

Ministry of Labor
Guidelines for Protecting Labor Interests of Part-time Assistants of
Institutions of Higher Education

Promulgated on June 17, 2015

1. In order to enforce strict compliance with the labor laws in the employment of part-time assistants in institutions of higher education (hereinafter referred to as the “School”), and protect the labor interests of part-time assistants, the Guidelines are established.
2. A part-time assistant under the Guidelines means that the student is hired by the School to assist in research, teaching or administrative work under the direction and supervision of the School or its agent, and to receive compensation in return.

The existence of employment between the School and the part-time assistant shall be determined inclusively based on the identity dependence, economic dependence and other regulations. The elements of personality and economic dependence, among the others, could be:

(1) Identity Dependence:

- (1.1) There is no significant difference in the direction and supervision provided by the School or its agent with respect to the work of a part-time assistant and of a full-time assistant.
- (1.2) The School or its agent has the authority to supervise, appraise, manage or discipline with respect to the work provided by the part-time assistant.
- (1.3) The School or its agent has certain authority or the power of final decision upon the appointment, job duties, remuneration, attendance management, and contract termination of the part-time assistant.
- (1.4) Any other matters related to the direction and supervision of the School or its agent with respect to the work provided by the part-time assistant.

(2) Economic Dependence:

- (2.1) The compensation received by the part-time assistant is in consideration of the services for assisting the School’s research or teaching; the compensation is paid in accordance with the School’s fee schedule and regardless of the name of the payment or the source of the funds.
- (2.2) The research, teaching and other results arising from the services provided by the part-time assistant will be the property of the School rather than an individual business of the assistant.
- (2.3) Any other matters related to the compensation received by the part-time assistant as a consideration of the service.

3. The School shall comply with the following rules when hiring a part-time assistant:

- (1) If the Labor Standards Act is applicable to the part-time assistant (as Exhibit), the School or its agent shall conduct each of the following processes of labor interest:
 - (1.1) The School and the part-time assistant may negotiate in good faith and specify the matters under Article 7 of the Enforcement Rules of the Labor Standards Act at least to the extent required by law in writing in two copies, respectively retained by the employee and the employer.
 - (1.2) The School shall appropriate funding for the labor pension of the part-time assistant pursuant to the Labor Standards Act and the Labor Pension Act.

- (1.3) The School shall pay the wages to the part-time assistant at least twice a month on a regular schedule unless the parties have a specific agreement, or the payment is pre-paid monthly.
- (1.4) The School or its agent shall comply with Articles 30 and 32 of the Labor Standards Act regarding the work hours when directing and supervising the part-time assistant's work, and shall not cause the part-time assistant to work overtime; the attendance of the part-time assistant shall be documented on a daily basis.
- (1.5) If the School or its agent deems it necessary to have a female part-time assistant to work during night time, it shall provide the necessary safety and health measures pursuant to Article 49 of the Labor Standards Act, as well as transportation or a female staff dormitory when there is no public transportation available.
- (2) If the Labor Standards Act is not applicable to the part-time assistant, the School or its agent are advised to maintain the work interests of the part-time assistant according to the applicable laws and regulations.
- (3) The School shall be the insurer, and shall enroll the part-time assistant in the labor insurance, employment insurance and national health insurance programs and verify the correctness of the insured salary (in amount).
- (4) The School shall negotiate with the part-time teaching assistant for any changes in the labor contract.
- (5) The recruitment or employment of a part-time assistant shall be in compliance with the Employment Service Act and the Act of Gender Equality in Employment without any employment or gender discrimination.
- (6) The School shall not seize any property, request for guarantee or retain relevant identification documents against the will of the part-time assistant.
- (7) The School or its agent shall protect the work safety and health of the part-time assistant pursuant to the Occupational Safety and Health Act.
- (8) The School or its agent shall not request the part-time assistant to do any job other than the work specified in the labor contract, and shall not treat the part-time assistant adversely if such improper request has been rejected.
- (9) When the labor union under the Labor Union Act requests to negotiate a collective bargaining agreement with the School, the School shall negotiate with the labor union in good faith according to the Collective Agreement Act.
- 4. The part-time assistant shall comply with the following rules when working for the School:
 - (1) Fully understand the rights and obligations of a part-time assistant, and undertake the job of part-time assistant only after assessing self-competency and willingness.
 - (2) Enter into a written labor contract with the School. The labor contract shall be made in two counterparts at least, one retained by the part-time assistant and the other retained by the School or its agent.
 - (3) When accepting the job of part-time assistant, request the School to set forth the work location, job description and work hours (including rest, vacation, and leaves).
 - (4) Confirm that the School has enrolled the part-time assistant in the labor insurance, employment insurance and national health insurance programs, and verify the correctness of the insured salary (in amount) on the onboard day.
 - (5) During the employment of a part-time assistant, make sure that the School has appropriate funding

