

# Procedure: 4.1.4p. (III.D.)

## Categories of Employment

**Revised:** January 28, 2020, May 7, 2018, September 15, 2015; May 28, 2014; March 27, 2014; March 6, 2012; January 21, 2011

**Last Reviewed:** January 28, 2020

**Adopted:** January 21, 2011



### I. PURPOSE

- A. Provided an applicant meets all pre-employment hiring requirements outlined in applicable State Board Policies and TCSG Procedures, he/she may be appointed to a full-time or part-time position at the TCSG System Office or at a technical college in one of the following employment categories: Regular Appointment; Regular, Part-time Appointment; Part-time Hourly-Paid Appointment; Temporary Appointment; Adjunct Faculty Appointment; or, Federal/College Study Student Appointment.
- B. The Commissioner or a technical college president may offer employment contracts as provided by State Board Policy. No employment contract shall encompass a period to exceed twelve (12) calendar months. Adjunct faculty shall not be issued employment contracts; instead, terms and conditions of employment shall be outlined in a memorandum or letter of appointment which shall be provided to and acknowledged by each adjunct faculty member. No such appointment shall exceed a single academic term and adjunct faculty are not permitted to work between academic terms.
- C. If tenure was conferred on an employee prior to or at the time of conversion of a technical institute from operation by a local board of education to state control, he/she shall retain tenure unless he/she later accepts a promotion or transfers to a different position at his/her technical college or accepts a position at another technical college or the TCSG System Office. NOTE: the Technical College System of Georgia does not confer tenure upon its faculty.
- D. The employment status of those employees who remain members of the classified service shall be governed by State Personnel Board Rules as well as State Board Policies and TCSG Procedures.

### II. RELATED AUTHORITY:

26 CFR Part 31 – Internal Revenue Service/Department of Treasury Regulations

26 CFR Part 31.3121(b)(10), Internal Revenue Code

O.C.G.A. §20-4-5

O.C.G.A. §34-7-1

O.C.G.A. §45-20-1 et seq.

O.C.G.A. §47-2-1 et seq. (Employees' Retirement System of Georgia)

O.C.G.A. §47-3-1 et seq. (Teachers Retirement System of Georgia)

Patient Protection and Affordable Care Act

Social Security Act

State Health Benefit Plan Rules

State Personnel Board Rules (General)

### III. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia.

### IV. DEFINITIONS:

- A. **Academic Term:** a division of an academic year during which a technical college holds classes, e.g. a semester or mini-semester.
- B. **Adjunct Faculty:** a temporary, time-limited appointment. Professional credentials required for appointment as full-time faculty in a given academic program will also be required for appointment in this capacity in the same academic program. The employee's appointment will be limited to a single academic term and corresponding terms and conditions of employment will be outlined in a memorandum or letter of appointment. Work entails the delivery of academic instruction for one or more assigned course(s) in one or more technical college(s) as provided in this Procedure.
- C. **At Will:** an individual considered to be employed "at will" may resign for any reason at any time or may be discharged for any reason not specifically prohibited by law and in a manner consistent with the provisions of applicable State Board Policies and TCSG Procedures.
- D. **ERS Covered Employer:** a state department or agency participating in the Employees' Retirement System of Georgia. Included among participating agencies are the Technical College System of Georgia and its associated technical colleges.
- E. **FICA – Medicare:** the portion of FICA (Federal Insurance Contributions Act) tax dedicated to support Medicare.
- F. **FICA – OASDI:** the Social Security portion of the FICA tax dedicated to Old Age, Survivors, and Disability Insurance.
- G. **Normal Retirement Age:** with respect to service with the Technical College System of Georgia and membership in the Employees' Retirement System or the Teachers Retirement System, attaining 30 years of creditable service (regardless of age) or after reaching age 60, having at least 10 years or more of creditable service.
- H. **Professional Laboratory Assistant:** a temporary, time-limited appointment reserved for individuals possessing appropriate professional qualifications to independently direct student instructional activities in support of teaching faculty in an assigned academic program. The appointment encompasses single academic term and corresponding terms and conditions of employment are outlined in a memorandum or letter of appointment.
- I. **Seasonal Employee:** under the Patient Protection and Affordable Care Act, a seasonal employee is defined as an employee in a position for which the customary annual employment (period) is six (6) months or less. NOTE: the term 'customary' means that by nature of the position (held), an employee works for a period of six (6) months or less and that the period should begin each calendar year in approximately the same part of the year.

