

Secondary employment of professors, acting professors and academic staff employed as civil servants

Secondary employment

In accordance with Section 2 of the Bavarian Higher Education and Research Act (BayHSchLNV), secondary employment refers to the performance of a secondary post or secondary occupation.

- A *secondary post* is a set of duties not forming part of a main post, which is performed on the basis of a public-law service or employment relationship.
- *Secondary employment* is any other activity not forming part of a main post, whether within or outside the public service.

Official duties

The general official duties are defined in Section 59, Section 63(6) and Section 72(2) of the Bavarian Higher Education Act (BayHIG). In addition, the following tasks may generally be attributed to the main post:

- Drafting a manuscript for the publication of scientific research findings. In accordance with Section 6(2) of the Bavarian Higher Education and Research Staff Regulations (BayHSchLNV), this applies until the manuscript is completed
- Participation in external doctoral examination procedures
- Membership in external appointment committees

Exceptions pursuant to Section 81(2) of the Bavarian Civil Service Act

The performance of public honorary offices and the unpaid provision of guardianship, care or custody for relatives is not be regarded as secondary employment.

However, these activities must be notified in writing prior to commencement.

Secondary activities not requiring approval under Section 82 of the Bavarian University Act

- Secondary employment undertaken at the request, suggestion or instigation of the University of Bayreuth or the State of Bavaria
- The performance of one or more secondary activities totalling up to ten hours (for professors: up to 18 hours) per week and with total remuneration of up to €10,000 per calendar year
- Voluntary work for charitable, benevolent and church-related institutions and organisations, provided that the remuneration granted for this does not exceed €1,848 per year
- The management of one's own assets

- Literary, academic or artistic activities (this also includes the publication of academic research findings, which is considered a secondary activity once the manuscript has been completed)
- Lectures
- Independent expert work by professors, provided it is related to their teaching or research duties
- Activities to safeguard professional interests in trade unions, professional associations or civil servants' self-help organisations

In the civil service, there is **no** general **obligation to provide notice** regarding the commencement of a secondary activity that does not require authorisation. A duty to provide information and evidence is only required if there are concrete indications of a breach of official duties. Civil servants are obligated, by virtue of their employment and duty of loyalty, to seek a decision from their employer in cases of doubt regarding possible grounds for refusal.

Generally approved secondary employment under Sections 11 and 12 of the Bavarian Civil Service Act (BayHSchLNV)

A secondary occupation is only considered generally approved if the maximum time limits are not exceeded and official interests are not compromised. A duty to notify applies to generally approved secondary occupations.

General approval applies, among other things, to:

- For teaching, instructional and examination duties of up to four hours per week per semester at the University of Political Science
- For (junior) professors, authorisation is also deemed to have been granted in general for
 - appearing in court within the meaning of Section 12(1)(1) and (2) of the Bavarian Higher Education Act (BayHSchLNV) and the associated provision of extrajudicial legal services in accordance with Section 5 of the Legal Services Act,
 - the publication and editing of academic publications,
 - the preparation of expert reports drawn up by a research assistant under the personal guidance and supervision of the professor.

Secondary activities requiring authorisation

All secondary activities that are not exempt from authorisation or deemed to be generally authorised are subject to authorisation. Authorisation must be applied for in writing in good time, generally four weeks before commencing the secondary activity, using the digital form available on the University of Bayreuth intranet.

Typical examples of secondary employment requiring approval:

- Paid employment
- Consultancy work
- Freelance work
- Appointment to a corporate body (executive board, supervisory board, etc.)
- Serving as a managing director of a company

Approval is also required in the following circumstances:

If any of the limits set out in Article 82(1)(2) of the Bavarian Banking Act (BayBG) that are relevant to the exemption from authorisation are exceeded, an overall assessment of all secondary activities must be carried out. In concrete terms, this means that if, through the performance of several secondary activities which are individually exempt from authorisation under Article 82(1)(2) of the Bavarian Civil Service Act (BayBG), either the time limit of ten (18 for professors) hours per week or the remuneration limit of €10,000 per year, then all such secondary activities, the exemption from authorisation for which had hitherto been based on Article 82(1)(2) of the Bavarian Academic Act (BayBG), become subject to authorisation. Secondary activities that are exempt from authorisation on the basis of the other provisions of Section 82(1) of the Bavarian University Act are not taken into account here and remain exempt from authorisation.

Requirements for the performance of secondary activities

The performance of a secondary activity must not prejudice the interests of the service. Such prejudice generally exists if

- the standard time limit is exceeded (see the following section); if it is foreseeable that the remuneration and benefits in kind from secondary employment requiring authorisation will exceed 30 per cent of the annual remuneration, compliance with the maximum time limit shall be subject to particular scrutiny
- the secondary employment may place the civil servant in a conflict with their official duties
- the secondary employment is carried out in a matter in which the authority to which the civil servant belongs is involved or may become involved
- the secondary employment may influence the civil servant's impartiality or objectivity
- the secondary employment may lead to a significant restriction on the civil servant's future availability or readiness for service
- the secondary employment may be detrimental to the reputation of the public administration

Care must always be taken to ensure a clear separation between the main post and the secondary employment. The secondary employment must not be carried out using the official title or the logo of the University of Bayreuth.

An exception to this applies only in accordance with Section 6(2) of the BayHSchLNV for the publication of scientific research results, which is considered secondary employment once the manuscript has been completed.

All secondary employment must therefore always be carried out using a private address and, where applicable, private bank details.

Secondary employment and working hours

In principle, secondary employment may only be authorised outside regular working hours. Exceptions to this are secondary activities which the civil servant has undertaken at the request, suggestion or instigation of their employer, or where the relevant manager has recognised a service-related interest in the undertaking of the secondary activity. Furthermore, exceptions may be permitted in the public interest if there are no service-related reasons to the contrary and the missed working hours are made up.

The time spent on one or more secondary activities must not exceed 10 hours per week.

Professors may devote one individual working day to secondary employment. At the University of Bayreuth, this corresponds to 18 hours per week. Teaching, office hours, participation in examinations, etc. must not be adversely affected.

For part-time civil servants, there is no provision for reducing this time limit in line with the extent of their part-time employment. For this group, the limit of ten or 18 hours per week applies in the same way as for full-time employees.

Use of the University's facilities, staff or equipment

The use of facilities, staff or materials belonging to the University of Bayreuth in the course of secondary employment requires prior approval from the University and presupposes a public or academic interest in the secondary employment. University staff may, in principle, only be utilised during their working hours and only within the scope of their usual duties. Facilities include all material resources, in particular offices and their furnishings, as well as the machines, apparatus and instruments contained therein.

An appropriate fee is payable for the use of the University's facilities, staff or equipment.

Legal basis

- Section 59, Section 63(6) and Section 72(2) of the Bavarian Higher Education Innovation Act
- Section 40 of the Civil Servants Status Act
- Art. 81 to 86 Bavarian Civil Service Act
- Bavarian Ordinance on Secondary Employment of University Lecturers