

## Merkblatt zum Nebentätigkeitsrecht von Beamten und Beschäftigten – Information Sheet on Secondary Employment of Civil Servants and Public Employees

### I. Policy

Any form of activity undertaken in addition to the main employment within or outside of the civil service is considered secondary employment.

For civil servants, sections 60 et. seqq. of the Civil Service Act of the Land of Baden-Württemberg (LBG) in conjunction with the regulations of the Secondary Employment Act of the Land of Baden-Württemberg (LNTVO) apply. For academic staff members, the Act on Secondary Employment at Higher Education Institutions (Hochschulnebenstätigkeitsverordnung) applies.

For employees without civil servant status, additionally the collective bargaining agreement of the Länder (TV-L) applies.

### II. Secondary Employment of Civil Servants

#### 1. Types of Secondary Employment

The following types of secondary employment are to be distinguished: secondary employment subject to approval, generally approved secondary employment and secondary employment not subject to approval.

Generally, all secondary employments should be reported in order to assess whether there are any reasons for refusal.

##### 1.1 Secondary employments subject to approval

As a rule, civil servants require **approval before** taking up any type of secondary employment. Exceptions are listed in 1.2 and 1.3.

The following activities are not considered secondary employment:

- unpaid work which is generally accepted to be part of the personal lifestyle (housework, gardening, family care, neighborly help, hobbies, exercising, etc.),
- volunteer work,
- unpaid guardianship, care or fosterage.

Examples of secondary employment subject to approval (paid or unpaid):

- teaching outside of the higher education institution that is the main employer,
- administration of academic institutions outside of the higher education institution that is the main employer,
- consulting activities,
- taking on an additional office, paid guardianship, fosterage, care or the like,
- freelancing evaluator activities that are not connected to the specific teaching and research responsibilities.

##### 1.2 Generally approved secondary employments

A secondary employment is **generally** approved if

- the remuneration of the requested secondary employments altogether does not exceed EUR 1,200 per calendar year,
- the working time of the secondary employments altogether does not exceed a fifth of the regular weekly working time,
- the secondary employments are pursued during leisure time,
- no reason for refusal (as explained in no. 3) exists,
- academic staff members undertake one of the following activities:
  - publishing or editing of academic or artistic magazines, collected editions and similar publications if this is not part of the main employment,
  - working as a defense attorney or prosecutor in court in the case of university teachers of the Department of Law,
  - working as a juror, referee or official expert in court,
  - developing, correcting or overseeing public or academic examinations if this is not part of the main employment.

**Generally approved secondary employments have to be reported with the exception of**

- a onetime secondary employment in the calendar year
- of which the remuneration does not exceed EUR 200.

##### 1.3 Secondary employments not subject to approval

Not **subject to approval** are

- unpaid secondary employments with the exception of
  - commercial work, a freelancing profession or the assistance to one of these activities,
  - becoming a member of a company body with the exception of a cooperative and the holding of a trusteeship,
- the administration of own assets,
- authorial, academic, artistic or lecture activities,
- self-employed evaluator activities in connection with specific teaching and research responsibilities,
- activities for the protection of professional interests in trade unions, professional associations

The activities mentioned in no. 1.3 have to be **reported** if they are **paid**

- authorial, academic, artistic or lecture activities,

- self-employed evaluator activities in connection with specific teaching and research responsibilities,
- activities for self-help organizations.

## 2. Granting of Approval

Please submit the form "Request for Approval of Secondary Employment" ("Ausübung von Nebentätigkeiten"). You will need to provide information on the type, extent, employer and remuneration of the secondary employment.

Before submitting the request to the Human Resources division, it has to be presented to the superior for a statement. He or she has to consider whether the secondary employment would in any way compromise the official responsibilities, the impartiality and the objectivity of the employee or the public interest of the main employer.

The approval may be granted with restrictions and conditions and is restricted to a maximum duration of 5 years.

**Changes** concerning the type, extent, employer and remuneration of the secondary employment subject to approval or report or undertaken by request of the employer are to be reported **immediately** to the superior.

Please use the form "Request for Approval of Secondary Employment" to report changes.

## 3. Reasons for Refusal

The approval is refused if the secondary employment would compromise official responsibilities. Reasons for refusal are given if the secondary employment

- could cause conflicts with official duties of a civil servant,
- could compromise the impartiality and the objectivity of a civil servant,
- could cause a substantial limitation of the availability of a civil servant,
- could have negative consequences for the reputation of the public administration,
- would take up the resources of a civil servant to such an extent that the proper fulfillment of official responsibilities could be compromised (generally if a fifth of the regular weekly working time is exceeded). University professors may only take up secondary employments if the weekly working time of the secondary employments does not exceed the working time of an individual workday.

The approval of generally approved secondary employments may also be refused or revoked if it is apparent that official responsibilities would be compromised. This also applies to secondary employments not subject to approval if the civil servant neglects official duties because of the secondary employments.

## 4. Remuneration Restrictions

Regulations regarding the **maximum amount** of allowed remuneration for secondary employments are determined in sections 5 and 6 LNTVO. Surplus amounts have to be given to the main employer. This applies to secondary employments pursued in the public service, on request of the employer or secondary employments assigned to a civil servant with regard to his or her position.

Once a year, at the latest by 1 July, civil servants have to report on the type, extent, duration, employer and remuneration of the secondary employments pursued within the previous calendar year to their superior. This applies to secondary employments subject to approval or report or secondary employments pursued upon request of the superior.

Please use the form "List of Secondary Employments in the Calendar Year...".

## 5. Consequences of Disregard

Disregarding the obligation of approval and/or report is considered official misconduct and has disciplinary consequences.

## III. Secondary Employment of Public Employees

### 1. Policy

For public employees of higher education institutions without civil servant status, secondary employments outside of their regular working time are generally **not subject to approval**. However, **every secondary employment** has to be **reported** to the employer **in advance**.

### 2. Reasons for Refusal

The employer may refuse the secondary employment if it could

- compromise the fulfillment of contractual duties of the employee or
- the legitimate interests of the employer.

### 3. Remuneration Restrictions

Secondary employments in the public service may be subject to remuneration restrictions.