

# Statement by the Assistants' Association of the University of Basel (avuba) on the Regulation of Secondary Occupations (Draft Dated September 1, 2017)

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### A) Initial position

To begin, avuba maintains that the timeframe given (20 days) to consolidate the opinions of this heterogeneous group of assistants and postdocs as the basis for this statement was extremely short, particularly considering that Group III may experience particularly significant changes. avuba would have liked to have been involved in the process at an earlier stage for decisions of this magnitude.

### B) avuba's position on the current draft

avuba rejects the general expansion of the regulations to include Group III. avuba recognizes that members of Group III are currently not all treated equally. However, rather than worsening the situation for all assistants and expanding regulation, it argues that all members of Group III should be exempt from the regulation of secondary occupations. The new regulations proposed would see working and career conditions for assistants worsen without reducing the risk to the university. From avuba's perspective, the University of Basel has no prevailing interests in including Group III in the regulation of secondary occupations. Opportunities to gain professional experience voluntarily outside of academia during the qualification phase and make valuable contact with future employers would greatly decrease. Implementing the regulations would also lead to a disproportionate administrative burden for members of Group III. All the reasons for rejecting the proposal are explained below.

### C) Reasoning

#### Scope

avuba understands the need to regulate additional work for members of Group I due to their long-term affiliation with the University of Basel. Accordingly, the existing rules and the proposed reforms are specifically designed for this group. In contrast, members of Group III are employed on a fixed-term basis; this means that most members aim to reach their next stage of qualification at the university, after which they will leave. They are therefore less visible, less representative of the university, and much less likely to experience conflicts of interest than members of Group I.

**Duty to declare**

In the case of part-time work, an employer must assume that employees looking for a second job do so for financial or career-related reasons. avuba believes that it is very important for assistants to take on additional work to improve their finances and their position on the labor market once they leave the university. Placing obstacles in their path would make fixed-term university positions seem less attractive and complicate assistants' careers unnecessarily.

Provided they are not working for a competitor, their work at the university is not impeded, and the university's reputation is not damaged (prohibited by the duty of loyalty), the employer has no prevailing and justified interest in requiring employees on fixed-term contracts to inform them of additional work. From avuba's perspective, the duty to declare for assistants as set out in the new regulations is an excessive invasion of privacy and does not justify the associated administrative burden. avuba also believes that requiring assistants to register the associations and political parties in which they are active would be problematic for data protection and privacy reasons. All activities that may be deemed equivalent to hobbies would have to be exempt from the regulations as set out in section 5.2 of the swissuniversities paper. Paragraph 7 of the duty to declare document also states that a self-declaration is to be submitted each year for each secondary occupation including, for example, information about private income where this is not included in a reduction in the employment level at the university. There is no justification for compulsory statements on income from second jobs, and avuba believes this to be disruptive.

avuba therefore recommends that the regulations should not be expanded to include all members of Group III and/or that all members of Group III should be exempt from the new regulations. Issues such as compensation of additional costs for the use of university infrastructure and personnel, which affect all members of the university, can be handled in other documents (e.g. the HR regulations).

**Duty to obtain permission**

It is unlikely that assistants will be elected to administrative boards, boards of trustees, or public office. avuba regards the requirement to obtain permission from the university before submitting an application to be excessive. The additional secondary occupations listed in paragraph 7 relate mainly to professors, but not to assistants.

The sentence "(...) a general duty exists to declare activities that could create conflicts of interest with the university" (clause 5.5) could easily be used to infer potential conflicts of interest; this could be used as a basis for denying certain secondary occupations subject to the duty of declaration, even if no conflict of interest actually exists. For example: An assistant in the pharmaceutical department working at an emergency pharmacy in their spare time and at night, or an assistant from the Faculty of Medicine working as a physician for a sports club in their spare time.

The body authorized to grant or deny permission for secondary occupations must be well versed in the working environment and an assistant's specific research conditions in order to assess whether the assistant is fulfilling their tasks at the university satisfactorily and in full within the framework of their employment level. If an assistant is not performing to their usual or expected standard, they must inform their manager of all other work performed for other employers. If the manager believes that the assistant is no longer able to perform their work to the expected standard due to a secondary occupation outside the university, the assistant could be requested to reduce their outside work. This procedure could be defined in the doctoral agreement. avuba does not believe it is necessary to require advance permission for secondary occupations from a body that is not familiar with an individual's circumstances.

In addition, the new terms of employment for doctoral students and postdocs, which came into effect on February 1, 2017, state that a time expenditure of 0–20% of the employment level is acknowledged for academic self-management. This is contradicted by paragraph 7, which states "e) Members of

Groups II and III must obtain advance permission for activities carried out during working hours". The Group III representatives on the Senate are ex officio members of the avuba executive board, which means that, in the future, they would need to obtain permission every year to perform this role. avuba believes that serving on the avuba executive board is part of university self-management and would therefore not be considered a secondary occupation in accordance with paragraph 2 of the new regulations.

**Transitional provisions**

"Retrospective permission is not required for secondary occupations declared as of December 31, 2017, that will be subject to permission in accordance with the new regulations": Does this sentence mean that assistants are recommended to register all secondary occupations for which permission will now be required by December 31, 2017, so that they will be deemed approved as of January 1, 2018? What happens if an assistant is already involved in an activity but permission would not be granted by the time the new regulations come into effect?

**Legal protection and consequences**

The existing draft does not mention legal protection or the procedure to be followed if permission is denied by the relevant body – avuba regards this as highly problematic. There has so far been no mention of the consequences that would result should a person fail to declare paid or unpaid secondary occupations.