

## Explanatory notes Ancillary activities

### *Ancillary activities*

Implementation regulations as defined in Article 1.4, paragraph 4, of the collective labour agreement

The NU collective labour agreement includes a sector-wide, national Ancillary Activities regulation (hereinafter: regulation) which is available on the VSNU website. For the implementation of this regulation, VU Amsterdam applies the procedure outlined below:

In the case of ancillary activities within the meaning of the regulation, employees and professors occupying an endowed chair are obliged to report this in advance and the manager must approve any ancillary activity. Ancillary activities are paid or unpaid tasks carried out for third parties. You are not required to conduct these activities as part of your position and you cannot be expected to conduct these activities as part of your position. Supervisor authorization will be required. This also applies to functions such as member of the Supervisory Board, director or partner in a business, foundation or association. The ancillary activities are registered by the VU employee and professor occupying an endowed chair via the *Report, change or discontinue ancillary activities* self-service option on VUnet.

### Explanatory notes on the Ancillary Activities regulation

#### *General explanatory notes*

Dutch universities have three core tasks: conducting scientific research, providing academic education and making theoretical scientific knowledge of practical value to society. In this way universities contribute to the community. For the third core task of valorisation, close ties between universities and commercial and non-commercial social organizations are very important. Academic staff can strengthen these ties by occupying ancillary positions. This involves a wide variety of ancillary positions, from working as an editor of a magazine, to joining the advisory board of a social organization, to being an advisor to a private organization.

Conducting ancillary activities does not stand in the way of independent and honest practice of science. As long as academic independence is guaranteed, universities fully support the ancillary activities of their employees. Transparency about the ancillary activities of university staff is absolutely necessary.

The Association of Universities in the Netherlands (VSNU) has devised the sector-wide Ancillary Activities regulation. Clear and consistent policy promotes the view held by all VSNU members that all university staff is required to report on their ancillary activities with no exceptions.

The regulations are based on Article 1.14 of the collective labour agreement. This sector-wide regulation and the procedure outlined below replace the VU Ancillary Activities regulation. The sector-wide regulation fits in with the Netherlands Code of Conduct for Scientific Practice.

#### **The Netherlands Code of Conduct for Scientific Practice**

VU Amsterdam is a signatory to the Netherlands Code of Conduct for Scientific Practice which entered into force on 1 January 2005<sup>1</sup>. (Hereinafter we refer to the Code of Conduct. The Code of Conduct was devised by the Association of Universities in the Netherlands VSNU.) The Code of Conduct describes the conduct that is expected of researchers.

One of the principles described in the Code of Conduct is impartiality. The researcher respects the interest of science in his or her scientific endeavours, and carefully considers the interests of patients when engaged in medical research.

The following elaboration of this principle applies:

- IV.7 In its annual report, each university reports on its registration of ancillary activities by its staff. Every university registers the ancillary activities relevant to scientific practice. Preferably, this register is made publicly accessible.*
- IV.8 Every scientific practitioner allied with a university provides the institution with an up-to-date overview of his ancillary activities for registration purposes.*

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<sup>1</sup> The code of conduct has been revised in 2018. The revision did not influence the content of the Sectoral scheme covering ancillary activities. The Dutch and English language code of conduct can be found [here](#).

Following on from the Code of Conduct, in 2008, the Minister of Education, Culture and Science asked the universities to make information about relevant ancillary activities available to third parties.

The universities, including VU Amsterdam, have agreed to comply with the ministry's request by publishing information on ancillary activities on the personal profile pages of professors and researchers on the respective university websites.

The Code of Conduct only applies to academic staff. Support staff is therefore not required to publish their ancillary activities in a public register.

The Code of Conduct refers to the concept ancillary positions. The sector-wide Ancillary Activities regulation fits in with the concept of ancillary activities in the Collective Labour Agreement for Dutch Universities.