J. **TCSG Work Unit:** the TCSG System Office, Quick Start Headquarters, Quick Start Regional Office or training center, or an associated technical college.

K. **TRS Covered Employer:** includes colleges and universities associated with the Board of Regents; the State Department of Education; local Boards of Education; charter schools; RESA's (Regional Educational Service Agencies); and, the Technical College System of Georgia and its associated technical colleges.

V. **ATTACHMENTS:** None

VI. **PROCEDURE:**

**A. Categories of Employment**

1. **Regular Appointment:** Individuals hired in this capacity are considered full-time, benefits-eligible, receive a monthly or semi-monthly salary, and are expected to be employed for a continuous period of nine (9) or more calendar months. Regular appointments entail a work commitment of thirty (30) or more hours per week.

a. An individual appointed to a full-time faculty position which encompasses a period of employment ranging from nine (9) to eleven (11) calendar months shall receive a pro-rated salary which covers a twelve (12) month period.

b. A similar pay delivery process governs the transition of a currently employed faculty member from a twelve (12) month period of employment to a period ranging from nine (9) to eleven (11) months. These faculty members shall also receive a reduced monthly salary for twelve (12) months. However, any transition that is not voluntary on the part of the employee (e.g., in response to a shortage of funds) may only be accomplished through a reduction-in-force approved by the Commissioner as provided in TCSG Procedure 4.1.10p, Reduction In Force.

2. **Regular, Part-time Appointment:** Individuals hired in this capacity (which may include faculty) receive a monthly or semi-monthly salary and have a work commitment of at least twenty (20) but no more than twenty-nine (29) hours each work week for a period of nine (9) or more calendar months. Individuals are not benefits-eligible, but are eligible for pro-rated leave accrual and, with limited exceptions, are eligible for membership in the Teachers Retirement System of Georgia as referenced in this procedure. Those individuals who are not eligible for membership in the Teachers Retirement System must participate in the Employees' Retirement System of Georgia's Defined Contribution Plan unless otherwise excluded by law.

3. **Part-time, Hourly-Paid Appointments**

a. Appointments in this category encompass an indefinite period of employment and are limited to three defined position groups with other established conditions/criteria as follows:

1) an individual may be appointed to a TRS covered, hourly-paid position with a work commitment of no more than nineteen (19) hours each week for an indefinite period;

2) an individual may be appointed to a TRS covered, hourly-paid position with a work commitment of at least twenty (20) but no more than twenty-nine (29) hour per week for an indefinite period provided the TCSG work unit assumes

responsibility for the employer's portion of the cost of the employee's TRS membership. Accompanying TRS membership criteria requires an appointment to a one-half time or greater permanent position in which the employee works at least fifty percent (50%) of the hours required of a full-time position with a similar scope of work; or,

- 3) an individual may be appointed to a TRS non-covered, hourly-paid position (i.e., a non-supervisory custodial, maintenance, food service, or security position) may work no more than twenty-nine (29) hours each week for an indefinite period.

NOTE: For purposes of implementing the provisions of this paragraph, the term "indefinite period" is defined as a continuous period of employment of nine (9) or more calendar months inclusive of breaks between academic terms.

- b. An individual hired pursuant to the provisions of Paragraph VI.A.3.a.1. or VI.A.3.a.3. are not benefits eligible, do not accrue leave, are not eligible for membership in the Teachers Retirement System of Georgia (TRS), and may not become a regular member of the Employee's Retirement System of Georgia. Instead, the employee must participate in the Employee's Retirement System of Georgia's (ERS) Georgia Defined Contribution Plan unless otherwise excluded by law.
- c. An individual hired pursuant to the provisions of Paragraph VI.A.3.a.2. must participate in TRS as a condition of employment but, is not eligible for other benefits nor does he/she accrue leave.
- d. All similarly situated positions in a work unit (i.e., all positions encompassing the same job title, which perform comparable duties and responsibilities, and which possess a comparable work hours commitment) should be established and maintained using the same employment category option identified above.

