

When can NTNU employees undertake additional employment?

1 Introductory remarks

There is a long-standing tradition at NTNU for academic staff to undertake jobs in addition to their work at the university. Activity outside the position at NTNU can often be expedient, because it provides insight, experience and networking that benefits NTNU's social responsibilities and relations to Norwegian business community. It promotes contribution and contract research, and allows NTNU employees to earn an extra income. NTNU wishes to continue to pursue this. Such activity can, however, come into conflict with the regulations regarding additional positions, ethical guidelines or NTNU's interests. Therefore, there is a need to clarify NTNU employees' rights to undertake additional employment. In each case, a concrete assessment must be made of whether the employee's additional employment could be in conflict with the applicable regulations. The guidelines below are intended to help employees and managers in their assessment of whether an additional employment is within the applicable regulations or not.

An employee is defined as someone who gets salary from NTNU, including employees in additional positions at NTNU and other part-time positions.

1.1 Institutional agreements

Institutional agreements is the preferred form of collaboration when NTNU employees participate in research and innovative activities with other establishments, where these activities coincide with NTNU's core activities; education, research, communication and innovation. Agreements about institutional collaboration can be made centrally, for each faculty and for each department.

Examples of existing agreements:

- NTNU and SINTEF
- DMF at NTNU and St. Olavs Hospital
- SVT at NTNU and NTNU Social Science Research.

2 Definition of terms

Below are explanations of some important terms based on applicable laws, guidelines and agreements.

2.1 Additional employment

An additional employment is defined as an engagement (employment or assignments), appointment or part-ownership in companies, organisations, associations or other bodies in addition to the ordinary position at NTNU, including engagements and appointments in companies that are entirely or partially owned by the employee.

Whether this engagement is paid has no significance. Additional employment can also be designated as additional position, second job, side income, extra work etc. Additional employment does not include excess work or overtime work at NTNU.

2.2 Working hours

Working hours is defined as the period of time the employee is at their employer's disposal. Off-duty time is defined as the period of time the employee is not at their employer's disposal. This is detailed in The Working Environment Act, § 10-1.

2.3 Normal working hours at NTNU

The employees' working hours can vary, but unless otherwise agreed, and with the exception of particularly autonomous positions, the normal working hours at NTNU are 08:00–15:00 between 1 May and 31 August, and 08:00–15:45 between 1 September and 30 April.

2.4 Employees in particularly independent positions

The regulations regarding working hours in The Working Environment Act are not applicable for employees in particularly independent positions, with certain exceptions, cf. The Working Environment Act, § 10-12. Such employees are not considered to have restricted working hours, and the employees can themselves adjust their working hours based on the nature of the assignment.

NTNU considers teaching and research positions, as well as PhD and Postdoctoral Fellow positions, to be particularly autonomous positions as per The Working Environment Act. In practice, this imposes employees in these positions to be present at lessons, meetings etc. at scheduled times, and that their use of time in their position at NTNU corresponds with the size of their position.

To be able to identify the off-duty time of employees in particularly independent positions, off-duty time is in the case of additional employment defined as the period of time outside of normal working hours.

2.5 NTNU resources

The most relevant applicable resources in this matter are:

- Telephones
- Computers, tablets
- Technical equipment/laboratory equipment/chemicals
- Accessories
- NTNU facilities
- Software licences, etc.
- Use of the «NTNU» logo and identity.

2.6 Impartiality

The Public Administration Act § 6 regulates a civil servant's impartiality in relation to acting on behalf of the public administration, including NTNU. In each case there should be an assessment as to whether there are any special circumstances that might reduce confidence in the employee's impartiality. Among the issues that should be assessed, is whether the decision can lead to advantage, loss or disadvantage to himself/herself or someone they have a close personal relation to. Immediate relations (parents, children or siblings) will always result in disqualification, whereas cousins should be grounds for an assessment. If the superior civil servant is disqualified, neither they nor a direct subordinate in the same administrative body can make the decision.

Note that the Public Administration Act states that a person is not disqualified if it is obvious that their connection with the issue will not affect his/her assessment, and neither public nor private interests indicate that he/she should be left out of the case.