The sector-wide Ancillary Activities regulation is based on the following principles:

1. A good balance between job performance at the university and an employee's ancillary activities is dependent on disclosure of the ancillary activities and consultation on them between the supervisor and the employee. This also serves the university's goals of transparency and impartiality, and in the case of academic staff it also encourages practitioners of science to adhere to the principles laid out in the Code of Conduct.
2. The individual employee is largely responsible for determining whether ancillary activities are permissible in his or her situation. Prior authorization is required in order to avoid subsequent disputes about permissibility. This way employees will not have to cease performing established ancillary activities. Also, other measures will not have to be taken.
3. Ancillary activities are in fact encouraged and consent is required. Consent will be withheld if the employee's job performance at the university is affected or if the interests of VU Amsterdam are at stake. If the university refuses to give permission or withdraws consent, then it must justify its actions.

#### **Article 1 Definition**

This article explains what is meant by ancillary activities. In short, the definition includes all work and activities conducted by individuals that are outside the scope of their position at the university or the task with which they have been charged.

Below is an explanation of which activities are associated with the position at VU Amsterdam, which activities are considered private and which activities are considered ancillary activities.

#### *Work associated with the position conducted for third parties*

These activities are carried out under the auspices of the university, meaning that employer consent is required. Generally, any revenues associated with these activities are for the benefit of the university. Regardless of who initiated the activity, the employer ultimately determines whether or not an activity is to be conducted under the auspices of the university.

Job-related work for third parties includes both services provided to third parties at a cost-recovery rate (e.g. contract research, extracurricular education, other services), and activities for which no compensation is provided (e.g. participation in a review committee), whether it be of a cost-recovery nature or otherwise. In the case of job-related work performed by academic staff for third parties, this is done with due regard for professional autonomy and academic freedom, in accordance with or under the supervision of a member of the academic staff, as expressed in the Code of Conduct.

#### *Private activities*

Private activities are those which clearly pose no risk to the interests of the university and furthermore do not affect the employee's job performance at the university. They therefore do not need to be reported. Explanatory notes concerning Article 5.

#### *Ancillary activities*

*Ancillary activities* do include other activities for third parties conducted by an employee of the university, though not in his/her capacity as an employee of the university and not solely as a private engagement. In other words, ancillary activities are those activities for third parties that are not job-related activities, that are not conducted under the auspices of the university and that the employee in question carries out in addition to his or her regular job at the university. Examples include teaching for third parties, participation in a research project for third parties, being an advisor or consultant to third parties, being a member of an advisory committee, working as an independent entrepreneur or professional and similar tasks.

In some cases, it is perfectly clear whether a particular activity is job-related work, ancillary work or a strictly private activity. In other cases this is not immediately clear. This is why the university must always

assess the nature of these activities. If the employer does not assign the activity to the category of job-related work or private activity, then the activity will be considered an ancillary activity and the provisions of this regulation will apply.

#### **Article 2 Individual in question**

The regulation applies to all employees and professors occupying an endowed chair (who are generally affiliated with the university through courtesy privileges). This means that if their core activity is with another employer, such as in the case of a professor occupying an endowed chair, the Ancillary Activities regulation applies to this core task.

#### **Article 3 Ancillary income**

Ancillary income includes remuneration for ancillary activities, but also includes postponed income or financial interests.

#### **Article 4 Reporting**

Those involved are obliged to report any ancillary activities prior to the employment. Upon commencement of employment and during employment, there is an obligation to report ancillary activities (including change and termination) via the *Report, change or discontinue ancillary activities* self-service option. Exceptions only apply to the situation described as described in Article 5. See Article 14 for the reporting procedure.

#### **Article 5 No duty to report**

Private activities are those which clearly pose no risk to the interests of the university and furthermore do not affect the employee's job performance at the university, such as can generally be said of a position on the board of a sports association or neighbourhood association. Conversely, a post on the board of an organization that is involved in teaching and research may give rise to a conflict of interests, meaning university consent is required.

#### **Article 6 Declaring no ancillary activities**

Employees who do not conduct any ancillary activities within the meaning of this regulation or who conduct ancillary activities that do not need to be reported (see Article 5) on commencement of employment or in the case of courtesy privileges for professors occupying an endowed chair explain this during the administrative hiring process.

#### **Article 7 Employment contract 6 months or less**

VU Amsterdam also has the obligation to report ancillary activities in the event of an employment contract or in the case of courtesy privileges extended for a period of six months or less to a professor occupying an endowed chair.

