

## RESOLUTION ON FEDERAL CONTRACT COMPLIANCE

**WHEREAS**, federal agencies have audited a number of universities over the last several years to determine compliance with federal contract regulations; and

**WHEREAS**, those audits identified several common practices at universities that have been determined to be non-compliant with federal contracting regulations, resulting in significant fines and penalties for the targeted institutions; and

**WHEREAS**, a task force was formed to analyze information as it emerges from completed audits at other institutions and to recommend modifications to Virginia Tech's policies and practices where needed; and

**WHEREAS**, the practice of charging summer salary to sponsored grants and contracts for academic year faculty members is one area where policy and practices at Virginia Tech need modification to assure compliance with recently clarified regulations; and

**WHEREAS**, faculty members need to charge an appropriate share of their summer effort to institutional funds that are not directly related to the sponsored project and therefore not an allocable expense to that project, such as working with graduate students, preparing for fall courses, or writing new grant proposals; and

**WHEREAS**, salary charges must reflect actual effort on the project as it occurs throughout the year and faculty researchers must assure that only effort directly related to a project is charged to that project;

**NOW, THEREFORE, BE IT RESOLVED**, that

- New language be adopted for chapter 6 of the *Faculty Handbook* concerning the purpose of effort certification, the federal regulations governing charging of salary to grants and contracts, appropriate practices to achieve compliance, and the potential consequences of non-compliance; and
- Section 2.6.3 of the *Faculty Handbook* concerning summer appointments be amended to provide guidance on summer earnings from sponsored research; and
- Policy 6200 (Research-Extended Appointments) be modified to reinstate annual leave for all research-extended appointments with no payout at time of reconversion or termination, and to provide additional flexibility on when such conversions can be initiated. Related sections of the *Faculty Handbook* (2.6.1.2 Research-Extended Appointments and 2.16.6 Annual Leave) should be modified to reflect that research-extended appointments earn and accrue annual leave, but there is no payout at the time of reconversion to academic year or separation from the university.

### **RECOMMENDATION:**

That the above recommendation revising the *Faculty Handbook* and policy 6200 allowing Virginia Tech to meet federal contract compliance be approved.

June 7, 2010

## PROPOSED NEW LANGUAGE FOR CHAPTER 6 OF THE FACULTY HANDBOOK (Chapter 6 is research-related policies and information)

### Effort Certification and Salary Charges to Sponsored Grants and Contracts

#### *Effort Certification*

The purpose of effort certification is to confirm that the salaries and wages charged to each sponsored agreement reflect a reasonable estimate of the work performed. University Policy 3105 describes the procedures for required effort certification in accordance with federal regulations. Individual investigators, departments, and other university administrators have specific responsibilities under the policy for certifying effort, monitoring compliance, and assuring that only allocable charges are made to grants and contracts. Federal audits have made clear that only effort directly related to a project can be charged to that project and salary expenditures on behalf of the project must occur during the effort reporting period. The university takes its obligations to comply with federal regulations very seriously; failure to comply may mean severe financial penalties and/or loss of opportunity for future grants from the federal sponsor. To be consistent and fair to all sponsors, the same kind of accountability applies to non-federal grants and contracts.

Effort certification is particularly complex for instructional faculty members who manage multiple responsibilities simultaneously, seamlessly moving from class to supervising graduate students, to conducting research and developing the next proposal in the same day or week. Indeed, most instructional faculty members are engaged in teaching, administrative tasks, or other duties in addition to their work on sponsored projects, even during the summer. Yet only activities directly related to a sponsored grant or contract may be charged to that grant or contract; institutional activity must be supported by other, non-sponsored funding (or may be uncompensated during the summer).

If the faculty member (regardless of type of appointment) has responsibilities for competitive proposal writing or participation in well-defined, regular teaching or administrative duties (e.g., committee work, hiring, advising, tenure review), a 100% allocation of the salary to sponsored projects would be prohibited during the effort reporting period in which such activity occurred. Incidental, inconsequential non-project activity performed rarely may be considered *de minimus* and need not be part of full load for purposes of effort reporting.

