

Category: **PERSONNEL**

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Subject: PER SESSION EMPLOYMENT

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SUMMARY OF CHANGES

This regulation governs the provision of per session services by pedagogic employees. It updates and supersedes the regulation issued December 3, 2008. The regulation explains when per session may be served and sets forth the process to be followed for approval of per session hours.

Changes:

- Information regarding qualification requirements is included in the Application Process, Section V.
- Limitations on holding more than one per session position have been clarified in Limitations on Per Session Employment, Section VI.
- Information specific to coaching assignments in athletic activities has been restored to the regulation.
- The OP-175 Application form has been updated to reflect the 2009-10 school year.

ABSTRACT

This regulation governs the provision of per session services by pedagogic employees. It updates and supersedes the regulation issued December 3, 2008. The regulation explains when per session may be served and sets forth the process to be followed for approval of per session hours.

I. POLICY

Per session work must not interfere with or be an extension of the employee's primary job responsibilities, or be used as a means of providing additional compensation for work in an individual's primary assignment. No per session compensation may be paid for work performed at home. In addition, no individual is authorized to work in a per session activity during his/her normal working hours on a regular school day, or during the daily lunch hour. Principals performing per session work in their schools must receive prior approval from their respective superintendent.

II. APPLICABILITY

This regulation applies to all DOE employees serving under a pedagogic license, regardless of where they are assigned. It also applies to retirees employed pursuant to a waiver under Section 211 of the Retirement and Social Security Law, and to employees who have been given permission to work while on approved leave of absence.

III. DEFINITIONS

Per session activity means any activity for which pedagogic employees are paid at an hourly rate, with the exception of activities noted below. For purposes of this regulation, the per session school year commences on July 1st of a calendar year and ends on June 30th of the following calendar year.

Exclusions:

- Hourly compensation for trainees in training programs.
- Conversion of secretary peak load days to per session payment.
- Activities such as adult education which are compensated at an hourly rate but constitute primary employment.
- Extra payment for teaching in a shortage area. Please refer to Personnel Memorandum # 4 2007-2008, "Additional Compensation for Teachers in Shortage Licenses Areas".
- Hourly compensation for employees serving as Education Evaluators, who are entitled to extra compensation for an extended work day.
- Hourly compensation for school medical inspectors.

IV. POSTING REQUIREMENTS

All per session activities must be posted at least 20 school days prior to the commencement of the activity. Postings must include a clear description of the job, required qualifications, selection criteria, number of hours available, specific work locations and work schedules. All per session employment postings at the district and borough level must be numbered consecutively and tracked by the organization providing human resources support for all the elementary, IS/JHS and High Schools.

A. School Postings

School-based per session positions serving students in one school must be posted in a prominent location in the school at which the activity will take place. If no qualified individual within a school applies, the principal must notify the appropriate organization providing their human resources support and request that the activity be reposted at the school and/or extended to the district/borough.

B. District-wide and Borough-wide Postings

Positions serving students from more than one school in a community school district must be posted in all of the schools in the district by the organization providing their human resources support. Activities serving students in more than one high school must be posted in all high schools in the borough.

C. Citywide Postings

Positions serving students from more than one community school district and more than one high school borough must be posted centrally by the Division of Human Resources.

D. District 75 and District 79

Positions serving more than one District 75 school will be posted by the organization providing their human resources support. Positions serving more than one District 79 program will be posted by the organization providing their human resources support.

V. APPLICATION PROCESS

Employees seeking per session activity must submit the standard application form OP-175 (Attachment No. 1), which should be retained in the responsible program/activity for review and inspection by financial monitors or auditors. Divisions, organizations providing schools' human resources support, and offices may supplement the OP-175 with additional forms for the purpose of eliciting information about particular qualifications or competencies that may be required for service in an activity. Qualification requirements must represent the background which is reasonably required to perform the duties of the position. An employee who meets such requirements is to be considered a qualified employee. Applications for per session activities using the OP-175 form must be submitted as follows:

- School-based positions: to the principal of the school at which the activity will take place as indicated on the posting.
- District-wide positions: to the organization providing their human resources support or program supervisor as indicated on the posting.
- Citywide positions: to the program/activity as indicated on the posting.
- District 75: to the organization providing their human resources support or the program supervisor as indicated on the posting.
- District 79: to the organization providing their human resources support or the program supervisor as indicated on the posting.
- Principal per session: to the appropriate superintendent.