#### **Article 8 Prior permission**

Ancillary activities may only be conducted after the employer has given permission. Exceptions only apply to the situation described as described in Article 5.

#### **Articles 9 and 10 Permission**

The employer shall assess the permissibility of the employee's application for conducting ancillary activities. The basic principle is that permission is granted for ancillary activities, unless the organizational interests are harmed.

The faculty dean has formal powers to grant permission to professors and academic staff. The director of operations has formal power to grant permission to support staff. This power to grant permission will in most cases be delegated to the employee's direct supervisor (who also conducts the annual interviews with the employee). The dean, director of operations or department head will then be informed of the decision on granting permission.

When permission is granted, in addition to the details on the personal profile page (see Articles 15 and 16), the employee's digital employee file also states:

- position
- name, location and country of the institution for which the work is being conducted
- whether or not the employee receives remuneration for the ancillary activities or whether or not there are any deferred financial interests
- whether or not permission has been granted for carrying out the ancillary activities during university working hours, based on a compensation arrangement
- whether or not permission has been granted for using university facilities and details of any related compensation arrangement

- the conditions and restrictions imposed on the permission
- in the case of ancillary activities that are conducted on behalf of third parties, whether there is any specific remuneration agreement
- the employee's signed declaration giving consent to publish the relevant ancillary activities on the employee's personal web profile page on the university website

### **Article 11 Organizational interest**

When there is a risk of damaging the organizational interests of VU Amsterdam, no permission is granted. The assessment of whether or not the interests of VU Amsterdam are at risk is based on the following criteria:

- are the activities outside the scope of the duties of the university and the employee (including regular contract-funded activities)?
- what are the possible consequences for the employee's job performance in his or her position at the university?
- which university interests are served or harmed by the activities? Is there a potential risk to scientific integrity?

The assessment is based on the following specific points:

#### *a. compatible or incompatible*

The following must be established before permission is granted:

- the ancillary activities are not incompatible with job performance at the university
- the ancillary activities do not lead to undesirable competition and do not otherwise interfere with the interests of the university

#### *b. during or outside of working hours*

Employees are expected to perform their job-related duties during working hours. The employer will therefore only approve ancillary activities if the following conditions are met:

- the ancillary activities are not performed during working hours, unless a provision for compensation has been made for the hours that the employee spends on the ancillary activities while being paid by the university
- the ancillary activities do not compromise job performance at the university

The ancillary activities are conducted outside of working hours, if they take place:

- in the evenings and on days that the employee is off work (weekends, compensation days, regular leave, holidays, days outside the regular working hours of part-time employees)
- during the employee's regular working hours, but only if these hours are sufficiently compensated outside regular working hours in accordance with a (written) agreement between the employee and his/her supervisor

Employees may, under certain circumstances, receive permission to carry out ancillary activities during working hours. In this case, additional agreements can be made about special leave. These agreements are to be laid down in writing.

#### *c. use of facilities*

The employee is not allowed to use university facilities while performing ancillary activities, unless special arrangements have been made. In the latter case, the employee may be charged for the facilities used.

### **Article 12 Permission under conditions**

One or more conditions have to be met before permission is granted. For all VU researchers (including professors and professors occupying an endowed chair) it is agreed that the ancillary activities will be published on the personal profile page (see Article 15).

Other conditions may also be imposed in specific situations. The following examples are mentioned in the regulation:

- settlement of income
- reduction of FTE
- settlement of holiday leave
- a fee to be paid to the university if facilities are used or VU capacity is used

### **Article 13 Permission withdrawn**

It may be that there is a good reason for withdrawing permission. This necessity may arise from a change in circumstances or new insight or if the conditions imposed are violated. The withdrawal must be motivated by the dean or director of operations.