Proposal writing for new competitive awards and competitive renewal awards may not be charged to sponsored projects, nor would such proposal writing be considered *de minimis* activity. Preparation of non-competitive, continuation award proposals (progress reports) may be charged to the applicable sponsored project.

Faculty members who receive summer salary from sponsored projects must certify to the effort expended on those projects during the summer period. Work done on the sponsored project *during the academic year* cannot be counted toward *summer* effort on the project.

Failure to follow the provisions of the university's effort certification policy 3105 may subject the individuals and departments responsible for the violation(s) to administrative and/or disciplinary actions in accordance with university disciplinary procedures. Sanctions for non-compliance may include, but are not limited to:

- If effort reports are not completed and returned in a timely manner, salary costs associated with uncertified grant activity may be removed and charged to a departmental account.
- Following appropriate notice, faculty members with delinquent or improperly completed effort reports may be placed on a suspension list by the Office for Sponsored Programs and denied eligibility for OSP services, including but not limited to proposal preparation, account set-up, and budget transfers, until effort reports are up to date and properly completed and certified.
- Certification of effort reports that are known to be materially inaccurate may expose the individual who completed the reports to personal disciplinary actions.

### ***Compliance Issues Related to Summer Research Appointments for 9-month Faculty Members***

Faculty members on academic year (9 month) appointments are permitted to earn up to three months of additional salary for effort related to sponsored projects, subject to sponsor policies and appropriate internal approvals. Summer funding may be accomplished by research extended appointments (through Policy 6200) or as summer wages.

Policy 6200 on "Research Extended Appointments" outlines the requirements and procedures for faculty members to extend their 9 month appointments to 10, 11, or 12 months depending on the availability of sponsored funding for additional months of salary and full fringe benefits. Although the sponsored funding supports the extended employment contract, salary must be charged to reflect a reasonable estimate of effort throughout the entire appointment period, not just the summer. Given the continuation of some typical university responsibilities during the summer, such as meeting with graduate students, attending professional conferences, or preparing future grant proposals or coursework, faculty members should have a mixture of sponsored and institutional funding to support their summer activities. This can be accomplished by making appropriate charges to the project during the academic year, and deferring some institutional funding to the summer period. Faculty members on research extended appointments earn annual leave proportional to the length of their appointment, and they must record the use of annual leave whenever used during the

appointment period (all 10, 11, or 12 months). There is no payout for accrued annual leave at the time of reconversion to the base academic year appointment or at the time of separation from the university.

Instead of research extended appointments, academic-year faculty members may receive support from sponsored grants and contracts as summer research wage payments, without full fringe benefits. This would typically be the case for faculty members with one or two months of “summer salary” included in the funded grant project. For those with three full months of funding, project effort during the academic year may be charged to the grant (with attendant changes in the fringe benefit rate), thereby allowing departmental salary savings to support non-project related responsibilities during the summer. Faculty members certify their effort across the entire summer period, and some flexibility is allowed as long as the overall effort and salary charges during the period are consistent.

### ***Compliance Issues for Special Research Faculty Members***

As described above, a special research faculty member with regular, well-defined responsibilities for new proposal preparation, teaching, or administrative duties is prohibited from charging 100% of salary to sponsored projects during an effort reporting period in which such activity occurred, unless those activities are specifically allowed on the sponsored project.

Special research faculty members are typically on standard 12-month appointments, which earn and accrue annual leave by university policy. Use of annual leave is recognized as an acceptable charge to a sponsored project when such leave is part of the standard university appointment.

### **Faculty Handbook section 2.6.3 Summer Appointments (proposed text in red is NEW language; text in black is existing language)**

Faculty on academic year appointments may be invited by the department head or chair to teach one or more courses in summer session for special compensation. Maximum compensation is set at 11.25 percent of the faculty member’s annual salary for each scheduled three-credit semester course taught, subject to a salary limit that is determined each year.