For example, all hourly-paid child enrichment center worker positions in a TCSG child enrichment center should be assigned to the same employment category.

- e. The indefinite period of employment differentiates appointments in Paragraph VI.A.3. from the various types of temporary, hourly-paid appointments referenced in Paragraph VI.A.4.
4. **Temporary, Hourly-Paid Appointments** An individual hired as a temporary employee in any of the six (6) identified categories is not benefits eligible, does not accrue leave, is not eligible for membership in the Teachers Retirement System of Georgia (TRS), and may not become a regular member of the Employee's Retirement System of Georgia. Instead, the employee must participate in the Employees' Retirement System's (ERS) Georgia Defined Contribution Plan unless he/she is otherwise excluded by law. The following categories of temporary positions/appointments are based on the anticipated or definitive period of employment and/or limitations governing hours worked
    - a. Temporary Category 1 (Time Limited Appointment) – an hourly-paid employee (including those in a TRS covered position) may work up to twenty-nine (29) hours per week for a period not to exceed nine (9) consecutive calendar months.
      - 1) NOTE: if an emergency staffing situation exists which significantly impacts technical college operations, it is permissible for an hourly paid employee to exceed the twenty-nine (29) hour threshold for no more than three (3) work

weeks during an academic term (or six (6) months for System Office employees).

- 2) When an employee has reached nine (9) consecutive months of service, inclusive of any break(s) between academic terms, the individual must be separated from employment. The individual may be considered for re-employment after a break of at least thirty (30) calendar days.
- b. Temporary Category 2 (Intermittent Appointment) – an hourly-paid System Office or technical college employee in a TRS covered or non-covered position whose utilization and work assignments are of an occasional, sporadic, or infrequent nature based on his/her unique skill sets and/or the specific needs of the System Office or his/her employing technical college may work up to forty (40) hours in a given work week provided, however, that no System Office employee may work more than twenty (20) calendar days during any six (6) month period and no technical college employee hired in this capacity may work more than twenty (20) calendar days during any academic term.
  - c. Temporary Category 3 (Fixed-Term Appointment) – an individual hired in this capacity is compensated on an hourly basis and has an appointment period not to exceed twelve (12) weeks. The individual may work up to forty (40) hours each week. At the conclusion of the established period, the employee must be separated from employment. The individual may be considered for re-employment after a break-in-service of at least six (6) calendar months. During the six (6) month period, the individual may not be reappointed in any capacity by the System Office or any technical college other than in a full-time, benefits eligible position as provided in Paragraph VI.A.1 (i.e., a Regular Appointment).
  - d. Temporary Category 4 (Professional Laboratory Assistant Appointment) – an individual hired in this capacity is compensated on an hourly basis and may work no more than twenty-nine (29) hours each week during an academic term. Employment in this capacity shall encompass a single academic term and the accompanying terms and conditions of employment shall be outlined in a memorandum or letter of appointment.
  - e. Temporary Category 5 (State of Georgia Retiree Appointment) – restrictions governing the appointment of a TRS or ERS retiree and the accompanying employment options are provided in Paragraph VI.D.1. and VI.D.2.
  - f. Temporary Category 6 (Seasonal Appointment) – an individual hired in this capacity is compensated on an hourly basis; may work up to forty (40) hours each work week; and, may have a period of employment not to exceed six (6) months during any calendar year. Given the nature of the position held and the assigned duties and responsibilities, the corresponding employment period should reasonably begin (each year) in approximately the same part of the calendar year (e.g., summer employment in a TCSG child enrichment center or group day care home). When the period of employment ends, the employee must be separated and may not be reappointed in any capacity (by his/her employing technical college or any other technical college or the System Office) for six (6) calendar months. The only exception to the re-employment prohibition is an appointment to a full-time, benefits-eligible position as provided in Paragraph VI.A.1. (i.e. a Regular Appointment).