3 Main principles for employees' additional employment

Employees have the right to undertake extra work for another employer or engage in private occupations. However, this right is not unrestricted. An employee may not undertake extra work which:

1. is directly illegal for him/her by law or regulation,
2. is directly agreed upon by regulations, collective agreements or other agreements which he/she shall abstain from,
3. inhibits or delays their ordinary work, unless a particular decree or permission

- exists, cf. the Basic Collective Agreement, pt. 1.1.4,
4. involves the civil servant engaging in or contributing to disloyal competition with the governmental establishment at which they are employed,
 5. leads to the civil servant becoming disqualified in relation to managing their own cases more often than sporadically,
 6. involves that the civil servant easily can get in a conflict of loyalty with the public establishment at which he/she is employed,
 7. involves that they take advantage of trade secrets in a disloyal manner,
 8. damages the reputation of the position or the public employer.

4 Additional employment that requires approval from the employer at NTNU

Matter for the Board 35/13 gave a detailed definition of additional employment that requires approval.

Additional employment where NTNU resources (working hours and others) is utilised:

1. Additional employment within normal working hours
2. Additional employment utilising NTNU resources

Additional employment that does not involve use of NTNU resources (working hours and others):

3. Additional employment that can cause confusion regarding the employee/contractor's and NTNU's interests and resources
4. Additional employment that might compete with NTNU's own activities
5. Additional employment of a lengthy or comprehensive nature
6. Additional employment that can contribute to doubt regarding the employee's impartiality

5 Employees' right of disposal of their own spare time

It is explicitly stated that government employees have the right to undertake extra work for another employer or engage in private occupations on their own spare time. This principle is superior and limits the application requirement for pts. 3–6 in Chapter 4. For instance, many voluntary appointments of a lengthy nature that are performed on one's spare time will not require an application. Additionally, the general limitations to this right stated in Chapter 3 apply.

6 Additional employment during working hours

Employees shall fulfil their duties according to their employment agreement and other regulations governing the employment. Breaches of this regulation can be considered absenteeism, which can lead to sanctions. For academic staff in particularly independent positions, additional employment conflicting with scheduled assignments like teaching or meetings, or additional employment of a nature that limits their performance of assignments implied in their position, must be discussed with the closest leader..

20% additional employment within working hours

The leader may approve an employee's additional employment within working hours for up to 20%, when this benefits their work at NTNU. This also applies to timed assignments for employees in particularly independent positions, for instance teaching assignments. Time spent on additional employment within working hours is compensated for at other times. Alternatively, reduced working hours and salary deduction can be agreed. Such activities can typically be additional positions at other educational institutions.

6.1 Examples of issues related to additional employment within working hours

Additional employment causing reduced presence in the working environment.

The leader may order the employee to perform their work according to the employment agreement. If the additional employment will come in conflict with the employee's performance of their assignments in their primary position at NTNU, the manager must approve this. If the employee and the manager do not agree on what their required duties include, this issue must be discussed. Employees in particularly autonomous positions are also subject to mandatory presence, for instance related to teaching, availability for academic supervision, meetings etc.

Participation in committees, councils and examination.

Academic staff participating in expert committees and contributing with grading, academic supervision, as opponents etc. at other institutions within the sector, is an established, long-standing practice. Depending on the extent and the established practice, the Head of Department should be informed of such activities, but in most cases the guidelines regarding employees' additional employment are not intended to regulate this.

However, participation in other councils, committees etc. that have meetings during working hours requires approval from the Head of Department, unless said participation is required by law or falls within the rights of the employee.

Whether the task in question can be done without prior approval from the employer depends on whether this task is so time consuming that it will affect the employee's possibility to perform their duties in their primary position at NTNU, and also whether the task will inhibit the employee from being present at the unit within normal working hours.

Intellectual Property Rights (IPR)

NTNU's Policy for Protection and Management of Intellectual Property Rights and Physical Materials, passed by the University Board in 2010, specifies the limits regarding the use of IPR at NTNU.

In some cases, NTNU and the employee might disagree about whether the intellectual property is developed within or outside the position. In such cases, there must be a concrete assessment of the situation.

7 Additional employment involving use of NTNU resources

NTNU resources should primarily be used only in connection with employees' work for NTNU. Any exceptions from this must be approved by the responsible manager or board. NTNU cannot allow suspicion to arise about whether state resources are utilised in a manner that might cause distortion of competition or cross subsidisation in a commercial market beyond what is generally accepted, regulated and available through public access. NTNU's IT system must not be used to perform or advertise commercial activities without permission.