for the labor pension pursuant to the Labor Pension Act.

- (6) The hired part-time assistant may lawfully organize or join the labor union to unite worker power and maintain labor interests.
 - (7) The part-time assistant may specify the substantive facts and requests for any damage to his/her interest and file the complaint or report to the local competent authority of labor administration.
5. The rules for determining the learning relationship between the School and the student shall be set forth in the “Guidelines on Enhancing Learning and Labor Interests of Part-time Student Assistants of a Junior College or School of Higher Education” established by the Ministry of Education.

Appendix

Overview of Application of Labor Standards Act in Junior Colleges or Schools of Higher Education

Type	Announcement Letter No.	Specified Scope of Application
Public School	Announcement of Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) Tai-Lao-Dong-1-Zi No. 059605 dated December 31, 1998	The Labor Standards Act is applicable to technicians, maintenance workers, and drivers in public schools of all levels.
	Announcement of Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) Lao-Dong-1-Zi No. 0960130914 dated November 30, 2007, and Order of Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) Lao-Dong-1-Zi No. 0970130317 dated June 23, 2008	<ol style="list-style-type: none"> 1. As of January 1, 2008, the Labor Standards Act shall be applicable to all public agencies' temporary employees who are not recruited under the civil service system. 2. Temporary employees in public agencies who are not recruited under the civil service system include "temporary workers not recruited under the regulations of government officers," exclusive of the teaching, research and professional staff hired under the laws of educational staff outside the organizational scheme (see Exhibit).
	Order of Ministry of Labor Lao-Dong-1-Zi No. 1040130177 dated June 3, 2015	As of September 11, 2013, the Labor Standards Act shall be applicable to the professional staffs and assistants of special education recruited under the "Selection Procedures of Professional Staff and Assistant of Special Education" by each sector of public agencies (exclusive of staff recruited pursuant to the Contract Positions Recruitment Act, and the Procedures for Recruiting Contract Employees in the Executive Yuan and Subordinate Agencies).
Private School	Announcement of Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) Tai-Lao-Dong-1-Zi No. 059605 dated December 31, 1998	As of December 31, 1998, the Labor Standards Act shall be applicable to workers of non-teaching and non-faculty positions in private schools of all levels.
	Announcement of Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) Lao-Dong-1-Zi No. 1030130055 dated January 17, 2014	<ol style="list-style-type: none"> 1. As of August 1, 2014, the Labor Standards Act shall be applicable to workers recruited outside the organizational scheme in private schools of all levels (exclusive of teachers who only perform teaching duties). 2. The worker recruited outside the organizational scheme means the headcount is not included in the organizational charter approved by or filed with the competent authority of the school. 3. The teacher who only performs teaching duties means the educators who only teaches the courses set out in the curriculum guidelines of elementary schools, junior high schools and senior high schools, or for the credits or degrees conferred by junior colleges and universities.

