

## POLICY

# Work Locations Outside of New York State or the United States

LAST REVISED ON 03/08/2024

All Full-time and Part-time employees, which for the purpose of this policy includes: faculty, staff, residents and fellows, research associates, postdoctoral appointees and prospective employees.

## I. Policy

Every employee, as defined above, is required to have a primary work location. Each supervisor is required to report that primary work location, and any changes in location, to human resources prior to commencing work at the location, with a presumption that the work location will be in the State of New York. The University of Rochester recognizes the need to hire or reassign an employee (as defined above) who will, due to the nature of a particular position, business needs of the University, or specific employee circumstance need to reside and perform their University work outside of the state of New York. However, because having employees work outside of New York State subjects the University to numerous other laws, regulations, compliance issues, and legal risks, and imposes additional insurance and payroll requirements and costs (e.g., workers compensation liability insurance, unemployment requirements, additional sick and family leave entitlements, payroll tax withholding/reporting, administrative costs, and other

reporting requirements to other states/countries), the University reserves the right to determine in advance whether the University will permit an employee's principal work location to be outside of New York (or out-of-country).

Accordingly, the purpose of this policy is to require that departments wanting to hire or reassign an individual who will work outside of New York State or the United States to seek and obtain the **advance review and approval of the** Human Resources Office for Out-of-State Employment **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, unless they are delayed in moving to New York and will begin employment outside of New York State or the United States. It does apply to all employees (as defined above) currently working in another state or country. If a department has not requested approval for the work location outside of New York State or the United States and desires to have an employee continue to work in another state or country, it should seek the approval of the Human Resources Office for Out-of-State Employment.

## **II. Out-of-State Guidelines**

No person may be hired to work or, for existing employees, allowed to begin performing their work, outside of the State of New York unless and until the proposal for working outside of New York State is reviewed and approved in advance by the pertinent supervising senior administrator (i.e., Provost, Vice-Provost or Vice-President, or Sr Administrator and where applicable Sr VP for Health Sciences). Upon approval from the Senior Administrator, the person may not be hired and, for current employees, work may not begin outside of the State of New York until the proposal is approved by the Human Resources Office for Out-of-State Employment. **Costs associated for out-of-state employment will be the financial responsibility of the department.**

A. Employment of individuals to work in a location other than New York will be limited to states where the University can meet the employment obligations of that state. However, the existence of approved work locations in other states will not mean an automatic approval of other employees in those same locations. A review of the relevant state laws, compliance factors, and the University's obligations and potential liabilities will need to be considered for each request.

B. Out-of-state employment approval will be based on the overall **business need and impact to the University. This will need to be explained and confirmed by the divisional leader, prior to submission of the request to** The Human Resources Office for Out-of-State Employment

C. Generally, current student employees employed through Student Employment or graduate students with "add-on appointments" and Time as Reported (TAR) employees will **NOT** be permitted to work out-of-state or out-of-country and remain on the University payroll. If a department wants to employ a student or a TAR employee to work outside of New York State, Human Resources Office for Out-of-State Employment can provide guidance in finding an external payroll agency to employ them and who can ensure complete compliance with that state's regulatory requirements. Graduate students paid a stipend for work associated with their educational pursuits and who are located out-of-state/country will **not** require a review under this policy, but will need approval from the Dean's Office, Global Engagement, or Study Abroad.

D. As noted above, every employee is required to have a primary work location. Each supervisor is required to report that primary work location, and any changes in location, to the Human Resources Office for Out-of-State Employment prior to commencing work at the location, with a presumption that the work location will be in the State of New York. Work locations in New York City (including the 5 boroughs of NYC) do not need approval

through this policy. However, there are separate tax requirements for employees residing and working in these locations, therefore the department must notify payroll whenever they hire or relocate an employee to a New York City location.

### III. Procedure

A. Review and approval of a hire or the reassignment of an existing employee to reside and perform their University work out-of-state must first be obtained **by the pertinent supervising senior administrator in the division** (i.e., Dean, Vice-Provost or Vice-President or Sr Administrator and where applicable SMD Dean of Faculty Affairs or Provost) **in advance of the employee performing any work in the out-of-state location**. Upon their approval, the request form ([https://www.rochester.edu/human-resources/?page\\_id=128422&preview=true](https://www.rochester.edu/human-resources/?page_id=128422&preview=true)) should be submitted for review to the Human Resources Office for Out-of-State Employment.

B. Each request will require an assessment to determine whether the prospective hire can be placed in a work location regardless of whether the University is registered to have employees present there already. The Human Resources Office for Out-of-State Employment (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.

C. If the individual will be located in a work location in which the University is not currently doing business, a legal opinion may need to be obtained to understand the University's legal obligations including whether registration as an employer in that state is required under the laws of that state. If registration is required, **the process of registering to do business out-of-state can take approximately six to eight weeks and in certain circumstances can take longer**. Payroll will notify the requesting department indicated

on the Approval Form as well as the Human Resources Office for Out-of-State Employment when completion of the registration process has occurred. The department may then proceed with submitting the necessary appointment forms to initiate the hire process for a new employee or change of work location for the incumbent employee.

D. Recruitment for any position that falls under this process must follow the University's established process for recruitment (Policy 133), including posting in the Human Resource Management System (HRMS). All applicable laws and regulations of that out-of-state work location must be adhered to.

