



University Policy: Out-of-State Staffing Policy

Policy Category: Personnel

Subject: Obtaining Staffing or Teaching Services to be Provided from Outside of the District of Columbia, State of Maryland or Commonwealth of Virginia

Responsible Executive: Chief of Staff to the President

Office(s) Responsible for Review of this Policy: Human Resources

Supplemental Documents:

Related University Policies: Flexible Work Arrangement Policy

I. SCOPE

This policy addresses the process to hire or retain personnel who provide a staffing or teaching service from an Out-of-State location. For the purpose of this policy, Out-of-State includes locations outside of the District of Columbia, State of Maryland, and Commonwealth of Virginia.

This policy applies to all university departments, faculty, staff and students. This policy does not apply to employees who reside Out-of-State and commute to campus to deliver services. It does not apply to those whose job requires business travel for short periods of time, who deliver services from Out-of-State on a temporary basis, or who have a temporary telecommuting arrangement.

II. POLICY STATEMENT

The University is a Washington, DC-based employer. Ordinarily, employees are expected to work on the University's premises. The University recognizes the business need to retain talent who provide services for the University from Out-of-State. Hiring employees to perform work from Out-of-State locations imposes significant management complexity and greater costs and legal risks to the University because each state and country has its own human resources, tax, employment, and legal compliance obligations.

Accordingly, departments that wish to hire or reassign a current employee, or employees who reside and deliver services from Out-of-State, will follow this policy. When there are business needs to retain an individual to perform services from Out-of-State, the University typically will obtain these services through an Employer of Record (see definition below).

II. DEFINITIONS

Out-of-State – a location outside of the District of Columbia, State of Maryland, and Commonwealth of Virginia, including outside the United States.

Employer of Record (“EOR”) – An organization with whom the University has entered into a contract to serve as the employer for individuals who provide services to the University from Out-of-State (“EOR Employee”). EOR Employees are hired by the Employer of Record and placed at American University to perform services for the University. The EOR is responsible for all human resources and payroll functions, administration of benefits, and legal compliance for the employment of EOR Employees

Temporary basis – Temporary is defined as one semester, or two terms, or in the case of the summer, the period between mid-May through mid-August.

III. POLICY

- 1) While the majority of the University’s workforce deliver services on its DC campus, the University recognizes the need to (1) obtain the services of an individual who will perform services from Out-of-State or (2) reassign employees who will work from Out-of-State. If this need arises, the University typically will retain their services through an Employer of Record.
- 2) AU Employees who deliver services from outside of the DMV prior to the effective date of this policy will be transitioned to the Employer of Record at a date to be determined by the university. When this transition occurs, the individuals will be separated from University employment in accordance with university policy and will be provided employment through the Employer of Record.
- 3) All Out-of-State hires on or after the effective date of this policy will be retained through the Employer of Record in accordance with this policy.
- 4) Based on the business needs of the university and performance of the employee, the university reserves the right to determine in advance whether the university will permit an individual’s principal work location to be Out-of-State. Employees are required to notify their supervisor in advance of their desire to deliver services from Out-of-State.
- 5) Deans and department heads are responsible for deciding to retain an individual who will perform services from Out-of-State within the United States. Deans and department heads must regularly review their rosters of Out-of-State workers to determine whether those positions can be filled by an employee who can work on AU premises. In determining whether to use an EOR Employee for a University service to be performed from Out-of-State, deans and department heads will consider an array of factors, such as the nature of the position, business need, performance of the employee, whether the services can be provided by persons who can work on University campus or facilities, cost of the EOR services, etc.
- 6) The Provost and Vice Presidents are responsible for determining the business need for retaining an individual who will perform services from non-U.S. locations. The Provost and Vice Presidents must regularly review their rosters of workers who perform services from

outside the U.S. to determine whether those positions can be filled by an employee who can work on AU premises. The need to have individuals to perform a University service from outside the U.S. is rare and unusual.

- 7) All requests, including supporting documentation, for Out-of-State staffing are submitted to Human Resources for processing at least 14 days prior to the first day of the assignment.
- 8) The costs associated with the EOR Employee placement will be charged directly to the hiring department, subject to cost sharing with the central budget office applicable to particular programs.
- 9) An EOR employee assigned to American University must follow applicable university policies and must comply with the payroll and timekeeping practices for the EOR.
- 10) The University will maintain control of all business decisions, operations, and intellectual property for work arising from EOR Employees, consistent with other university policies.
- 11) University employees should notify the Human Resources of any home address changes no later than the beginning of the pay period following the address change. This will assist the University to address any legal compliance obligations that might be triggered by such relocation.
- 12) Human Resources is responsible for implementing, interpreting, monitoring, and amending this policy.

IV. EFFECTIVE DATE AND REVISIONS:

This Policy is effective as of December 10, 2019.