		<p>4. This Announcement is not applicable to the workers of non-teaching and non-faculty positions specified by the former Council of Labor Affairs, Executive Yuan (Now Ministry of Labor) in the Announcement dated December 31, 1998, which granted the eligibility under the Labor Standards Act.</p>
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Schedule

Order of Council of Labor Affairs, Executive Yuan Lao-Dong-1-Zi No. 0970130317 dated June 23, 2008

IT IS CLARIFIED that the scope of temporary staff not recruited under the regulations of government officers by each sector of public agencies, as referred to in the Council's Announcement Lao-dong-1-Zi No. 0960130914 dated November 30, 2007, does not cover the teaching, research and professional staff recruited outside the organizational scheme under the laws of educational staff (see Schedule).

Type	Scope	Recruitment Ground	Source of Legal Authority
Teaching Staff	Adjunct teacher, joint appointment teacher	(Each junior college and university shall establish the regulations for appointment of adjunct teachers), University Research Fellow Employment Regulation, Rules of Experimental Program of Graduate School and College through Collaboration between National Colleges and Universities and National Continuing Education Institutions, Implementation Rules of Appointment of Adjunct and Substitute Teacher of High School, Selection Procedures of Adjunct and Substitute Teacher of Elementary and Junior High School	Teachers' Act, University Act, Senior High School Act, Vocational School Law, Primary and Junior High School Act
	Substitute teacher	(Each junior college and university shall establish the regulations for the appointment of substitute teachers), Implementation Rules in the Appointment of Adjunct and Substitute Teachers of Senior High School, Selection Procedures of Adjunct and Substitute Teachers of Elementary, Junior and High Schools	Teachers' Act, Senior High School Act, Vocational School Law, Primary and Junior High School Act
	Professional technician	Employment Regulations for Professional Technicians Teaching at Universities	University Act
	Professional and technical teacher	Selection and Appointment Procedures of Professional and Technical Teachers of Junior Colleges	Junior College Act, Act of Governing the Appointment of Educators, Teachers' Act
	Technical and professional teacher	Procedures for Selection, Review, and Registration of Professional and Technical Teachers of Vocational Schools	Vocational School Law, Act of Governing the Appointment of Educators, Teachers' Act
	Clinical instructor	Implementation Regulations Governing the Reorganization of Junior Colleges into Technical Colleges and the Establishment of Junior College Divisions By Technical Colleges and	Junior College Act

		Technical Universities, Processes of Reorganization of Junior Colleges into Technical Colleges and Establishment of Junior College Divisions	
	Teaching support staff	Appointment Procedures for Teaching Support Staff of Elementary and Junior High Schools	Primary and Junior High School Act
	Teaching staff of school endowment fund	Procedures for Management and Supervision of National University Endowment Fund, Implementation Rules for Recruiting Teaching, Research, and Working Staff of National University Endowment Fund	University Act, National University Endowment Fund Establishment Act
Research Staff	Research staff of school endowment fund	Procedures for Management and Supervision of National University Endowment Fund, Implementation Rules for Recruiting Teaching, Research, and Working Staff of National University Endowment Fund	University Act, National University Endowment Fund Establishment Act
Professional staff	Sports coach	Management Procedures of Recruiting Specialist Sport Coach in School of All Levels	Act of Governing the Appointment of Educators, National Sports Act
	Professional staff of special education (physician, physical therapist, occupational therapist, language therapist, social worker, clinical psychologist, career consultant, orientation and mobility specialist), and assistant of special education (teaching assistant, dorm manager)	Selection Procedures of Professional Staff and Assistant of Special Education	Special Education Act
	Marine crew	Enforcement Rules of Act of Governing the Appointment of Educators	Act of Governing the Appointment of Educators
	Vice president on contract	Enforcement Rules of the University Act	University Act
	Retained staff	Procedures for Establishing Evening Divisions in Colleges and Universities (Abolished on October 23, 2001)	University Act (Amendment and announcement dated July 30, 1982)

	Hired staff	Standard of Faculty Headcount of National On-air College of Continuing Education, Standard of Faculty Headcount of Junior College or School in Higher Education of Continuing Education	Supplementary Education Act
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