VI. LIMITATIONS ON PER SESSION EMPLOYMENT

The maximum total number of hours of per session work permitted during a per session school year is 500 hours for all titles except School Social Workers and School Psychologists which are capped at 270 hours in a per session year. Per session activities should be scheduled so that no position will entail more than 500 hours/270 hours in a per session school year.

Limitation on holding more than one per session job: No employee may be employed in more than one per session activity during any per session school year except that those persons covered by certain collective bargaining agreements will be permitted to serve in more than one activity if the position has been duly advertised and no other qualified applicant is available. After selection, there is no requirement to file a multiple activity waiver form.

VII. COACHING ASSIGNMENTS IN INTERSCHOLASTIC AND INTRAMURAL ATHLETIC ACTIVITIES

- A. Concurrent (seasonally overlapping) coaching assignments are not permitted, except in extraordinary circumstances (e.g., no other qualified applicant available), where the assignments do not conflict.

B. For the purposes of the limitation on holding more than one per session job, non-concurrent (non-overlapping) coaching assignments totaling not exceeding the prescribed limit in a per session school year may be considered as a single activity as follows:

1. Two coaching positions in a high school involving interscholastic sports activities.
2. Three intramural coaching positions in a high school or junior high school or a special, day treatment center or institutional setting involving interscholastic sports activities.
3. A combination of three coaching positions listed in (1) and (2) above, provided that the sports activities are not concurrent.

Note: The foregoing paragraph shall not be construed as increasing the maximum number of sessions or hours for various coaching activities, as listed in the Department of Education – United Federation of Teachers’ Agreement.

C. Retention rights may be claimed in only one of these coaching positions.

VIII. WAIVERS

Service exceeding the maximum number of hours in one or a combination of per session activities in a per session year requires a prior written waiver approval. For school, district and borough-based per session positions, the organization providing HR support reviews and approves waivers. For central-based and citywide positions, the Chief Executive Officer of the Division of Human Resources or his designee reviews and approves waivers. A waiver of the 500 hour maximum and/or 270 hour maximum for School Social Workers and School Psychologists may be requested only by the appropriate Principal, Director, Superintendent, Chief Executive Officer, or Chief Operating Officer. Requests for such a waiver are to be submitted using the online Per Session Service System. Every request must bear the signature of the appropriate supervisor, and must be submitted sufficiently in advance to allow time for appropriate action. If an employee exceeds the maximum number of hours permitted without obtaining a waiver, the hourly professional payroll unit shall withhold further per session payment.

IX. RETENTION RIGHTS

- A. Retention rights may be claimed in accordance with the criteria established in DOE collective bargaining agreements with teachers and other categories of non-supervisory pedagogical personnel. Form OP-175 is to be used for this purpose. Employees covered by the DOE collective bargaining agreement with CSA do not have retention rights.
- B. Persons who are not primarily employed by the DOE (e.g., retirees and part-time employees) and employees who are covered by agreements between the DOE and UFT which do not have per session provisions, may claim retention rights under the Teachers’ Agreement if they serve in a position covered by the Teachers’ Agreement.
- C. Employees other than day classroom teachers who are covered by contract in which there is a provision for per session employment may not gain retention rights to a position which is outside of their bargaining unit. For example, guidance counselors may not gain retention rights to per session teaching positions because there is a per session provision in their Agreement. They may, however, gain retention rights to guidance counselor positions under the Guidance Counselors’ Agreement. Those persons who achieved such rights previously will continue to hold them.
- D. Retention may be claimed only by employees who have two years of continuous satisfactory service in a particular activity.
- E. An individual who has established retention rights in a particular activity must be assigned to work for the entire duration of the activity. The total number of hours the employee is assigned may vary from one per session school year to another depending on the needs of the program. If a teacher has served for more than two years in two or more activities, a preference for the specific retention rights must be claimed by the entitled individual at the start of the per session school year. An employee may have retention rights in only one per session activity during a per session school year. The claim for retention rights may not be

changed during a per session year. However, an employee may elect to claim retention rights in a different per session activity at the start of each per session school year.

- F. If a teacher is entitled to retention rights in a per session activity but fails to claim those rights before or at the time of application for a different per session job in which the teacher has no retention rights, then the teacher may be denied per session employment in the job for which there is entitlement to retention.

