**Ministry of Education**

**Guidelines for Protecting Interests of Scholarship Students of Institutions of Higher Education**

Promulgated on June 17, 2015

Amended on May 18, 2017

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1. In order to encourage diversified learning and reassure the foundation of education, the Ministry of Education (hereinafter referred to as “MOE”) hereby establishes the Guidelines to govern the learning scope for the scholarship students who participate in research and service activities at school and to sustain the interests of the scholarship students for the purpose of talent cultivation in junior colleges and universities.

The scholarship students under the Guidelines include the recipients of research scholarship and service-oriented financial aid (hereinafter referred to as the “Scholarship Students”).

1. Without prejudice to the quality of teaching and learning, the junior college or university shall build a complete regulatory structure for protecting student rights pursuant to the University Act and the Junior College Act while upholding the professional autonomy of teachers and implementing the statutory interests of the students.
2. Teaching and learning are the core activities on campus. Under the principle of ensuring teaching quality and protecting labor rights, each school shall review the qualifications of the Scholarship Students, necessity and legitimacy of support related to teaching and learning, and boundary between learning and service, in order to maintain the balance among teaching, research, student learning and labor interests.

Any question by the school, teacher, or student regarding whether the participation of a Scholarship Student in teaching, research, or service activities constitutes an employment shall be resolved through the channels in Point 12 hereunder, with sufficient consideration of the interests of the student.

1. The teaching and research activities which emphasize the purpose and scope of learning and are participated by a Scholarship Student of a junior college or university as well as the service activities which are performed by the disadvantaged students who receive financial aid shall not be classified as employment with consideration. The scope include the following:
2. Curricular learning (see Letter of the original Council of Labor Affairs, Executive Yuan Lao-zhi-guan-zi No. 1020074118 dated September 2, 2013):
3. As part of the curriculum, thesis research or graduation requirements.
4. The foregoing curriculum, thesis research or graduation requirements can be an internship program, fieldwork, laboratory research or other learning activities coordinated by the school under the autonomous power authorized by the University Act or Junior College Act.
5. Such curriculum, thesis research or graduation requirements shall be applicable to all domestic students, foreign students, overseas Taiwanese students, Hong Kong and Macanese students or Chinese students.
6. With the foregoing three conditions satisfied, there is no provision of service or de facto work other than the learning activities.
7. Mandatory service credit: In order to negate any worries of the disadvantaged students in learning, the junior college or university will reserve the funds for scholarship or financial aid, and arrange for the students to participate in the non-paid service activities.

A student who is hired and supervised by the school to assist in the research, teaching or administrative work and receives any compensation in return shall not be deemed as a Scholarship Student mentioned in the foregoing paragraph and shall otherwise be classified as a part-time assistant subject to employment with consideration.

1. A Research Scholarship Student (RSS) is a recipient of a research scholarship. In order to publish a thesis or to meet the graduation requirements, an RSS participates in the research project or enrolls in the courses related to his or her own research; assists to execute related research under an advisor’s supervision; learns and does an internship to improve research capability and to develop research results.

The school may only recognize the Research Scholarship Students within the foregoing learning scope upon the following processes:

1. Consulting Process: The on-campus office responsible for coordinating the research project shall invite teachers who carry out projects and a certain ratio of student representatives to hold regular meetings and to work together to achieve consensus.
2. Basic Rules: Pursuant to the foregoing scope and the procedures under the foregoing sub-paragraph, the school shall develop and establish school-wide basic rules regarding requirements and assignments for Research Scholarship Students for the departments, institutes and the project execution units.
3. Written Agreement: The project execution unit or the teacher shall enter a written agreement with the student with respect to the learning scope under the foregoing sub-paragraph.
4. Deleted
5. Service-oriented Financial Aid Recipient is the student of the MOE financial aid for disadvantaged students who participate in service activities planned by the school, and receive scholarship. Service hours in return are not under an employment with consideration.

The school shall coordinate the financial aid for disadvantaged students of junior college and university as prescribed by MOE, and clearly specify in writing and publish the scope of service activities, scholarship or financial aid amounts, and other administrative rules applicable to the Service-oriented Financial Aid Recipients.

1. The school shall promote the learning activities within the scope of Research Scholarship Student Scheme in accordance with the following rules:
   1. The learning activities shall have the direct relevance to the scopes specified in Point 5 and be implemented upon the consent of the individual student and the teacher through courses , lectures or instructions.
   2. The school shall establish a concise and corresponding curriculum, internship programs, thesis research supervision, specify and publish relevant learning rules, graduation requirements and scholarship scheme.
   3. The teacher shall provide instructions to the student in learning professional knowledge.
   4. During the period of the learning activities, the student may receive a scholarship, necessary allowance or grant for research or internship incurred by the learning or service activities.
   5. The Scholarship Student shall be entitled to the protection of interest or relevant insurance according to the University Act, the Degree Conferral Law, and other applicable laws for the participation in the learning activities; the on-campus student policies shall set out such rules.