Faculty members on academic year appointments also may receive special compensation for engaging in approved sponsored research, extension activities, or non-credit instructional activity conducted by continuing and professional education. The total of special compensation earned through all university programs in the summer by any faculty member on academic year appointment shall not exceed 33 1/3 percent of the annual salary for the preceding academic year.

For purposes of sponsored grant and contract activity and for limitations on compensation, May 10 to August 9 designates the summer work period. Faculty members who receive summer salary from sponsored projects must certify to the effort expended on those projects during the summer period. Work on a sponsored project during the academic year for which compensation is then provided during the summer is specifically prohibited by federal regulations. Summer pay for sponsored projects is only justified by appropriate effort expended on the project during the summer period.

Only those academic year faculty members who have approved research extended appointments in accordance with policy 6200 earn and accrue annual leave. Faculty members with three months of sponsored funding are strongly urged to convert their 9-month appointment to a research extended appointment, which entitles them to earn and use annual leave in accordance with university policies. Alternatively, the faculty member can charge less than three months of full-time salary to the sponsored project (or other sources as appropriate) and take uncompensated leave for the remainder of the summer in order to have vacation.

**Virginia Polytechnic Institute and State University**  
**Policy and Procedures**

**No. 6200 Rev.: 5**  
**Date: June 7, 2010**

**Subject: Policy on Research Extended Appointments**

1. Purpose.....	5
2. Policy.....	5
3. Procedures.....	8
4. Definitions.....	8
5. References.....	8
6. Approval and Revisions.....	8

**1. Purpose**

The purpose of this policy is to provide faculty members on academic year appointments the opportunity to extend their base 9-month contract to a 10-, 11-, or 12-month contract reflecting their sponsored research responsibilities. The research extended appointment recognizes continuing obligations for supervision of graduate student research and periods of faculty research that extend beyond the academic year. Salary and fringe benefits associated with the faculty member's research work are funded by sponsored grants or contracts.

**2. Policy**

A full-time faculty member on an academic year appointment may extend the 9-month appointment to a 10-, 11-, or 12-month appointment provided the following conditions are met:

1. The faculty member must have assurance of **sufficient funding from sponsored grants or contracts** to support the cost of salary plus full fringe benefits for the equivalent of one, two, or three months of the proposed appointment. **With approval by the head or chair, departmental funds, usually overhead, designated for the faculty member's use may be committed as back up if pending grants are not yet secured. Educational and general funds (such as departmental salary budget, E&G start up funds, or internal grants) may not be used to support a request for a research extended appointment.**
2. The contract period and formula for calculating salaries for 10-, 11-, and 12-month appointments are below:

<b>Contract length</b>	<b>Contract Period</b>	<b>Conversion Factor</b>
9 months (Base AY appt)	August 10 - May 9	Base AY salary
10 months	August 10 – June 9	Base AY salary X 1.11111 (10/9ths)
11 months	August 10 – July 9	Base AY salary X 1.22222 (11/9ths)
12 months	August 10 – August 9	Base AY salary X 1.33333 (12/9ths)

Contractual dates above are necessary in order to create a continuous extended contract. ~~faculty members must manage their research obligations across the academic year and during the summer consistent with the expectations of their funding source and departmental obligations.~~ However, actual summer work dates for those on 10 or 11-month appointments may vary from the payroll dates. Summer effort will be certified across the entire three-month summer period, not just the payroll dates in the table above.

