

SUBJECT: Employment of Out-of-State Residents and Establishment of Out-of-State Work Locations

APPLIES TO: All faculty, staff, residents and fellows, research associates, postdoctoral appointees, student employees, and prospective employees.

- I. **Policy:** The University of Rochester recognizes the occasional need to hire or reassign an employee or appointee who will, due to the nature of a particular position or business needs of the University, need to reside and perform their University work outside of the state of New York (whether in another state or another country). However, because having employees or appointees work outside of New York State subjects the University to numerous other laws and imposes additional insurance and payroll requirements and costs (e.g., workers compensation liability insurance, unemployment requirements, payroll tax withholding/reporting, administrative costs, and other reporting requirements to other states), the University reserves the right to determine in advance whether the University will permit an employee's or appointee's principal work location to be outside of New York. Accordingly, the purpose of this policy is to require that departments wanting to hire or reassign an individual who will work out-of-state must seek and obtain the advance review and approval of the Associate Vice President of Human Resources before hiring or reassignment. This policy does not apply to applicants who reside out-of-state currently, but intend to move to New York if offered employment. It does apply to employees or appointees who work in another state or country as of the adoption date of this policy (May 2012); if a department desires to have an employee continue to work in another state or country, it should seek the approval of the Associate Vice President for Human Resources.
- II. **Guidelines:** Employment of employees or appointees who will reside and perform their University work outside of New York State, whether in another state or another country, must be expressly reviewed and approved in advance by the Associate Vice President for Human Resources and the pertinent supervising senior administrator (i.e., Dean, Vice-Provost or Vice-President, or Director). Absent exceptional circumstances, employment of individuals to work in a location other than New York will be limited to situations where the University already has an established presence or program or is registered to do business or to situations where the University makes a decision to establish a business presence or program (as set forth below). Out-of-state employment shall not be permitted based on the personal preference of the individual or the department. Where out-of-state employment is approved, Departments will be financially responsible for the cost of additional legal compliance and administrative costs incurred by the University for each out-of-state resident employed by their respective Department.
- III. **Procedure:**
 - A. Approval of a hire or the reassignment of an existing employee or appointee to reside and perform their University work out-of-state must be obtained in advance from the Associate Vice President for Human Resources and the pertinent supervising senior administrator (i.e., Dean, Vice-Provost or Vice-President or Director). The same is true of approval for the creation of a new position in which it is anticipated that the focus of the work must necessarily be outside of New York.

- B. In the case of approval of a position which, or of a hire who, will be located outside of New York State, an assessment will be undertaken to determine whether the prospective hire can be placed in a state where the University already is registered. If not, the Associate Vice President for Human Resources (in conjunction with the Office of Counsel and the Office of Finance) will undertake an assessment as to the appropriateness of establishing a University office or presence in a new state, and approve, only if deemed in the best interests of the University. The President also must approve the creation of any new University office or work location in another country.
- C. Recruitment for any position that falls under this process must be in compliance with the University's established process for recruitment (Policy 133), including posting in the Human Resource Management System (HRMS).
- D. The Department is responsible for obtaining and submitting, in advance of the start of work by an employee or appointee outside of New York, a completed [Approval of Out-of-State Employee Approval Form](#), with all required signatures, to the Human Resources Service Center, along with the Personnel Action Form with the out-of-state box checked. The Department also is responsible for notifying Human Resources when an employee or appointee has either returned to work in New York or has terminated and must send an updated Staff, Faculty or Grad/Post doc Personnel Change Form with the updated information on a timely basis.
- E. Human Resources Service Center will provide the Payroll Office with a copy of the Out-of- State approval form (once approval is obtained). If the individual will be located in a state in which the University is not currently doing business, a legal opinion will need to be obtained as to whether registration is required under that state's law. If registration is required in the new state, Payroll will be authorized to complete and file necessary registration documents according to specific protocols of the state. The state will notify Payroll of acceptance and effective dates. (NOTE: The process of registering to do business in another state can take six to eight weeks.) Payroll will notify the department official/requestor indicated on the Out-of-State Employee Approval Form as well as the Human Resources Service Center (HRSC) of completion of registration process. HRSC will then proceed with the hire process.
- F. Administrative costs are high for out-of-state or out-of-country employees due to the costs to ensure compliance with out-of-state laws, and, in some cases, liability for taxes or insurance purchase for unemployment, disability or other benefits. Therefore, Departments will be responsible financially for legal compliance and administrative costs incurred by the University for each out-of-state/out-of country employee employed by their respective Department. Should there be more than one employee in another state or country, the cost of annual compliance will be divided among the departments pro rata based on the number of employees each employs in that state or country.

See also Policy: #133 Recruitment and Selection