

# 長庚大學學生兼任助理學習與勞動權益保障處理規範

## Regulations for Student Assistants' Learning and Labor Rights Protection at Chang Gung University

- 一、長庚大學(以下簡稱本校)為兼顧培育人才之目的，並保障學生兼任助理學習及勞動權益，特依據教育部訂頒「專科以上學校獎助生權益保障指導原則」(以下簡稱教育部指導原則)及勞動部訂頒「專科以上學校兼任助理勞動權益保障指導原則」(以下簡稱勞動部指導原則)，訂定「長庚大學學生兼任助理學習與勞動權益保障處理規範」(以下簡稱本規範)，各單位依本規範須另研擬相關作業要點，以保障學生兼任助理權益。

Chang Gung University (hereinafter referred to as "the University"), in order to fulfill the goal of nurturing talent and safeguarding the learning and labor rights of student assistants, hereby establishes the "Regulations for Student Assistants' Learning and Labor Rights Protection" (hereinafter referred to as "these regulations") based on the guidelines set forth by the Ministry of Education in the "Guidelines for the Protection of Sponsored Students' Rights in Colleges and Above" (hereinafter referred to as the "MOE Guidelines") and the guidelines issued by the Ministry of Labor in the "Guidelines for the Protection of Labor Rights of Student Assistants in Colleges and Above" (hereinafter referred to as the "MOL Guidelines"). Each department shall develop relevant operational guidelines in accordance with these regulations to safeguard the rights of student assistants.

- 二、本規範所保障之學生兼任助理，分為「學習型」與「勞動型」兼任助理兩類。前項所稱「學習型」兼任助理(即所稱之獎助生)，係指本校學生依教育部指導原則第四條，擔任屬課程學習或附服務負擔等，以學習為主要目的及範疇之兼任研究助理；所稱「勞動型」兼任助理，係指本校學生依勞動部指導原則第二條，與本校存有提供勞務獲取報酬之工作事實，且具從屬關係。如屬承攬或其他非屬僱傭關係者，則另依相關法令規定辦理。

本校(各單位、計畫主持人、教師)進用學生兼任助理時，應以書面或電子文件確認雙方關係(「學習型」或「勞動型」)，並充分告知相關權利義務。

### Categories of Student Assistants and Clarification of Rights and Obligations:

These regulations protect two categories of student assistants: the 'Learning-Type' and the 'Labor-Type.' The 'Learning-Type' student assistants (also referred to as sponsored students) are students of our university who, according to Article 4 of the guidelines provided by the Ministry of Education, serve as research assistants primarily for the purpose of learning, which may include academic learning or related services. The 'Labor-Type' student assistants, as defined in Article 2 of the

guidelines provided by the Ministry of Labor, engage in work for the university for remuneration and are under a subordinate relationship with the university. If they are engaged in contracts or other non-employment relationships, relevant laws and regulations shall apply.

When hiring student assistants, the university (departments, research project principal investigators, faculty members) should confirm the nature of the relationship ('Learning-Type' or 'Labor-Type') in writing or electronically and provide full disclosure of relevant rights and obligations.

三、「學習型」兼任助理(獎助生)所為參與以學習為主要目的及範疇之研究活動，或領取學校弱勢助學金參與服務活動之附服務負擔助學生等；範疇如下：

(一)課程學習：

1. 指為課程、論文研究之一部分，或為畢業之條件。
2. 前款課程或論文研究或畢業條件，係依大學法授權自主規範，包括實習課程、田野調查課程、實驗研究或其他學習活動。
3. 該課程、論文研究或畢業條件應一體適用於本國學生、外國學生、僑生、港澳生或大陸地區學生。
4. 符合前三目條件，未有學習活動以外之勞務提供或工作事實者。

(二)附服務負擔：

指本校為協助弱勢學生安心就學，提撥經費獎助或補助學生，並安排學生參與學校規劃之無對價關係之服務活動。

The "Learning-Type" student assistants (sponsored students) participate in research activities primarily for learning purposes or undertake supplementary service responsibilities to assist disadvantaged students as part of receiving financial aid from the school. Scope of activities for the 'Learning-Type' student assistants:

A. Course Learning:

This refers to activities that are part of a course, thesis research, or graduation requirements.