Limited use of the institution's infrastructure that does not cause any considerable strain on the institution's resources should be allowed for additional employment (with or without application requirements) embraced by the institution. When approving additional employment, it should be clarified which NTNU resources the employee is allowed to utilise in connection with their additional employment. When using expensive equipment, this must be entirely covered out of consideration for the university's economy, and to avoid university resources contributing to distortion of competition in the market where the additional employment takes place.

7.1 Examples of issues related to additional employment involving use of NTNU resources

To which degree is it acceptable to use NTNU facilities for private business activities?

NTNU facilities should primarily be used for NTNU activities. If employees want to use NTNU facilities for private activities, this must be agreed upon with the manager. The unit must decide whether they have any room to spare, without this coming into conflict with ordinary activities. In cases where use of NTNU facilities for additional employment is allowed, the employee must pay rent according to prior agreement. The Property Department can assist the unit in determining the rental price.

Use of incentive/research resources

Research resources or incentive resources cannot be used to purchase services from one's private business, without approval from the Dean or a manager at an equivalent level.

Use of NTNU's IT system in additional employment

The limitations to use of NTNU's computer system are stated in NTNU's IT regulations. According to the regulations, the NTNU computer system should be used for academic activities, research and teaching. It should not be used to perform or advertise commercial activities without prior written approval.

To a limited extent, an additional employment may cause some strain on the institution's resources, if the activity is not of a commercial nature. This must be explicitly agreed.

Use of other NTNU infrastructure in additional employment

Employees may not use other NTNU infrastructure (telephone, mail etc.) for private activities.

To a limited extent, an additional employment may cause some strain on the institution's resources, if the activity is not of a commercial nature. This must be explicitly agreed.

Use of the NTNU logo in private activities

Employees may not use the NTNU logo and NTNU infrastructure for private activities.

Downloading software that is available to NTNU employees for free and requires a license for use in additional employment

NTNU employees may not download licensed software or similar for use outside of their position at NTNU. This will constitute a breach of copyright. This is stated in NTNU's IT regulations, among other places.

Smaller (consultation) assignments where NTNU's equipment is used and where the activity could have been performed as part of the primary position.

Such activity must be approved by the manager. Preferable to employees performing these activities on their spare time, an institutional agreement can be made to give employees extra payment for these activities, within NTNU regulations.

8 Additional employment causing confusion of interests and resources between NTNU and the employee

In cases where an additional employment falls within the subject area of the employee's position at the university, and the nature of the additional employment suggests that the assignment could have been included as a part of the employee's required duties, this can qualify as competition between resources used in the university's activities and in the employee's additional employment.

8.1 Examples of problems in connection with additional employment that can cause confusion of interests and resources

An employee develops an invention where NTNU resources have been utilised

NTNU's IPR policy will be decisive in these cases. NTNU's instructions for innovation will also be relevant.

9 Additional employment that can cause competition between NTNU and other establishments

In certain cases, an additional employment might compete with the university's activities. If the employee's priorities in terms of their tasks have a direct influence on their possibilities of earning extra income on their spare time, this can also lead to a conflict of loyalty. Further information about duty of loyalty can be found in the Ethical Guidelines for Government Service.

9.1 Examples of problems in connection with additional employment that can cause competition

Competing education facilities

Sale of educational services or employment in establishments where the task is to provide education can in some cases cause problems related to the employee's primary position at NTNU. Cases where NTNU or NTNU Videre offers an equivalent or similar educational service can be examples of situations where a concrete assessment should be made.

Guest lectures and smaller assignments should be considered unproblematic, provided that the assignment is not of such an extent that it will affect the employee's ability to perform their required duties in their position at NTNU, or that the assignments will inhibit the employee from being present at the unit within working hours.

Competing research

Participation in research at establishments that perform activities within similar subject areas as NTNU can be a problem with regards to competition. Examples of such activities can be participation in research at SINTEF, NTNU Samfunnsforskning and similar establishments, in projects in which NTNU could have participated. However, participation will be advisable in some cases.

10 Additional employment of a lengthy and comprehensive nature

Lengthy or comprehensive additional employment undertaken by an employee must be approved by the manager. Due to duration or extent, such additional employment can create a connection with other establishments that the employer must be aware of.

