017

This scheme is based on Article 1.14 of the Collective Labour Agreement for Dutch Universities (CAO NU) and is an independent part of the CAO NU in conformity with Article J.3 of that agreement.

Definitions

1. *Work for third parties*: all ancillary activities for third parties that are carried out by an employee and which do not form part of the employee's duties at the university, regardless of
 - a. the scope of the employee's employment contract with the university
 - b. the scope of the work for third parties
 - c. whether the employee in question receives remuneration for the work for third parties
 - d. the work for third parties is performed during or outside of working hours

NB: Even if the core activity of the employee in question is performed elsewhere, this shall also be understood to come under work for third parties.

2. *Employee in question*: the person to whom this scheme applies. The activities of the employee in question can be both academic or support-oriented in nature. For the purposes of this scheme, the employee in question is understood to be:
 - a. an employee of the university (with an employment contract in accordance with the collective labour agreement)
 - b. a person with no employment contract with the university, but with a Professor appointment from the Executive Board (e.g. professor by special appointment).
 - c. persons to whom this scheme has been declared applicable by the Executive Board.

NB: For persons as referred to under b. and c. of this scheme, 'employer' should be read as the university.

3. *Additional earnings*: remuneration received by the employee in question in exchange for the work for third parties performed. This is also understood to include deferred income and financial interests.

Obligation to report

4. With the exception of the work for third parties referred to in Article 5, the employee in question is obliged to report in writing all work performed for third parties to the employer on entering the employer's employment or prior to accepting new work for third parties or changing (aspects of) work for third parties.
5. The employee in question is not obliged to report work for third parties that clearly has no relation to the employee's work for the university and that is obviously not detrimental to the interests of the university in any way and
 - a. that does not threaten the effective and full performance of the employee's university duties and
 - b. that is performed outside working hours, and
 - c. for which no payment of any kind is received.
6. The employee in question who, upon entering employment with the university, performs no work for third parties in the sense of this scheme or who performs work for third parties that the employee in question is not obliged to report shall make this known to the university upon entering employment.

7. The employee in question with an employment contract or appointment with the university of 6 months or shorter and who performs work for third parties that:
 - a. poses no risk to the academic, organisational and/or business interests of the university and
 - b. involves no obstacle to the effective and the complete performance of the employee in question's duties at the university and
 - c. is not detrimental to the reputation of the institution and
 - d. cannot result in any conflict of interests with the university,is not obliged to report this work for third parties, unless otherwise stipulated by the employer.

Permission

8. Work for third parties to which a duty to report applies may only be performed with the permission of the employer.
9. Unless otherwise specified, permission is granted by the employer.
10. Permission shall be granted for the performance of work for third parties, unless such work risks damaging the university's interests. The university's interests shall in any case be understood to include the criteria referred to in Article 11.
11. No permission shall be granted for work for third parties:
 - a. that poses a risk to the academic, organisational and/or business interests of the university or;
 - b. that constitutes an obstacle to the effective and the complete performance of the employee in question's duties at the university or;
 - c. that is detrimental to the reputation of the institution or;
 - d. that presents (the appearance of) a conflict of interests with the university duties of the employee in question.
12. Permission may be granted under conditions. Conditions that may be attached to the granting of permission include:
 - a. set-off of the additional earnings or a portion thereof;
 - b. reduction of the scope of the employment contract;
 - c. deduction of the holiday hours balance of the employee in question;
 - d. the period to which the permission applies;
 - e. compensation to be paid to the university, if the facilities or capacity of the university are used in any way in the performance of the work for third parties with permission.
13. Permission granted may be revoked in the event of a change of circumstances or insight or if the conditions set have been breached.

Procedure for reporting and registration

14. When reporting work for third parties, the employee in question must in any case report:
 - a. the nature of the work for third parties to be performed;

- b. the body for which the work for third parties is to be performed;
- c. the time required;
- d. whether additional earnings, as referred to in Article 3, have been received;
- e. that permission is granted for publication.