NOTE: for those individuals serving in the capacity of head coach or an assistant coach in a TCSG intercollegiate athletic program (e.g., basketball, baseball, etc.)

at a given technical college, he/she may not be re-employed until the following year's sport's season.

## **5. Adjunct Faculty Appointments**

- a. An individual hired in this capacity may be compensated on an hourly basis or a lump sum payment basis. Any such appointment shall encompass a single academic term and the terms and conditions of employment shall be outlined in a memorandum or letter of appointment.
- b. Adjunct faculty are not eligible to participate in the Flexible Benefits Program, do not accrue leave, and are not eligible for membership in the Teachers Retirement System of Georgia. Instead, an employee must participate in the Employees' Retirement System's Georgia Defined Contribution Plan unless he/she is otherwise excluded by law. Adjunct faculty are not eligible to participate in the State Health Benefits Plan unless an employee qualifies for healthcare coverage by meeting the eligibility guidelines established in the Patient Protection and Affordable Care Act (ACA). In these instances, the employee will be offered State Health Benefit Plan coverage by his/her employing technical college.
- c. Adjunct faculty are eligible to work for more than one technical college during an academic term only with the written approval of each technical college president. Pay delivery for an adjunct faculty member working for more than one technical college is governed by the provisions of the TCSG Procedure: 4.3.2p6.- Other Employment. Additionally, adjunct faculty are considered to be exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act and the accompanying Salary Basis Test.

## **6. Federal/College Work Study Student Appointments**

- a. A student individual hired in this capacity is considered a "temporary" employee and must work no more than twenty (20) hours per week when enrolled as a student during any academic term. The student must be enrolled during the academic term.
- b. These individuals are not benefits eligible, and do not accrue leave. In addition, if applying the Student FICA Exception described below, they are specifically exempted from participation in the Georgia Defined Contribution Plan provided the appointment is consistent with applicable Internal Revenue Service (IRS) student exclusion criteria.
- c. The Student FICA Exception may apply to a student that has the status of a student as defined by IRS regulations. To have status as a student under these provisions, the individual must be pursuing a course of study (i.e., enrolled and regularly attending classes in pursuit of an educational credential) and his/her services as an employee must be incident to and for the purposes of pursuing the course of study. An individual is considered a student if education, not employment, is the predominant aspect of the individual's relationship with the college. Student status for the FICA exception must be determined each academic term. In order for the exception to apply,
  - i. The student must be enrolled at least half-time (6 credit hours), and
  - ii. The student must not work between academic terms.

## **B. Benefits Eligibility and Leave Accruals:**

1. **Regular Employees:** are eligible to participate in the State Health Benefits Plan, the Flexible Benefits Plan, and earn leave at rates established in State Personnel Board Rules. Faculty members whose period of employment ranges from nine (9) to eleven (11) calendar months and whose salary is pro-rated over a twelve (12) month period shall not earn leave during the month(s) they do not work. These employees will, however, continue to have deductions taken for all benefits' selections, including health care coverage under the State Health Benefit Plan.
2. **Regular, Part-time Employees:** are not eligible to participate in the State Health Benefit Plan or the Flexible Benefits Plan. These employees are eligible for pro-rated leave accrual consistent with applicable provisions of State Personnel Board Rules and shall be compensated for a state holiday based on the number of scheduled work hours on the day a holiday is observed.
3. **Part-time, Hourly-Paid Employees:** employees appointed pursuant to the provisions of Paragraph VI.A.3.a.1. or VI.A.3.a.3. are not benefits eligible and cannot participate in the State Health Benefit Plan or the Flexible Benefits Plan. They do not earn leave but are required to participate in the Employee's Retirement System's Georgia Defined Contribution Plan unless specifically excluded by law NOTE: Deductions will be taken for the Medicare portion of FICA. Employees appointed pursuant to the provisions of Paragraph VI.A.3.a.2. shall, as a condition of employment, become a member of TRS but are not eligible for other benefits nor do they accrue leave.
4. **Temporary Employees:** are not benefits eligible and cannot participate in the State Health Benefit Plan or the Flexible Benefits Plan. They do not earn leave but are required to participate in the Employees' Retirement System's Georgia Defined Contribution Plan unless specifically excluded by law. NOTE: deductions will be taken for the Medicare portion of FICA.
5. **Adjunct Faculty:** employees do not earn leave and cannot participate in the Flexible Benefits Plan, but are required to participate in the Employees' Retirement System's Georgia Defined Contribution Plan unless specifically excluded by law. NOTE: deductions will be taken for the Medicare portion of FICA. Adjunct faculty are not eligible to participate in the State Health Benefit Plan unless an employee qualifies for health care coverage by meeting eligibility guidelines established by the Patient Protection and Affordable Care Act (ACA). In these instances, the employee will be offered the opportunity to enroll in the State Health Benefit Plan.
6. **Federal/College Work Study Student:** these employees cannot participate in the State Health Benefit Plan or the Flexible Benefits Plan, they do not earn leave and are not required to participate in the Employees' Retirement System's Georgia Defined Contribution Plan. Provided these individuals meet the criteria established by the IRS for the Student FICA Exception, FICA-OASDI and FICA-Medicare deductions shall not be taken from their wages. NOTE: unlike Federal Work Study Student employees, College Work Study Student employees are subject to a deduction for the State Unemployment tax.