E. The Department is responsible for obtaining and submitting, at least 4 weeks in advance of hiring out-of-state employees or, for incumbent employees, 4 weeks in advance of the start of work by an employee outside of New York, a completed Approval of Out-of-State Employee Approval Form ([https://www.rochester.edu/human-resources/?page\\_id=128422&preview=true](https://www.rochester.edu/human-resources/?page_id=128422&preview=true)), with all required approvals, emailed to Human Resources at [HROutOfStateRequest@rochester.edu](mailto:HROutOfStateRequest@rochester.edu) (<mailto:HROutOfStateRequest@rochester.edu>) along with the job description. 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.

F. Administrative costs to the hiring department can be significant for out-of-state employees due to costs associated with maintaining compliance with out-of-state laws, and, in some cases, including (but not limited to) liability for taxes and/or purchasing insurance for unemployment, disability, paid family leave and other benefits. 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 in their respective

Department. Details related to costs can be found on the [out-of-state website](https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work/) (<https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work/>)

G. All out-of-state staff members are required to complete the [remote work agreement](https://www.rochester.edu/human-resources/professional-success/remote-work/managers/requesting-remote-work/) (<https://www.rochester.edu/human-resources/professional-success/remote-work/managers/requesting-remote-work/>)

H. Should an extension of an out-of-state work assignment be necessary, it requires a new request form be submitted at least 4 weeks prior to the end date. This allows time to re-evaluate employment regulations for that state and ensure we are able to remain compliant. If HR Office for Out-of-State Employment learns of new employment regulations that go into effect within the previously approved period, that the University is unable to comply with, the HR Office for Out-of-State Employment will work with the department accordingly to seek alternate employment arrangements (i.e., external payroll agency) within a reasonable notification period.

I. If there is a desire for an employee to relocate to a different city or state than previously approved, a new request form must be submitted at least 4 weeks before the relocation to allow time to conduct a review to ensure the University can be compliant in that new location. Employees are prohibited from beginning work in a city or state other than that previously approved unless and until work in the different location is approved.

## IV. Out-of-Country Guidelines

In addition to the guidelines and procedures noted above for out-of-state employment; please find below additional requirements related to **out-of-country** requests.

A. Please submit out-of-country requests a minimum of 4 months in advance of new employees being hired to work outside of the United States and 4 months in advance of existing employees being allowed to work in a new location outside of the U.S.

B. No new office or work location may be established outside of the U.S. unless the proposal for the new office or work location is approved by the Provost or a Vice President. Temporary work assignments in another country, where a formal office/presence is not established by the University, will not require the President's review and approval, but will require review by Office of Counsel in conjunction with Human Resources Office for Out-of-State Employment.

C. There must be a significant business case that the work outside of the U.S. is integral to the University's ability to meet its strategic objectives.

D. The Department to which the employee is assigned is responsible for all costs of compliance with legal and regulatory provisions associated with the employee being allowed to work outside of the U.S. Out-of-country employment will be payrolled through a third party who will be designated as the Employer of Record for the individual and will manage the legal obligations associated with being an employer in that country.

E. Each request will require an assessment to determine whether the prospective hire can be placed in an out-of-country work location. The Human Resources Office for Out-of-State Employment (in conjunction with the Office of Counsel, Global Engagement, and the Office of Finance) will undertake an assessment as to the appropriateness of establishing a University office or presence in a new country and approve, only if deemed in the best interests of the University.

F. The department should contact the Office of Global Engagement prior to planning or undertaking any international travel, activities, or engagement.

G. Each University employee who works outside the U.S. must have appropriate visa to work in the specified country.

Employment laws and regulations are subject to change throughout the year.

Accordingly, the University reserves the right to modify, amend, or terminate out- of- state employment arrangements at any time.

**See also:**

- [Policy: #133 Recruitment and Selection \(https://www.rochester.edu/policies/policy/recruitment-selection/\)](https://www.rochester.edu/policies/policy/recruitment-selection/)
- [Policy #175 Remote work Policy \(https://www.rochester.edu/policies/policy/remote-work/\)](https://www.rochester.edu/policies/policy/remote-work/)
- [Global Engagement \(http://www.rochester.edu/global/\)](http://www.rochester.edu/global/)
- [Out of State Employment Office \(https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work/\)](https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work/)
- [Out of State request form \(https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work-request-form/\)](https://www.rochester.edu/human-resources/professional-success/remote-work/out-of-state-work-request-form/)



## **ABOUT THIS POLICY**

### **Policy Number**

132

### **Policy Group**

Human Resources

### **Issuing Authority**

Human Resources

### **Responsible Officer**

Kathy Miner

### **Contact Information**

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## **ADDITIONAL RESOURCES**

**[Out of State Approval Form \(PDF\) \(https://www.rochester.edu/policies/wp-content/uploads/2019/08/132-Out-Of-State-Approval-Form.pdf\)](https://www.rochester.edu/policies/wp-content/uploads/2019/08/132-Out-Of-State-Approval-Form.pdf)**

**[Out of State Approval Form \(Microsoft Word .doc\) \(https://www.rochester.edu/policies/wp-content/uploads/2019/08/132-Out-Of-State-Approval-Form.docx\)](https://www.rochester.edu/policies/wp-content/uploads/2019/08/132-Out-Of-State-Approval-Form.docx)**

## **RELATED POLICIES**

**[Remote Work Policy \(https://www.rochester.edu/policies/policy/remote-work/\)](https://www.rochester.edu/policies/policy/remote-work/)**

## **POLICY KEYWORDS**

**[Recruiting \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=536\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=536)**

<iframe src="https://www.googletagmanager.com/ns.html?id=GTM-TT7PP8Z" height="0" width="0" style="display: none; visibility: hidden" ></iframe >