#### **Article 14 Reporting and registration procedure**

The employee is required to report certain details of any and all ancillary activities he or she intends to perform, including:

- a. a description of the ancillary activities
- b. name, address and country of the organization or agency for which the ancillary activities are to be conducted
- c. the estimated date of commencement and duration of the ancillary activities
- d. the estimated scope of the ancillary activities
- e. whether or not the employee will receive payment for the ancillary activities
- f. whether and to what extent the ancillary activities are to be conducted during the employee's regular working hours
- g. whether and to what extent the ancillary activities make use of university facilities
- h. whether the employee agrees to publication of relevant ancillary activities on the personal profile page (only for scientists)

It is important to enter into discussions with the employee prior to and during this procedure for the purposes of explanation and coordination.

#### **Articles 15 and 16 Documentation and publication**

The ancillary activities are registered in the electronic personnel file.

Generally speaking, information on ancillary activities will be made public on the employee's personal profile page on the relevant faculty's website in accordance with the Netherlands Code of Conduct for Scientific Practice, unless the Executive Board rules otherwise.

In accordance with the Personal Data Protection Act, the employee must give consent for publication of this information on the employee's personal profile page. The employee will also be asked to register via the *Report, change or discontinue ancillary activities* self-service option. To prevent interference by an employee with university policy, permission for publication is a condition for granting consent for the performance of ancillary activities.

Under certain circumstances, the employee may be granted permission to have certain relevant ancillary activities excluded from the personal profile page if there are compelling reasons to do so. These are exceptional cases that may potentially involve security risks, or risks of a personal nature, for the employee in question. Any decision not to report ancillary activities must be approved by the dean, who will then inform the Executive Board, stating the reasons for the decision.

According to the regulation, only those ancillary activities that are relevant to the employee's university position must be reported. Ancillary activities that are in no way related to the researcher's university duties therefore do not need to be included in the personal profile page.

The following information is registered on the personal profile page:

- name of person involved
- the nature of the ancillary activities
- name and address of the organization or agency for which the ancillary activities are to be conducted
- job title with the external organization

Apart from ancillary activities as referred to in this regulation, the personal profile page also lends itself for the inclusion of another category of activities. These activities are candidates for inclusion because listing them serves the goal of transparency as envisaged by the Code of Conduct. This is because these types of positions could result in conflicts of interest. These activities are job-related activities for third parties that take on a structural or long-term character, resulting in an excessive commitment to a certain client (for example in the context of a partnership with an outside party). In these cases the employer must decide about publishing this information on the personal profile page.

The employee may include other activities or job-related information on his or her personal profile page in addition to the information on ancillary activities which is included automatically. This information may be about editorial boards that the employee is a member of, memberships in academic associations, etc.

In his or her annual interview, the employee is asked if his or her registered ancillary activities and the information on the personal profile page is still accurate and up to date. The employee will also be asked to register via the *Report, change or discontinue ancillary activities* self-service option.

#### **Article 17 Decision**

The employee will receive the decision within 6 weeks. If permission is denied, an explanation will be given.

#### **Article 18 Penalties**

Employees who perform ancillary activities without consent from the university or who do not comply with agreements or conditions may face corrective measures or penalties, the heaviest of which being termination of employment.

#### **Article 19 Annual consultation and assessment**

The direct supervisor will periodically review any ancillary activities that are performed in addition to an employee's regular university duties. This review takes place during the annual interview (or more often if there is reason to do so). The supervisor will take pains to ensure that the employee's records are accurate and complete. The review may result in the withdrawal or amendment of consent.

A formal appraisal interview is not conducted with a professor occupying an endowed chair. He or she will therefore receive notification once per year to ensure that the ancillary activities registered are still current and complete.

#### **Article 20 Report**

VU Amsterdam logs the ancillary activities of professors and professors occupying an endowed chair. In the four-monthly Human Resource Management KPI/management report, the faculty boards of all faculties must report the percentage of their professors and professors occupying an endowed chair conducting registered ancillary activities (yes/no). The report includes which percentage of these professors has indicated that they are performing ancillary activities and that they have registered their activities via the *Report, change or discontinue ancillary activities* self-service option. In the Executive Board and the Board of Deans, the report is discussed twice a year.

#### **Article 21**

The sector-wide Ancillary Activities regulation is based on Article 1.14 of the collective labour agreement. This regulation is part of the collective labour agreement. With effect from 1 January 2018, this regulation replaces the VU Ancillary Activities regulation established by the Executive Board on 31 August 2009.