X. RESTRICTIONS

- Assignments of employees to per session activities are to be made in accordance with applicable collective bargaining agreements.
- Applicants for per session teaching positions who do not have retention rights in the positions for which they are applying and who are not employed by the Department's regular day school program may be considered for selection only if no qualified day school teacher is available.
- Teachers may not hold per session supervisory positions.
- Only teaching licenses are valid for per session teaching service. However, where an employee has gained retention rights as a result of satisfactory service, the requirements of a specific license will not be imposed.
- While a teaching license is not ordinarily valid for per session as a school secretary, such service will be permitted when no licensed school secretary is available with the understanding that the person assigned in this capacity will be compensated at the hourly rate for a school secretary.
- Evening Trade School Certificates are valid for service in that program only.
- Administrative managers may not work per session unless they receive a waiver from the Chief Executive Officer of the Division of Human Resources prior to the commencement of the per session activity.
- An employee may have retention rights in only one per session activity during a per session school year.
- In accordance with the collective bargaining agreements, employees on sabbatical leave beginning August 1st must complete per session in July, and will not be permitted to commence any new per session assignments until the September following the completion of sabbatical.

XI. TIMEKEEPING/ATTENDANCE

- A. Individuals who have never worked on the hourly professional payroll (DE470) must submit a Personal and Tax Data Change Form to HR Connect, 65 Court Street, Room 102, Brooklyn, New York 11201, in order to ensure that checks will be mailed to the correct home address.
- B. A time clock must be used wherever possible in recording the hours of per session employment. If a time clock is not available, the supervisor is responsible to verify/sign a daily record of attendance reflecting the exact time of arrival and departure. Failure to maintain satisfactory time records will result in the withholding of compensation or the recoupment of payment already made.
- No employee may work more than five hours without an unpaid lunch break of at least one half hour.
 - Per session employees are not compensated for any sessions lost as a result of jury service.
 - Employees who are absent from a regular school assignment due to illness may not work the same day in an afternoon or evening per session activity.

- C. No employee may work on a per session basis at home or during his/her normal working hours on a regular school day or during the daily lunch hour. Per session employment is intended only for service of a supplemental nature and may not be used as a means of staffing during the regular school schedule in situations where employment on a per diem basis or on a regular part time schedule would be appropriate. Working hours of a regular school day position cannot be altered for the convenience of a staff member merely to accommodate a per session activity.
- D. Sick Time
- Sick time entitlements for per session work are calculated in accordance with applicable collective bargaining agreements.

XII. RECORD KEEPING

The Division of Human Resources' Monthly Online Cumulative Per session Report will track the amount of per session work completed by each employee using the Hourly Professional Payroll System. This report will be updated as per session payrolls are processed monthly and shared with organizations providing human resources support, superintendents, principals and hiring managers for review and action where needed. The report will generate a message to per session payroll secretaries when per session payroll is entered for an employee within 25% of the maximum number of per session hours permitted without an approved waiver. This information must be shared with the principal/hiring manager and discussed with the employee to determine if a waiver is needed. If an employee's hours exceed the maximum number of hours without an approved waiver, payment will be withheld.

XIII. INQUIRIES

Inquiries pertaining to this regulation should be addressed to the organization providing human resources support to the school where the per session activity takes place.

Telephone:
718-935-4000

New York City Department of Education
HR Connect or the organization providing your human
resources support.

2009-10 APPLICATION FOR PER SESSION EMPLOYMENT AND CLAIM FOR RETENTION RIGHTS (OP-175)

Directions: This form must be completed and submitted to the per session supervisor prior to commencement of employment in a per session activity. A copy of this form must be retained by the per session supervisor. An applicant who wishes to claim retention rights must assert such a claim on this form. Retention rights may be claimed **ONLY** in one per session activity. No person may work more than 500 hours in one or a combination of per session activities (with a maximum of 270 hours in a school psychologist and/or school social worker position) without prior written approval of the Division of Human Resources in accordance with Chancellor's Regulation C-175.