#### **C. Retirement System Membership Eligibility:**

1. With limited exceptions, a regular employee is eligible, upon appointment, to become a member of either the Teachers Retirement System of Georgia (TRS) or, if his/her regular work week is at least thirty-five (35) in length, the Employees' Retirement System of Georgia (ERS). As referenced in State Board Policy 4.9.1., and as provided in O.C.G.A. § 20-4-25, an employee's decision, once made, is irrevocable during his/her

tenure of employment with the Technical College System of Georgia. Faculty members whose period of employment is nine (9) to eleven (11) calendar months in length and whose salary is pro-rated over a twelve (12) month period shall continue to have deductions taken for retirement during the month(s) they do not work but remain in pay status.

2. A regular, part-time employee in a TRS covered position is eligible, upon appointment, to become a member of TRS. NOTE: the employee's decision to elected membership in TRS is irrevocable during the tenure of employment with the Technical College System of Georgia. Individuals employed in a TRS non-covered position must, as a condition of employment, participate in the Employee's Retirement System's Georgia Defined Contribution Plan unless excluded by law.
3. Hourly-paid employees appointed to a position covered by the provisions of option VI.A.3.a.2. must become a member of TRS as a condition of employment. All other part-time hourly paid employees as well as temporary employees, and adjunct faculty must, as a condition of employment, before members of the Employee's Retirement System's Georgia Defined Contribution Plan unless excluded by law.

#### **D. Hiring Restrictions Involving a State of Georgia Retiree**

1. Employees' Retirement System of Georgia (ERS) Retiree
  - a. An ERS retiree who returns to employment in a full-time, TRS-covered position with a TCSG work unit (including those individuals who were employed with a TCSG work unit at the time of their retirement) may elect to become a member of TRS.
  - b. If an ERS retiree elects to become a member of TRS as provided in Paragraph VI.D.1., his/her ERS retirement benefits/allowance will be suspended if he/she works more than 1,040 hours during a calendar year.
  - c. An individual who retires at or after his/her Normal Retirement Age may not return to work during the calendar month following his/her retirement.
  - d. An individual who retired under ERS' Early Retirement provisions (i.e., prior to the Normal Retirement Age) is not permitted to return to work for two (2) calendar months after his/her retirement. The TCSG work unit must certify that there is no agreement in place with the employee prior to his/her retirement date to return to employment.
  - e. Pursuant to the provision of O.C.G.A. §47-2-110(4):
    - i. it is the responsibility of a retired ERS plan member to notify a TCSG work unit of his/her retirement status prior to accepting a position;
    - ii. any TCSG work unit that employs a ERS retiree must notify the ERS Board of Trustees, in writing, within thirty (30) days after employment is accepted of the name of the retiree and the number of hours the individual is projected to work annually;
    - iii. if a retiree works more than 1,040 hours in any calendar year, the TCSG work unit must notify the ERS Board of Trustees as soon as this information is known;