3. ~~The preferred effective date for research extended contracts is August 10 so that escrowing of summer salary can be handled in a straightforward manner. However, other effective dates can be accommodated as follows:~~
  - a. ~~Initial appointment to a 10-, 11-, or 12-month contract must be made by the **end of fall term** (effective no later than the December 25 payroll period) if the grant covers only funding for **one year**. The effective date should be the start of a regular payroll period — either the 10<sup>th</sup> or 25<sup>th</sup> of the month. Any excess escrowed pay will be paid out to the faculty member at the time of change to the new appointment. Reconversion to a 9-month appointment must be effective August 10 if funds are not available to support subsequent years.~~
  - b. ~~In the case where the new grant covers **multiple years** of funding for the faculty member, the extended appointment may be effective with any payroll start date (10<sup>th</sup> or 25<sup>th</sup> of the month). Any excess escrowed pay will be paid out to the faculty member at the time of change to the new appointment.~~
3. The research extended appointments are typically approved for one or two years at a time, depending on length of the sponsored grant or contract. They may be renewed without limit by submitting a request for extension with documentation of funding to the department head. The appointment length may also be changed as funding increases or decreases. Reconversion to a 9-month appointment **should** be effective August 10 **to assure appropriate escrowing for the subsequent summer.**
4. In the event of a temporary shortfall, **the faculty member may use designated funds approved by the head or chair (usually overhead) to cover the salary obligations of the extended appointment in the current year.** The salary distribution throughout the appointment year must follow the work assignment. Fringe benefit costs will follow the salary distribution. Failure to fully fund the research extended appointment from *sponsored* grants and contracts will mean that the faculty member must reconvert to an academic year (9-month) appointment August 10<sup>th</sup> **or reduce the number of months for the appointment to match documented available sponsored funding.** ~~unless documentation of future summer funding is provided (certain, not requested funding).~~

It is important to note that faculty members who do not have the prospect for sufficient sponsored funding (or approved back up sources) to support the additional months of salaried appointment may be required to terminate their extended

appointment May 9 (end of the academic year), or the date when funding has been exhausted, and go on leave without pay until the beginning of the subsequent academic year. Mid-year changes from research extended appointments back to academic year because of lack of sponsored funding will also cause dramatic changes in take-home pay. It will be important to consult with Human Resources to determine the pay-related impact of such changes, should they become necessary at a date other than August 10.

The **department and** the university have no obligation to provide funding from E&G (educational and general) or any other source to continue a research extended appointment in the absence of adequate *sponsored* grant or contract funding. Distribution of salary costs among funding sources must ensure that no more salary is taken from the 208/229 source than the pre-conversion AY salary.

5. The conversion process must be requested and approved at least two weeks prior to the effective date. Retroactive conversions will not be approved. Appointments can be extended only by increments of a full month. The effective date should be the start of a regular payroll period – either the 10<sup>th</sup> or 25<sup>th</sup> of the month. Any excess escrowed pay **for the academic year** will be paid out to the faculty member at the time of change to the new appointment.
6. ~~The P3A must reflect a distribution among funding sources such that no more salary is taken from the 208/229 source than the pre-conversion AY salary.~~
6. The requirement to earn additional sponsored funds in support of the extended research appointment must be managed by charging a portion of the salary during all or part of the entire appointment period to the sponsored grant or contract. Faculty members should have a portion of their summer salary charged to university funds to reflect on-going university responsibilities over the summer, such as working with graduate students, attending or presenting at professional conferences, preparing courses or new sponsored proposals, or personal leave. The portion charged to institutional funds should accurately reflect the faculty member's non-project-related responsibilities. Salary charges to the sponsored project during part or all of the prior academic year will allow the appropriate mixture of institutional and sponsored funding during the summer. Salary charges should match subsequent certification of effort in accordance with policy 3105, Effort Certification. Each fall, salary charges for the entire prior year (August 10 to August 9) are audited to ensure that the research extended appointment is funded and charged appropriately.
7. Faculty members on 12-month appointments cannot receive additional compensation for summer school teaching or other duties. However, they do remain eligible for additional compensation for participation in continuing education programs and for consulting activities in accordance with policies in the Faculty Handbook. Those on 10- or 11-month research extended contracts may earn additional income from other activities as wages. However the total of all summer



earnings, including the research extended contract and any wage earnings, may not exceed 33 1/3% of their base AY appointment.