Last Name: _____ First Name: _____ MI: _____

Home Address: _____ Zip Code: _____

Home Phone: (____) _____ File No.: _____ Email Address: _____

1. Are you a full-time employee of the NYC Department of Education? Yes _____ No _____

If yes, indicate current work location: ISC _____ District _____ School/Office _____

License or Title _____ Hours of Employment from _____ to _____

2. Per Session Position for which you are applying: Program Name: _____

ISC _____ District _____ Approximate Start Date _____ Do you claim retention rights? Yes ___ No ___

School/Office _____ Approximate Total No. of Hours in Activity _____

Work Hours Monday – Friday _____ to _____ Saturday – Sunday _____ to _____

3. **Between July 1, 2009 and June 30, 2010, have you worked or do you plan to work in any other per session activity? Yes _____ No _____. If yes, indicate all positions below. Use additional sheets if necessary.**

a. Program Name: _____

ISC _____ District _____ Approximate Start Date _____ Do you claim retention rights? Yes ___ No ___

School/Office _____ Approximate Total No. of Hours in Activity _____

Work Hours Monday – Friday _____ to _____ Saturday – Sunday _____ to _____

b. Program Name: _____

ISC _____ District _____ Approximate Start Date _____ Do you claim retention rights? Yes ___ No ___

School/Office _____ Approximate Total No. of Hours in Activity _____

Work Hours Monday – Friday _____ to _____ Saturday – Sunday _____ to _____

4. Will your total per session hours for this year, including the hours for the position for which you are applying, exceed 500? Yes _____ No _____

5. If yes, have you submitted a waiver request to exceed the 500 hour maximum? Yes _____ No _____

6. **Declaration:** I have read and understand the requirements in Chancellor's Regulation C-175. I understand that I am bound by this regulation. I affirm that the information given above is, to my knowledge, accurate and complete, and I understand that a willfully false answer to any question contained herein is a Class E felony which shall render this application null and void and may result in loss of retention rights, cancellation of per session employment, loss of pay, recoupment of compensation already paid, or disciplinary action.

Signature of Applicant

Date

7. **Approval by Per Session Supervisor:** I certify that this applicant possesses the qualifications established for the position and that the selection was made after following advertising procedures set forth in Chancellor's Regulation C-175.

Signature of Per Session Program Supervisor

Date

SUMMARY OF CHANCELLOR'S REGULATION C-175

Chancellor's Regulation C-175 is available for review at <http://schools.nyc.gov/RulesPolicies/ChancellorsRegulations>. Each school maintains a copy of the Standard Operating Procedures Manual for Schools (SOPM). Individuals may review a copy of these procedures in order to familiarize themselves with the process by which per session employees are processed and paid.

1. All per session employees must complete an application for per session activity (OP-175) prior to commencing service.
2. Individuals who have been approved for waivers in prior years must resubmit new waiver applications each year. For this purpose, the per session year is from July 1st **through** June 30th.
3. Individuals must submit a waiver form for exceeding the limit on the maximum number of hours that can be served in a per session year. The maximum number of hours of per session work that may be performed annually is available in the C-175 regulation.
4. No individual is authorized to work in a per session activity during a normal school workday.
5. Per session employment, whether funded from the same or a different source, may not be used as a means of providing additional compensation for work similar to that which is performed in an individual's primary assignment.
6. Individuals cannot serve in a per session activity for which, in their primary assignment, they are responsible for hiring, rating, or coordinating, or which they normally supervise in their primary assignment.
7. No per session compensation may be paid for work performed at home.
8. Employees on sabbatical leaves beginning August 1st must complete per session activities in which they are serving in July. They will not be permitted to commence any new per session assignments until the September following the completion of the sabbatical.
9. Each per session employee is required to use a time clock to record the exact time of arrival and departure. The timecard is to be maintained at the work site and should serve as the basis of entries on the Personnel Time Report. If a time clock is not available, a daily attendance report with exact time of arrival and departure must be provided, maintained, and approved by a supervisor. In every case, regardless of the specific manner in which time is reported, supervisors are accountable for verifying the record of attendance. Approval by a co-worker is not acceptable. Failure to maintain satisfactory records will result in the withholding of compensation or recoupment of payment already made.
10. Each per session employee is required to submit a timesheet for service that was performed during the prior per session period within one school day of the per session period immediately following each service.
11. ***Timesheets submitted for per session work which required a waiver that was not previously approved will result in the withholding of per session payment.***
12. If a teacher is entitled to retention rights in a per session activity but fails to claim those rights before or at the time of application for a different per session job in which the teacher has no retention rights, the teacher may then be denied employment in the job for which there is entitlement to retention.

Notes: Requests for waivers must be submitted sufficiently in advance to allow time for review and appropriate action. ***Failure to obtain a valid waiver may result in the withholding of payment for hours worked beyond the maximum hours as outlined in Chancellor's Regulation C-175.***