
University Guidance

DHHS Salary Cap or Salary Limitations on Sponsored Awards

REASON:

The purpose of this guidance is to document the University's established practice to calculate, monitor and remain compliant with the DHHS Salary Cap limitation.

BACKGROUND:

The *2012 Consolidated Appropriations Action* (Public Law 112-74) required the Department of Health and Human Services (DHHS) and its agencies [most common HHS agencies include but not limited to the following: National Institutes of Health (NIH), Human Resource and Service Agency (HRSA), Substance Abuse and Mental Health Services Administration (SAMHSA), Centers for Disease Control and Agency for Healthcare Research and Quality (AHRQ)], to set a cap on salaries awarded by these agencies:

- This salary rate cap applies to grants, cooperative agreements and contracts except for the FDA (funded under the USDA appropriations bill) and the Indian Health Service (funded under the Department of Interior appropriations bill).
- Salary rate cap limitation applies to flow-through awards in which Clemson is a subaward of DHHS funds.
- Other sponsoring agencies may impose the HHS salary cap or a salary limitation and incorporate as part of their own terms and conditions.
- Previous cap history
 - From 2001-2012, the cap was legislatively set at the Executive Level 1 of the Federal Executive Pay schedule
 - Effective December 23, 2011, the salary rate cap was changed from Executive level I to Executive Level II of the Federal Pay schedule.

FEDERAL REGULATION:

All academic and summer salary charged to DHHS and HHS agency awards must be performed in accordance with the DHHS salary cap amount. Therefore,

- All salaries charged to DHHS awards must comply with the Federally mandated cap (i.e., upfront, and not after-the-fact).
- Faculty whose salary exceeds the cap and are charged to DHHS awards during the academic year must have the representative portion of salary, based on the effort percentage charged to the grant, allocated to a non-sponsored project account.

APPLICATION:

In general, faculty with a 9-month appointment receiving summer compensation from a sponsored award is for work performed outside of their academic responsibilities during the summer months and paid by submitting a Summer Faculty Compensation Packet, not as part of their academic pay. The salary paid for a 9-month appointment reflects the academic year salary only, even though salary is paid out over 12 months.

- It is important to read the sponsor's funding announcement and the terms and conditions of an award to confirm the existence of a salary limitation.
- **Summer months pay** – Amounts up to the HHS cap limitation may be paid on HHS awards commensurate with work performed. Since there are typically no contracts provided to 9-month faculty to work during the summer, faculty can receive up to the cap in pay **if it is commensurate with worked performed for the period being paid.** However, any pay that exceeds the cap limitation, in order to reflect an individual's IBS, must ensure that the proportionate amount of cap dollars is paid by an institutional fund source.
- For 9-month faculty whose salary is in excess of a salary rate cap, the portion that exceeds the cap must be paid with non-sponsored project funds, as:
 - salary in excess of the cap is considered by the Federal government to be an unallowable expense as a direct charge to other awards and must be treated as institutional cost share.
 - **federal regulations do not permit the use of salary over the cap to meet cost sharing required by the sponsor.**
 - While not required, a cost share project may be established and mapped to the NIH/HHS project to accumulate cap funds in order to ensure funds are allocated appropriately.

EXAMPLES:

2023 HHS Salary Cap – Effective January 1, 2023 - \$212,100 (\$159,075 for 9 months pay)

- \$212,100 divided by 24 pay periods = **\$8,837.50**
Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

2022 HHS Salary Cap – Effective January 2, 2022 - \$203,700 (\$152,775 for 9 months pay)

- \$203,700 divided by 24 pay periods = **\$8,487.50**
Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

EXAMPLES, cont.

2021 HHS Salary Cap – Effective January 3, 2021 - \$199,300 (\$149,475 for 9 months pay)

- \$199,300 divided by 24 pay periods = **\$8,304.17**

Note: This is the maximum per pay period that can be charged on HHS awards if working 100% on grant during the period for which payment is made.

Academic Year Effort/Pay on HHS awards:

- Pam Smith, PI - Works and charges 12.5% time to her HHS award during the AY.
- Institutional Base Pay (IBS) = 168,750 for AY (\$225,000 converted to 12 month)
- 12.5% Effort and Pay charged to HHS Award during academic year = \$1,060.93 pay charged per pay period.
- Amount over the CAP = $\$225,000/24 \times .125 = \$1,171.88 - \$1,060.93 = \110.95 of over the cap pay that must be paid by Department (non-sponsored funds) each pay period.

Summer Effort/Pay on HHS awards:

- Pam Smith, PI - Plans to work and charge 100% time to her HHS award during the summer for the month of June 2023 = one month (i.e., 2 pay periods).
- The maximum she can charge to HHS is \$8,837.50 per pay period and \$17,675 for the month.
- Since there are no contracts provided to 9-month faculty for work during the summer, she can elect to only receive up to the cap amount of \$8,837.50 in pay for the pay period worked. However, if she received her full IBS, the additional amount representing the amount over-the-cap must be paid from a Department/Non-sponsored project.

NOTE: Federal regulations require that if an individual is paid, it must be commensurate with work performed and effort expended during the period for which they are being paid. It cannot represent an accumulation of pay from “other” periods of time throughout the year.

PROCESS: GCA SALARY CAP REVIEW:

At least twice per year and prior to the release of the Sponsored Compensation Verification (SCVS) reports in February and August, a query is executed to report all salaries paid on DHHS and HHS agency awards by pay date since the last SCVS report period confirmed. Each individual and pay period amount is reviewed against the cap amount (i.e., for FY23 = $\$212,100/24 = \mathbf{\$8,837.50}$, which is the same for 9-month faculty pay $\$159,075/18$). Any pay that exceeds the cap requires correction. The College Post-award representative (CPAC) is contacted to make the necessary review and correction(s) to the project account.

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REVISION HISTORY		
EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
August 2021	001	Original
March 2022	002	Updated for 2022 Salary Cap Rates
February 2023	003	Updated for 2023 Salary Cap Rates