Policy Statement:

The University of Rochester will be in compliance with New York State law regarding recoveries of salary/wage overpayments made to its employees (including faculty, staff, students, and other employees; union employees should also refer to the terms of their collective bargaining agreement)

New York State Law Governing Recovery of Overpayments

New York State Labor Law permits an employer to make deductions from an employee’s wages for an overpayment of wages where such overpayment is due to a “mathematical or other clerical error by the employer.” Overpayments also may be recovered through a separate transaction entered into between the employee and the University.

Recovery of overpayments by wage deduction is limited to overpayments made in the eight (8) weeks prior to the University issuing a Notice of Intent to Commence Deductions to Recover Wage Overpayment (described below). So long as a final determination has been made in accordance with the process described below, recovery of overpayments by wage deduction may be made as follows:

(1) where the amount of the overpayment is less than or equal to the net wages earned after other permissible deductions in the next wage payment, the employer may recover the entire amount of the overpayment in the next wage payment, or

(2) where the recovery of the overpayment exceeds the net wages after other permissible deductions in the immediately subsequent wage payment, the recovery should not cause the gross wages earned in that wage payment to reduce the effectively hourly wage below the statutory state minimum hourly wage and may not otherwise exceed 12.5% of the gross wages earned in that wage payment.

Notice of Intent to Recover Wage Overpayment

New York State law requires that an employer issue a Notice of Intent to commence deductions to recover wage or salary overpayments. The Payroll Office will take appropriate action to correct any errors in the payroll system and begin the notification process by providing each employee who has been overpaid a “Notice of Intent to Commence Deductions to Recover Wage Overpayment” form. For instances where the entire amount of the overpayment is one day’s pay or less, it may be recovered in the next wage payment and notice shall be given at least three (3)
days prior to the deduction. In all other cases involving more than a day’s pay, notice shall be given at least three (3) weeks before the deductions may commence.

The notice shall include the amount of the total overpayment, the total amount to be deducted per pay period (for the recovery) and the date and amount of each deduction. A notice to the employee of the right to contest the overpayment (including the date by which the employee needs to contest and the process for contesting) will be included (or reference to web link describing process).

The Process:

The University has an established process with procedures designed for identifying, correcting, and recovering wage overpayments to University employees in accordance with New York State law. Due to errors in processing an employee’s time reporting, earnings or leave time, a University of Rochester employee may be paid more than is owed to them. Overpayments, as a legal debt, must be promptly repaid to the University regardless of the origin of the error and/or the dollar amount. This process sets forth the procedures to be followed for collection of excess wage and salary payments.

Administration & Responsibilities

Overpayments can result from inaccurate processing or delays in processing pay-related information, inaccurate accrual payments upon termination, system failures, and clerical error. Regardless of the origin, there is a shared responsibility between the Employee, Departments (including timekeepers), and Payroll to correct the errors and recover the funds in a timely manner.

*Employees* should review their salary payments each pay period for accuracy and promptly report any discrepancies to their supervisor. When overpayments have been identified, employees will work with Payroll to promptly repay the University the debt.

*Departments and Timekeepers* are responsible for managing departmental financial and related sources, including monitoring of salary matters for their respective departments. Departments are responsible for providing Payroll with notification to assist in reconciliation and verification of salary payments. When a salary overpayment occurs, departmental administrators are expected to cooperate fully with and assist Payroll in efforts to recover overpayments in a timely manner.

*Payroll* is responsible for making timely and accurate salary payments to University employees. When an overpayment is identified, Payroll will review system records to determine the source of the error and calculate the net overpayment amount, accounting for taxes and withholdings. (Note: The employee is only required to repay the net amount if repayment is recouped through personal check(s) within the same tax year. If repayment crosses tax years or is deducted by wage deductions, the full gross amount must be repaid. Payroll will manage the overpayment recovery process and initiate all forms distributions, including: correspondence, repayment arrangements, receipt of payments from employee in compliance with accepted fiscal practices,
initiation of collection processes when necessary, and crediting the department ledger account after overpayment is recovered. Payroll will also correct/complete all associated tax reporting requirements including amended W-2 or W-2C, when applicable.

**Employee Contesting Overpayment**

Employees have the right to contest the overpayment and terms of recovery and/or seek a delay in the recovery. The timing within which an employee may contest the overpayment (or terms of recovery or request a delay) is different depending on the timing for recovery of the overpayment. The timing for contesting is as follows:

1. For cases in which the Notice of Intent to Commence Deductions to Recover Wage Overpayment indicates that the entire overpayment will be recovered in the next wage payment, the employee must dispute within two (2) days of the date of receipt of the Notice of Intent, but

2. For cases in which the Notice of Intent to Commence Deductions to Recover Wage Overpayment indicates that the recovery of overpayment will occur over multiple pay periods, the employee must dispute within one (1) week from the date of receipt of the Notice of Intent.

If an employee disputes the recovery in a timely manner, the University will reply within one week of receipt of employee’s response. The reply will state the employer’s position with regard to overpayment, including its agreement or disagreement with the employee and the reason why. The employee also will be given written notice of the right to meet with a University representative within one week of receiving the employer’s reply to discuss any remaining disagreements concerning recovery of the overpayment.

Within one week of this meeting, the employee will be sent a written notice of the employer’s final determination with respect to recovery of the overpayment via wage deduction. If the dispute process is undertaken, recovery of overpayment via deduction may not occur until at least three (3) weeks following the issuance of the final determination.

**Alternative Repayment Options**

For cases in which the amount of overpayment to be recovered involves more than one day’s pay, an active or separated employee may elect to repay the University in one of the following ways:

1. Personal check payable to the University of Rochester of the entire amount within 10 days.

2. Payment plan agreed upon by the Payroll Office through a series of personal checks or through payroll deductions not to exceed four (4) months. All employees who elect to repay the debt through a series of personal checks must sign off on a repayment agreement. However, by federal regulation, if personal net repayment via personal check crosses tax years, the full gross
amount must be repaid. Payroll will send out an updated Notice of Intent in this situation.

For any questions or clarifications, please contact the Payroll Office at 275-2040.