15. The employer will keep a register of the reported work for third parties for which the employer has granted permission. The register may be inspected at all times by the employer and persons designated by the employer as well as by the employee in question to the extent that it concerns a report made by the same employee in question. In addition to the permission granted by the party involved, the register shall list the nature of the work for third parties and the body for which the work is to be performed. The employer may grant an exemption in the case of substantial interests that hinder the publication of the work for third parties, for example in the case of a serious risk to personal privacy.

16. Each professor shall mention the work carried out for third parties for which permission has been granted on their publicly accessible web page, stating at a minimum the nature of the work for third parties and the body for which this work is performed.

The employer may decide that all academic personnel and/or higher support and management staff shall state work for third parties on their publicly accessible web page.

Decision

17. The employee in question shall receive a written decision within six weeks of submitting the report.

Sanctions

18. The employee in question may be subject to disciplinary measures or other sanction if work for third parties is performed without permission, the employee in question fails to comply with the conditions attached to the permission granted or if the employee in question fails to comply with other provisions.

Accountability

19. The agreements surrounding the work for third parties will be discussed during the annual consultation or another appraisal interview in order to determine whether the agreements are up to date and being complied with or whether they require revision.

20. A report on the implementation of the regulations governing work for third parties forms part of the planning and control cycle of the Executive Board.

Procedure

21. Supplementary to the scheme, the employer may adopt a procedure or administrative rules governing the implementation of this scheme with respect to permission (application and granting), reporting and publication of work for third parties.

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| Each university shall place a version of the 'frequently asked questions for employees' adapted to their own procedure or administrative rules on their website as an explanation of this scheme. |
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Appendix to the Sectoral scheme on work for third parties for Dutch Universities

Frequently asked questions for employees

The university shall place a version of the 'frequently asked questions for employees' adapted to its own procedure or administrative rules on its website

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1. Are all activities that are not part of a job at the university considered work carried out for third parties?

Yes, all activities that are not part of a job at the university are considered work carried out for third parties. However, not all work carried out for third parties needs to be reported.

Work carried out for third parties that does not need to be reported is work that clearly has no relation to the employee's work for the university and that is obviously not detrimental to the interests of the university and

- a. that does not threaten the effective and full performance of the employee's university duties and
- b. that is performed outside working hours, and
- c. for which no payment of any kind is received.

Such work may include a membership to an amateur sport club board or school board. If you are unsure whether certain work carried out for third parties should be reported, please contact your employer.

2. What is understood by a person's 'position or duties'?

A person's duties are determined by the university based on the classification in the job profile of the University Job Classification System (UFO). The tasks and activities that you are expected to perform as an employee are based on the duties assigned to you by the employer. Please see your supervisor if you have any questions about your duties or your UFO job profile.

The scheme also applies to other parties involved. The duties of these persons include agreements made with them regarding specific tasks to be performed.

3. What is understood by 'work carried out for third parties'?

a. Is participation in an academic committee or consultative body considered to be work carried out for third parties?

Not automatically, as these are tasks that fall under your university duties. There can sometimes be 'grey areas', however, so in case of doubt it would be advisable to request permission anyway so that the Dean (for academic staff) or Director (for support and administrative staff) and HR can help identify any potential risks with respect to conflicts of interest or academic integrity. If participation is not voluntary, this shall be considered part of your job and not work carried out for third parties. In any event, ensure that activities such as participation in committees or consultative bodies are mentioned on your publicly accessible web page.

b. Is editing work (including as editor-in-chief) and reviewing articles considered to be an ancillary activity?

Not automatically, as these are tasks that fall under your university duties. There can sometimes be 'grey areas', however, so in case of doubt it would be advisable to request permission anyway so that the Dean (for academic staff) or Director (for support and administrative staff) and HR can help identify any potential risks with respect to conflicts of interest or academic integrity. If this work is not voluntary, this shall be considered part of your job and not work carried out for third parties. In any event, ensure that activities such as editing work are mentioned on your publicly accessible web page.

4. The scope of my work elsewhere exceeds my work at the university, so which activities are considered work carried out for third parties?

Work you perform elsewhere is considered work carried out for third parties. This means that you will require permission for this work and it must be mentioned on your publicly accessible web page. This may seem counter-intuitive since an appointment elsewhere will be your main activity. Permission and disclosure are essential for safeguarding the academic integrity of the university. For these activities, you must comply with the provisions in the scheme and request permission, if applicable, and these ancillary activities must be disclosed.