- iv. any TCSG work unit that fails to provide the required notification outlined above must reimburse ERS for any benefits wrongly paid; and,
- v. if the retiree fails to notify a TCSG work unit of his/her retirement status and is subsequently employed and the work unit becomes liable to ERS for the inappropriate payment of retirement benefits, the retiree shall hold the work unit harmless for all liability incurred.
- f. If an ERS retiree is rehired in a position with a work obligation that averages thirty (30) or more hours per week for a period of more than three (3) months, he/she must be offered health benefits as an active employee. In this circumstance, State Health Benefit Plan Rules require the employee premium to be taken from the employing TCSG work unit payroll rather than from the retiree's pension. Additionally, the employing TCSG work unit will be responsible for the employer portion of the health insurance premium regardless of whether the employee elects coverage as an active employee.

## 2. Teacher's Retirement System of Georgia (TRS) Retiree

- a. Before returning to work in a TRS-covered position, a TRS retiree must have a break-in-service of at least one (1) calendar month.
- b. As provided in the TCSG Procedure 4.9.1p. governing Retirement, a TCSG employee who retires on a service retirement with TRS is prohibited by the provisions of O.C.G.A. §47-3-60(m) and corresponding TRS plan guidelines from returning to full-time employment with a TCSG work unit and becoming a member of ERS.
- c. A retiree from another TRS-covered employer may return to work with a TCSG work unit in a full-time salaried position and may become a member of the Employees' Retirement System of Georgia provided the individual works a minimum of thirty-five (35) hours per week. Employment under these circumstances will not jeopardize the individual's TRS retirement benefits. Additionally, the individual must elect ERS membership within thirty (30) days of beginning employment.
- d. A TRS retiree may be employed by a TCSG work unit in one of the following capacities:
  - i. Part-time Employment
    - 1) A retiree may work in a salaried position provided he/she receives no more than 49% of the normal monthly contracted salary/compensation for the position held and works no more than 49% of the full-time status of the position; or,
    - 2) A retiree may work in an hourly paid position provided: he/she receives no more than 49% of the salary/compensation that would normally be paid if he/she worked on a full-time basis in the position and, his/her "hours worked" in a given calendar month does not exceed the maximum number of hours threshold for that month as established by TRS.
  - ii. Temporary Employment

- 1) A retiree may return to temporary employment in a full-time capacity for no more than three (3) months in a fiscal year provided the retiree is paid at the normal salary/compensation for the position held. NOTE: the three (3) months do not have to be worked consecutively.

iii. Adjunct Faculty

- 1) Pursuant to TRS plan guidelines, a retiree may serve as adjunct faculty at the historical rate of pay for the academic area of assignment and, as applicable, consistent with the utilization restrictions outlined in the TRS Procedure governing Institutional Staff Work Assignments (TCSG Procedure 4.1.8p.).
- e. As provided in this procedure, TRS retirees must have a break-in-service of at least one (1) calendar month before returning to employment with a TRS-covered employer. If a TCSG work unit employs a retiree during the calendar month immediately following the individual's retirement, the work unit must reimburse TRS for that month's benefit; however, if the retiree fails to notify the TCSG work unit of the effective date of his/her retirement, the retiree will be required to reimburse the work unit for these monies.
- f. If a retiree is appointed to a TRS-covered position with a TCSG work unit and works one-half time or more (with the limited exception outlined in Paragraph VI.D.2.d.2), his/her TRS pension will cease. If a retirement benefit is stopped, the retiree can elect to suspend or terminate his/her retirement benefit as provided in TRS plan guidelines. If the retiree does not elect to suspend or terminate his/her benefit, termination of the retirement benefit by TRS is the default position taken.

**VII. RECORD RETENTION:**

All employment related documents collected pursuant to this procedure shall be maintained in a manner consistent with Georgia Archive's Retention Schedule for State Government Paper and Electronic Records.