

University Hiring Policies

January 2014

The university has several policies regarding the employment of both staff and students. These policies were designed to enable us to comply with all applicable federal and state laws. Our compliance is necessary not only to avoid institutional and individual liability, but also to ensure Vanderbilt's continued eligibility for federal grants.

The most fundamental rule to remember is:

Do not promise employment or allow anyone—whether staff or student—to begin working without first discussing it with your department administrator and ensuring that appropriate procedures have been followed.

TEMPORARY EMPLOYEES

A temporary position is one that is expected to last fewer than six months. All university departments are required to hire temporary staff through Vanderbilt Temporary Services (VTS), regardless of the source of funding. Please do not invite anyone to begin working for you immediately and plan to have your department's administrator add that person to the payroll after the fact. That will not be allowed, and your department administrator will not be able to do so.

Please follow these steps to secure a temporary employee: Tell your administrator that you need to hire a temporary employee. The administrator will send a request to Dean Saucerman's office who will work with the department to submit the request to VTS. VTS will hire a temporary employee for you and charge the wages to the appropriate center (i.e. grant, contract, department, etc.). If you are aware of a particular candidate who is qualified, let your administrator know and encourage that person to apply. VTS will be responsible for all aspects of the hiring process, including obtaining the I-9, background checks and other employment documents.

NON-TEMPORARY STAFF POSITIONS

Permanent positions and term positions (staff positions that exist for a period longer than six months but are not expected to last beyond one year) must be recruited through Human Resources. Vanderbilt policy requires that all open positions be posted as available in Recruitment Services for a minimum of five business days before an employment offer can be made. **You may not hire anyone and allow them to begin work prior to the completion of the five-day minimum posting period and the completion of any required pre-employment screens (references and background check).** If you know qualified candidate, encourage them to apply for the position. All applications must be submitted through HR. Human Resources will refer applications of qualified individuals to you. It is your responsibility to review the applications and make a hiring decision. The reasons for accepting and rejecting applicants must be documented.

If the position does not exist currently, it must be created and classified by Human Resources before it is posted. (Classification includes determining whether a position hourly or salaried, according to federal guidelines regarding the type of work done, and assigning a job title.) Your department administrator can assist you with the documents required to initiate this process.

University Hiring Policies

January 2014

STUDENT EMPLOYEES

Individuals who are Vanderbilt students are usually not eligible to hold regular staff positions - either in the department in which they are enrolled or in another Vanderbilt department. Supervisors should be aware of the special issues related to student employment, including limits on the number of hours students may be authorized to work, and the effects that earned income may have on a student's eligibility for other sources of financial support. There are additional restrictions if the student is a minor. Supervisors must contact the Student Financial Aid Office prior to employing any Vanderbilt student as a "Student Worker" (undergraduate or graduate).

Although Vanderbilt student positions do not have to be hired through VTS or posted through HR, it still is necessary to complete and submit federally-required documents by strict deadlines. Therefore always inform your department's administrator before a student begins working.

CASH PAYMENTS

You may not pay cash to anyone—staff, students, or independent contractors—for work in the U.S. and then expect to be reimbursed. (There are a few exceptions when the work is performed outside the U.S.) When anyone who performs work for you ultimately is paid from Vanderbilt funds—whether they are faculty research funds, grants, or operating budgets—the employment or contractual relationship is between the employee or contractor and the university. Employment must be properly documented and hours worked must be accurately reported through the Vanderbilt payroll system. Contractual agreements must be approved according to university policies and legal requirements.

INDEPENDENT CONTRACTORS

Vanderbilt is subject to intense regulatory scrutiny from various branches of the federal government in the areas of consulting, independent contracting and employee-employer relationships. The ability to correctly identify people engaged to provide goods or services as either employees or independent contractors can lower an institution's tax liability and increase its chances of withstanding an Internal Revenue Service audit. The IRS has provided a list of 20 common law factors to assist in determining if the service provider is an employee or an independent contractor.

Please work with your department administrator and with Dean Saucerman's office IN ADVANCE to determine whether a person truly will be working as an independent contractor or as an employee before making an assumption about how he or she may be paid. Expediency and the desire to avoid payroll taxes are not relevant factors in the determination. In the case of grants, work with the Office of Contract and Grant Accounting, before making a decision.

The following definitions were taken from the Professional Services Policy.

An **employee** is an individual who performs services that are subject to the will and control of an employer—both what must be done and how it must be done. The employer can allow the employee considerable discretion and freedom of action, so long as the employer has the legal right to control both the method and the result of the services.

University Hiring Policies

January 2014

An **independent contractor** is an individual over whom the employer has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

The Professional Services Policy includes the IRS 20 Rule Test for Employee/Employer Relationship as well as details regarding payment of each type of service area. The link to the complete policy is below.

https://finance.vanderbilt.edu/procurement/forms/Professional%20Services%20Policy_2013-05-31.pdf