5. I will be employed by the university for a maximum of six months; am I still obliged to report my work carried out for third parties?

No. In order to avoid unnecessarily burdening parties engaged for such a short period, work carried out for third parties does not need to be reported in principle (unless the university has specified otherwise) except where the activities involved:

- a. pose a risk to the academic, organisational and/or business interests of the university or;
- b. form an obstacle to the effective and the complete performance of the employee in question's duties at the university or;
- c. are detrimental to the reputation of the institution or;
- d. can result in a conflict of interests with the university.

You yourself are responsible for making this decision. If in doubt, you are advised to contact your supervisor or university contact person.

6. I receive no earnings for my work carried out for third parties. Am I still obliged to report such work?

No earnings do not automatically mean no obligation to report the work carried out for third parties. There are considerations besides money that may adversely affect the academic or other interests of the university or the proper performance of your job (e.g. excessive demands on your time).

For example, the incorporation of a legal person or being engaged as an administrator, supervisor or shareholder of another organisation may also warrant reporting to the university as such an engagement may involve a deferred remuneration or a possible conflict of interests.

7. How do I request permission for work carried out for third parties or changes to this work?

The procedure for requesting permission and reporting work carried out for third parties is arranged at university level. Consult your university's website for more information on this.

The procedure at the majority of universities is as follows: You discuss with your supervisor the work for third parties that you are going to perform or the changes to (aspects of) the work for third parties that you are already performing. You must have this discussion before you commence the work or the changes occur. You can then report your work carried out for third parties via _____ [to be entered by each university]. You give your supervisor permission to inspect your report. The mandatory will either grant or refuse permission for the work carried out for third parties that you have reported. This decision will be confirmed to you in a written letter, which will be included in your personnel file. Objections to this decision may be submitted in the usual manner.

8. How does the approval procedure start for new staff members?

The manner of starting the approval procedure is arranged at university level. Consult your university's website for more information on this.

The procedure at the majority of universities is as follows:

During the last stage of the selection procedure (when parties also endeavour to reach agreement on the employment conditions), managers are expected to investigate

whether the candidate performs any potentially problematic work for third parties. When the employee is offered the employment agreement / copy of the employment agreement, he or she will be informed in an accompanying letter of their obligation to request permission for work carried out for third parties via _____ [to be entered by each university]. You will have to report any changes thereafter yourself.

9. I do lots of small jobs, surely it's impossible to ask for permission every single time?

In the interest of safeguarding the university's academic integrity, it is essential that you be as transparent as possible when reporting any work carried out for third parties. For this reason, it is essential that you seek permission for all work carried out for third parties, including minor jobs. Try to report such work as far in advance as possible and always keep your publicly accessible web page up to date.

If it is not possible to seek permission in advance owing to special circumstances beyond your control, it is essential that you report the work as soon as you can. If your request is rejected, you must cease the work for third parties.

10. Are positions in public administration permitted by the employer as work carried out for third parties?

The university will always grant permission for the performance of elected positions in public administration, such as on the municipal council for example. Taking up such positions is your democratic right. Nevertheless, these positions must be reported.

11. I perform work for third parties for which I receive earnings; do I need to report this to the university?

Yes, if you receive remuneration for your work for third parties, this work must be reported to the university. (Article 14 of the scheme.) Additional earnings are also understood to mean deferred earnings (Article 3), such as shares and other financial interests. The primary objective of the duty to report is to identify possible conflicts of interest; it is not the case that reported additional earnings automatically benefit the university.

Earnings, including additional earnings, can be divided into three categories. Depending on the category, earnings may accrue to the employer, the employee in question or be divided between the two:

- a. Earnings that are not related to the employee's position at the university accrue to the employee in question.
- b. Earnings that are directly related to the employee's position at the university, and for which work is performed during working hours at the university, accrue to the university.
- c. Earnings that indirectly arise from the position at the university may be fully or partially added to the budget of the department or accrue to the employee in question following consultation with the employee in question, at the employer's discretion. This shall be specified further in the conditions for granting permission to perform work for third parties.