During the research or service activities, in addition to the original student group insurance, the Scholarship Student shall be entitled to additional coverage for occupational accidents under a commercial insurance paid by the funds of the school’s budget or sponsored by MOE as required by the Labor Standards Act.

The ownership of the research results from the learning activities by the Research Scholarship Student shall be deemed as follows:

1. If the advisor only provides concept guidance and does not participate in the writing of the content, and the report is independently finished by the student, or the thesis is written by the graduate or doctoral student during the period of the research project, then, pursuant to the Copyright Act, the student shall be the author of such report or thesis, and shall be entitled to the copyrights upon the completion of the thesis (including the moral rights and the copyrights).
2. If the advisor not only provides concept guidance but also participates in the writing of the content, and the foregoing report or thesis is completed jointly by the advisor and the student, in which each person’s creation cannot be separated and exploited, the report or the thesis shall be deemed as a collective work and the student and the advisor shall be the coauthors of such collective work, and entitled to the same copyrights (including the copyrights and moral rights). The joint copyrights can be exercised only upon mutual consent of the student and the advisor.
3. The Scholarship Student and the advisor shall enter into an agreement or contract about the ownership of copyrights and the approach of exercising the rights with regard to relevant research results in advance.

Pursuant to Article 5.2 of the Patent Act, the student who is the inventor, utility model creator or designer will be entitled to apply for the patent ownership to the research results related to the learning activities, and may apply for patent with the patent authority. If any other person (such as the advisor) has any substantial contribution in the production of the research results, such person might also be determined as the joint inventor.

1. In order to protect the interests of every Scholarship Student, the school shall establish and publish the procedures for protecting the Scholarship Students’ rights to learn through extensive consultation with the Scholarship Students and the teachers; and may invite the representatives of on-campus student autonomy organizations to attend relevant meetings and consider their opinions.

The contents of the foregoing procedures shall include the following matters:

* 1. The guidelines for on-campus students to participate in curricular learning or service activity, rights and obligations of every type of assistants, sponsored project (subject), source, amount limit, and the ownership of research results
  2. Compliance of relevant on-campus offices and teachers about the protection of the interests of Scholarship Students.
  3. Protections of interests, complaint, remedy access and procedures of Scholarship Students shall be included in the Student Rules.

1. Unless otherwise provided in the laws or regulations, the school shall specify the learning scope of the Scholarship Students pursuant to the Guidelines, and set out the rules of scholarship, research, and internship allowance or grant in the school policies and the procedures according to applicable laws; supervise the compliance of the teachers and on-campus offices to protect the interests of the students in addition to the approval of scholarship, research and internship allowance or grant pursuant to its policies and rules.
2. When granting a physically or mentally challenged student as the Scholarship Student, the school shall refer to the “People with Disabilities Rights Protection Act” to provide diversified assistance to the physically and mentally challenged persons, and process accordingly under the Special Education Act and relevant measures to offer individual support plans.
3. The school shall have a dispute resolution mechanism if there is any dispute regarding whether or not the Scholarship Student is engaged in employment.

Student representatives and legal experts and scholars, if applicable, shall participate in the consideration of the foregoing dispute.

If there is a labor union, the union representatives may be invited to participate in relevant meetings and their opinion shall be considered.

The dispute resolution mechanism in the first paragraph may be integrated with or be independent from a current complaint system based on the school operations.

1. The school shall periodically inspect and clearly define the type and number of current Scholarship Students on campus, and provide the protective measures related to learning pursuant to the criteria of determination of the Guidelines.
2. Other than the learning scope of the Scholarship Students under the Guidelines, any fact that a student provides services to the school for certain compensation in return in a superior-subordinate relationship shall be deemed as an employment. A part-time job, which may include research assistant, teaching assistant, temporary position for a research project and part-time student assistant, regardless of the name of the title, shall be subject to the applicable labor laws. If the parties are under a work-for-hire relationship, then other applicable laws shall govern.

The rules for determining an employment between the school and the par-time student assistant shall be set forth in the Guidelines for Protecting Interests of Part-time Assistants of Institutions of Higher Education prescribed by the Ministry of Labor.

The ownership of the copyright of any research result generated from a research project conducted by the teacher, in which the student was hired by the school to provide assistance or participate, shall be subject to the Copyright Act, unless the contract has provided that the hired student shall be the author.