8. Faculty members on research extended appointments earn annual leave (two days per month) and designated holidays as described in the Faculty Handbook. Faculty members are subject to policies related to the use and reporting of annual leave and are expected to perform duties during academic breaks unless on approved annual leave. New research extended appointments initiated after January 10 will receive 5 days of annual leave at the time of conversion to assure minimal leave time during the first summer of appointment.

Faculty members on research extended appointments are advised to use annual leave during the appointment period. Unused annual leave will *not* be compensated at the time of reconversion or separation.

9. Sick leave and other benefits remain unchanged.
10. Merit adjustments are made on the salary for the research extended appointment, proportionally increasing the obligation to the sponsored account. For those who have eminent scholar supplements prior to converting to a research extended appointment, the base salary including the eminent scholar supplement may be multiplied by the appropriate factor. However, the eminent scholar supplement generally cannot be increased to accommodate the change in appointment, putting a larger burden on the sponsored funding.

### **3. Procedures**

Faculty members requesting a research extended appointment should complete the request form available on the Provost's web site: [www.provost.vt.edu](http://www.provost.vt.edu). Documentation of available funding must be provided. Research extended appointments must be renewed annually with verification of sponsored funding by the department head to support the continuation. (The continuation request form is also on the same website.) In addition to the form, the department should submit a P3A indicating the research extended appointment in the departmental note and documenting the percentage used and length of appointment (10, 11, or 12 months) in order to initiate the change in appointment period. Requests for research extended appointments require approval by the department head, dean, and provost.

Reconversion to a 9-month appointment, or a change in the length of the research extended appointment, is accomplished by P3A. To calculate the AY salary, divide the extended appointment salary by the same factor as originally used.

### **4. Definitions**

## 5. References

Effort Certification Policy 3105 (<http://www.policies.vt.edu/3105.pdf>)

Faculty Leave Policies (<http://www.hr.vt.edu/leave/types/fglance/>)

## 6. Approval and Revisions

Recommended by the Commission on Research: February 28, 1996

Approved by University Council: April 1, 1996

Approved by the President: April 1, 1996

Approved by the Board of Visitors: April 22, 1996

### Revision 1

Revised July 26, 1999. Changed dates for the May and August effective dates from the 16th of the month to the 10th.

### Revision 2

Revised April 23, 2002 – Possible CY position start date corrected from July 1 to June 25; CY salary conversion rates corrected from “within the range of 1.222 to 1.333” to “1.222 or 1.333” corresponding to the two- or three-month time period.

### Revision 3, July 2005

Approved by the Commission on Research:	September 14, 2005
Endorsed by the Commission on Faculty Affairs:	September 16, 2005
First Reading, University Council:	October 10, 2005
Approval by University Council:	October 24, 2005
Approved by the Board of Visitors:	November 7, 2005

Complete revision of text to allow 10- and 11-month appointments as well as 12-month appointments. Change of policy title from “CY Research Conversions” to “Research Extended Appointments.” Elimination of requirement to earn and report annual leave.

### Revision 4

Revised September 2009: Changes made to bring policy into compliance with federal grant and contract compliance requirements concerning summer salary for AY faculty members. Clarification of language to emphasize need to charge salary in relation to effort across the entire appointment period.

Changes recommended by the Task Force on Federal Contract Compliance.

Reviewed by the Commission on Research	September 30, 2009
Approved by the Vice President for Research	October 12, 2009
Approved by the Board of Visitors	November 9, 2009

Revision 5

Revised Spring 2010 to reinstate annual leave for research extended appointments, to allow approved designated funds (usually overhead) to be used as a backup salary source in case of shortfall, and to create greater flexibility in initiation dates.

Approved by the Commission on Faculty Affairs

April 9, 2010

Approved by the Commission on Research

April 14, 2010

Approved by University Council

May 3, 2010

Approved by the Board of Visitors

June 7, 2010