

## **AP 7120-8 Employment of Professional Experts**

**Reference: Health Workplaces, Healthy Families Act of 2014 (AB1522)**

### **1.0 Use of Professional Experts**

- 1.1 The Professional Expert category is used for the *temporary* employment of a person in conjunction with a specific, limited-term project (typically a grant or other specially-funded project) requiring professional knowledge, skills, or technical expertise.
- 1.2 Employment of Professional Experts is appropriate under the following circumstances:
  - 1.2.1 The conditions of service are not appropriate to any other category of temporary employment (i.e., nonclassified short-term employee, nonclassified substitute employee, student employee).
  - 1.2.2 The person cannot be engaged as an Independent Contractor because the conditions of service do not meet the Internal Revenue Service Independent Contractor criteria.
  - 1.2.3 The conditions of service meet all of the criteria specified in Section 2.0, below.

### **2.0 Criteria for Employment:** Employment of a person as a Professional Expert requires compliance with all of the following criteria:

- 2.1 Employment must be in conjunction with a specific, limited-term project. The project must have defined starting and ending dates.
- 2.2 The service to be performed must require a unique or specialized background not commonly found in the labor market as evidenced by professional knowledge, education, licensure or certification and/or specialized professional/occupational training, experience, skills or technical expertise. The Professional Expert must possess bona fide qualifications appropriate to the job assignment.
- 2.3 The service to be performed is not of a type designated as “academic” in Title 5 of the California Code of Administrative Regulations (i.e., service which requires state-mandated minimum qualifications). The following services are considered “academic” and are specifically excluded from the Professional Expert category:
  - 2.3.1 Instruction in any course offered for credit, non-credit, or for which apportionment will be claimed.
  - 2.3.2 Related academic student support services (e.g., counseling, EOPS and DSPS services).
- 2.4 The service to be performed is not materially the type of work that would be performed by a classified position within the District. Examples of classified duties excluded from the Professional Expert category include, but are not limited to, the following:

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- 2.4.1 Secretarial/Clerical (e.g., Office Assistant; Office Manager).
- 2.4.2 Instructional Aide/Assistant; Lab clerk/Aide/Technician.
- 2.4.3 Accounting/Fiscal (e.g., Account Clerk, Records Clerk).
- 2.4.4 Maintenance & Operations.

### **3.0 Conditions of Employment**

3.1 Terms of Employment: Professional Experts are temporary employees. They are employed on an "as needed" basis, subject to termination at will by either the District or the employee.

#### 3.2 Period of Employment

- 3.2.1 The requested period of employment must be for the actual period of time during which services are required, not to exceed the project termination date or the end of the current fiscal year, whichever occurs first. The maximum period of employment of a person as a Professional Expert during any fiscal year is thirty-eight and one-half (38-1/2) weeks, including all time employed during the fiscal year as a Short-term Employee, Substitute Employee, or Student Employee. Employment will be automatically terminated if this limit is exceeded. Regular and contract faculty who perform services as professional experts are exempt from this limitation.
- 3.2.2 All calendar days during the specified employment period as a Professional Expert will count toward the specified employment limit, irrespective of the number of days worked during the employment period or the number of hours worked per day.
- 3.2.3 Extensions of employment may be granted upon sufficient justification, provided the cumulative employment during any fiscal year does not exceed thirty-eight and one-half (38-1/2) weeks.

#### 3.3 Employment Limitations

- 3.3.1 The employment of a Professional Expert shall be limited to not more than twenty-six (26) hours per week. Employment will be automatically terminated if this limitation is exceeded.
- 3.3.2 A person employed as a Professional Expert shall not be concurrently employed within the District as a Short-term Employee, Substitute Employee, Student Employee, Adjunct Faculty, or Special Project Administrator. In extenuating circumstances, an occasional exception to this limitation may be made to permit employment as a Professional Expert concurrently with Adjunct Faculty employment, provided the terms and conditions of the concurrent employment are fixed and approved in writing by the Vice Chancellor of Human Resources in advance of the employment.

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3.3.3 The employment of a Professional Expert during any period of service shall be limited to work under the direction of one immediate management supervisor. The supervising manager shall be responsible for ensuring that the employment limitation of twenty-six (26) hours per week is not exceeded.

### **4.0 Compensation**

4.1 Professional Experts will be compensated at the appropriate hourly rate according to the Professional Expert Rate Schedule, for the actual hours of service rendered in performance of the specified duties.

4.2 Professional Experts will not be compensated for preparation or training required to meet the professional qualifications necessary to perform their duties.

4.3 Persons employed as Professional Experts are not eligible to participate in the District's Health and Welfare plan or optional fringe benefit plan in conjunction with their employment as a Professional Expert.

4.3 Beginning July 1, 2015, employees will accrue one (1) hour of paid sick leave for every thirty (30) hours worked. This sick leave will carry over from year to year but is limited to a maximum balance of forty-eight (48) hours. Employees are eligible to use this leave once it has been accrued, however, it must be used in whole hour increments. When separating from the District, employees will not be provided compensation for any accrued, unused paid sick leave hours. If an employee separates from the District and is rehired within one year from the date of separation, any previously accrued and unused paid sick days will be reinstated.

4.3.1 Upon oral or written request, the District shall permit an employee to use paid sick leave for the following purposes:

4.3.1.1 For the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member. "Family member" means any of the following:

4.3.1.1.1 A child, which for this purpose means a biological, adopted or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of child is applicable regardless of age or dependency status.

4.3.1.1.2 A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

4.3.1.1.3 A spouse or registered domestic partner.

4.3.1.1.4 A grandparent or grandchild.

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4.3.1.1.5 A sibling.

4.3.1.2 For an employee who is the victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c ) of Section 230 and subdivision (a) of Section 230.1.

4.4 If the need for sick leave is foreseeable, employees shall notify the Immediate Management Supervisor not less than two (2) working days in advance of the day and time of the appointment. If the need for paid sick leave is unforeseeable, employees shall contact the supervisor's office as soon as possible, but not later than the scheduled time the employee would be required to report for duty.

4.5 Persons employed as Short-Term Employees or Substitute Employees do not receive paid holidays, paid vacation days, or paid leaves of absence in conjunction with their employment as a Short-term Employee or Substitute Employee.

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July 21, 2009, Chancellor's Staff