10.1 Examples of problems in connection with additional employment of a lengthy or comprehensive nature

Publication points

If an employee undertakes additional employment at another research institution where publication points are relevant, problems can arise in relation to which educational institution should be rewarded with regards to publication points. To avoid these situations, the approval of additional employment should include a clarification of potential problems related to publication points.

Participation in long-term ongoing activities.

Whether this is additional employment that requires approval must be based on a concrete assessment. The assessment should consider how much time the employee spends on their

additional employment, how relevant it is with regards to their position at NTNU, and whether this is an activity that will affect the employee's performance of their required duties in their position at NTNU. Long-term appointments of a private nature typically do not require approval from NTNU.

Positions of trust

Appointments in unions, political parties etc. will not cause problems with regards to the primary position at NTNU. The activity takes place outside working hours and without utilising NTNU resources, unless information to the contrary emerges.

Board appointments

Whether a board appointment has significance with regards to the position at NTNU must be based on a concrete assessment of whether problems will arise, or could arise, in relation to the employee's loyalty and impartiality. This is particularly important to clarify with appointments in enterprises that have relations to NTNU, or that perform activities within areas where NTNU are also active.

11 Additional employment causing doubts about employees' impartiality

The Public Administration Act regulates government employees' impartiality in relation to acting on behalf of the public administration, including NTNU. If doubts could arise regarding the employee's impartiality, the employment requires approval.

The position at NTNU might involve restrictions with regards to the employee's opportunity to accept assignments for companies that contract with NTNU. The Government Employee Handbook states that a government employee cannot undertake extra work for another employer or perform private activities on their spare time, if this involves them possibly making decisions in their positions that might affect their own or their additional employer's income.

11.1 Examples of problems related to additional employment that might create doubt about employees' impartiality

Purchase of goods or services from employees' companies

Employees at the university are usually not allowed to provide services to NTNU from their own companies. The Dean or the manager at an equivalent level may in special cases allow such provisions, if these are obviously not in conflict with these regulations.

Examples of such situations can be cases where employees who make purchases have part-ownership in or other affiliations to companies that deliver services to NTNU. See also pt. 3.

Employees have private establishments where students are employed

An employee can experience problems with their impartiality in their position at NTNU if they are both the employer and the supervisor of the same student. This can be a problem if/when a conflict arises between the company and the student, affecting the evaluation and academic supervision of the student and their work/exam/academic work. This can be a relevant problem in relation to supervised professional training, suitability assessments, dissertations, semester papers etc.

Academic staff with an adviser agreement with another establishment

Doubts can arise about an employee's impartiality in their primary position at NTNU when they are simultaneously participating in other activities within the same subject area, including if the employee has the opportunity to affect whether activities and assignments are offered to NTNU or the establishment where the employee has an adviser agreement.

12 Employees' private activities

Employees' private activities are frequently subject to questions related to whether the employee may hold their additional employment. There are several problems in relation to whether the employee's activity or ownership is compatible with NTNU's guidelines for additional employment. Such problems can be use of working hours, use of NTNU resources, competition and impartiality in relation to the performance of tasks in the primary position. In each case, a concrete assessment must be made to determine whether the activity or ownership is in conflict with the employee's opportunity to hold additional employment. The situation can change over time, causing an activity that was acceptable at one point in time to become unacceptable.

Activity in private establishments stemming from innovative activity in the position at NTNU

Employees with their own company is a typical case where questions will arise as to whether this is a legitimate additional employment. NTNU wants ideas and technology to be commercialised through establishment of companies, but conflicts of interest can arise when a company is established and has to be managed. Among other things, NTNU has their own instructions for innovation , and NTNU TTO is established to assist with commercialisation of inventions. In such cases, the activity will be able to commence as a modest activity that will not come in conflict with the primary position. However, this situation can change over time. If the situation changes to the point where the additional employment comes in conflict with the position at NTNU, the employer must enter into a dialogue with the employee. There can be several good reasons for the employer not to approve further activity. For instance, the situation might have changed to the point where the employee spends too much of their working hours on this activity. The use of NTNU resources might have changed from modest to a more comprehensive and continuous strain on the resources. The activity might have developed into a competitor to NTNU's activities.

Instructions compiled on 16 December 2013 by a work group appointed by the Human Resources Manager.