

Policy for Appointment of Non-Student Fellows

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Applies to:

Department and center personnel who wish to appoint an individual to a training program and provide compensation in the form of a stipend.

Exclusion: This policy does not apply to fellows in the Medical Center who participate in clinical training programs (some of which have a period of research training) as part of the Graduate Medical Education program. [Note: A Medical Center fellow in a research training rotation must be identified as such in the "Comments" section of the Fellowship Appointment form.]

Reason for This Policy

Since September 1993, all fellowship appointments at the University have been documented by a "Fellowship Disclosure Form." The purpose is to certify that fellows conform to the IRS definition, which has special rules for federal income tax withholding and reporting. The definition holds that fellows may not receive stipends as compensation for services. Fellowship stipends are intended to support individuals participating in an educational training program. Therefore, the research, clinical, or other activities in which they participate should enhance their educational experiences rather than being primarily a service that would be expected of an employee.

This policy attempts to provide clear guidelines for the payment of fellowship stipends, ensuring that the affected individual is aware of the tax and benefits

consequences, and ensuring that the University is compliant with IRS and other applicable guidelines for paying stipends.

Policy Statement

When determining whether or not an individual is a fellow or an employee, the role of the appointee within a department, center, or laboratory must be considered.

The following conditions are indicators that an individual is in an educational, rather than employee, relationship with the University:

- The individual is a participant in a recognized training program.
- All activities are conducted under the supervision of an employee.
- Practices and outcomes are reviewed and evaluated by a faculty member.
- The activities in which the individual engages are intended to provide greater benefit to him/her than the institution.
- The individual understands, and has signed written notification, that he/she is in an educational position for which there is no explicit or implicit expectation of employment following the training program, and he/she understands that no taxes are withheld from the stipend and no employee fringe benefits are provided.

The following conditions are indicators that an individual is an employee, rather than in an educational role, at the University:

- The individual is not a participant in a recognized training program.
- Funding for the position, whether a grant or otherwise, stipulates that taxes will be withheld and/or that fringe benefits will be paid.
- The services provided are intended to benefit the institution rather than the individual.

1. Post-doctoral fellows must be part of a recognized training program. A number of approved training programs already exist, such as the Medical Scientist, Cell and Developmental Biology, Infectious Diseases Training Programs, etc. If a unit wishes to provide an educational opportunity and pay its participants fellowship stipends, the director must request formal recognition of his or her program as a training program. The director should submit to the department chair(s) a written request that includes a defined training period, the goals of the training program, the number of trainees to be trained, and the source of funds for the stipends. The request should document that the use of institutional funds is justified, that the fund source is appropriate, and that there are sufficient funds to provide a stipend for trainees for the length of the training program. The director must take steps to ensure that the funds are encumbered for this purpose. After receiving written approval from the chair(s) of the department(s) in which the training program is housed, the director will forward the request to the dean with a statement of support and verification that the funds are committed. The dean's signed approval is required before enrolling a fellow in the training program. A

template, "Professional Activities Planned for Research Postdoctoral Fellowship," is in the Forms Repository, (https://www.healthsystem.virginia.edu/ofr/search/bydepartment.cfm?dept_id=11&keyword=&Submit=Search&keyword_list=).

2. While the University cannot comment on or advise individuals about their tax liability, the School has an obligation to inform its fellows of their relationship to the institution. To that end, prior to an individual entering into a fellowship, the department will prepare an award memo describing the training program and the source(s) of funds that will support it. This memo should also verify that the fellow's mentor will not make promises of employment and will explain to the fellow that no taxes are withheld. Should the IRS take exception and consider the fellow an employee, the department(s) will be responsible for any penalties. The University requires that the department submit a signed "Fellowship. Disclosure Form/Questionnaire" (<http://etg07.its.virginia.edu/uvaforms/files/financialaid/fellowdis.pdf>) .

3. Many non-resident aliens come to the University to receive postdoctoral training. Some are participants in the USIA's Exchange Visitor Program, which offers a temporary affiliation with the University in order to teach, pursue training, perform research, or engage in other scholarly activities. Unlike the H visa, which is issued to a temporary worker, an exchange visitor holding a J-1 visa may be appointed as a fellow if otherwise appropriate. J-1 visa applications for foreign trainees must include a copy of the award letter (see Section 2, above). Renewal J-1 visa applications for foreign trainees must be accompanied by a letter from the faculty mentor certifying satisfactory progress in the training program and the intent to reappoint the fellow in the training program.

Any compensation provided to non-resident aliens holding H (temporary worker) visas must be in the form of either salary or wages. These individuals are always considered to be employees of the University while active in any School of Medicine program.

4. The funding source for a fellowship must be identified in a clearly defined training program and must be sufficient to support a fellow throughout the term of his or her appointment. Subject to donor/sponsor restrictions, faculty may use gifts, industry grants, endowments, overhead (F&A) reserves, or clinical income to pay stipends if these sources are identified in the proposal to the Dean (see Item 1, above). Stipends may not be charged to federal research grants (e.g., R01s) or to state E&G funds.

Faculty should direct their questions about this policy to their department or center administrator. The office of the Associate Dean for Finance and Administration is responsible for advising administrators on difficult policy issues and questions in this area.

Related Policy:

Guidelines for Fellowship Disclosure

<http://www.virginia.edu/~polproc/pol/ivg3.html>

Scholarship/Fellowship Payments to Foreign Nationals

<https://policy.itc.virginia.edu/policy/policydisplay?id=FIN-012>

Payments to Foreign Nationals

<http://www.hr.virginia.edu/other-hr-services/CIS/cis-taxation-and-payment-to-foreign-nationals/>

Policy on Professional Research Staff

<https://policy.itc.virginia.edu/policy/policydisplay?id=HRM-033>

Approved by:

Research Advisory Committee

Senior Associate Dean for Finance and Administration

Revision history:

Established January 17, 2006

Revised June 14, 2006; April 14, 2008; administrative updates 2/25/15