The courses, thesis research, or graduation requirements are autonomously regulated under the University Act and may include internship courses, field survey courses, laboratory research, or other learning activities.

These courses, thesis research, or graduation requirements are applicable to domestic students, international students, overseas Chinese students, and students from Hong Kong, Macao, or mainland China.

Activities must adhere to the above three conditions and should not involve providing services or engaging in work beyond the scope of learning.

B. Supplementary Service Responsibilities:

This refers to the allocation of funds by the university to assist disadvantaged students in their studies and to arrange for students to participate in service activities planned by the university, which are of a non-reciprocal nature.

三之一、「學習型」兼任助理(獎助生)包括以下：

(一)研究「學習型」兼任助理(獎助生)，指獲研究獎助之學生為發表論文或符合畢業條件，參與與自身研究相關之研究計畫或修習研究課程，在接受教師之指導下，協助相關研究執行，學習並實習研究實務，以提升研究能力及發展研究成果為目的者。

本校應由校內負責統籌研究計畫事宜之單位邀集執行計畫之教師及一定比率學生代表，定期召開會議，共同研商取得共識，始得認定學習範疇之研究「學習型」兼任助理(獎助生)。

(二)附服務負擔助學生，指依教育部弱勢助學計畫領取助學金之學生，參與學校規劃以服務回饋為目的之活動，且領取之助學金與其服務時數非屬於有對價之僱傭關係者。

The "Learning-Type" student assistants (sponsored students) include the following:

(1) The Research "Learning-Type" Student Assistants (Sponsored Students): They refer to students who receive research awards for publishing papers or meeting graduation requirements, participating in research projects related to their own research, or taking research courses. Under the guidance of a teacher, they assist in the execution of relevant research, learn and practice research skills, with the aim of enhancing their research abilities and developing research outcomes.

The university should invite teachers responsible for coordinating research projects within the university and a certain ratio of student representatives to regularly convene meetings, discuss and reach consensus, before recognizing student assistants in the learning-type domain for research projects.

(2) Service-Assisted Student Assistants: They refer to students who receive financial aid under the Ministry of Education's disadvantaged student aid program, participating in school-planned activities for the purpose of providing services back to the community. The financial aid they receive and the hours of service they provide are not part of an employment relationship with compensation.

四、「學習型」兼任助理(獎助生)所從事之學習活動，應符合下列原則：

(一)該學習活動之主要目的，應與前條所定範疇有直接相關性，並於授課或指導教師之指導下，經學生與指導教師同意為之。

(二)應有明確對應之研究課程、實習活動、論文研究指導、研究或相關學習

活動實施計畫，並就其相關學習準則、畢業條件採計及獎助方式等予以明定且公告之。

- (三)教師應有指導學生學習專業知識之行為。
- (四)學生參與前開學習活動期間，得因學習、服務活動，得支領獎學金或必要之研究或實習津貼或補助。
- (五)學生參與學習活動之權益，本校應予規範保障，從事相關研究學習或服務等活動期間，除原有學生團體保險外，應參照勞動基準法規定職業災害補償額度以加保商業保險方式增加其保障範圍，並由學校編列或教育部支應所需經費。
- (六)學生於學習活動之相關研究成果著作權之歸屬，除雙方另有約定外，依下列原則為之。

1. 著作權歸屬：

- (1) 學生在校期間所完成之研究報告或碩、博士學生所撰寫之論文，如指導之教師僅為觀念指導，並未參與內容表達之撰寫，而係由學生自己撰寫報告或論文內容，依著作權法規定，學生為該報告或論文之著作人，並於論文完成時，即享有著作權（包括著作人格權及著作財產權）。
- (2) 前述報告或論文，指導之教師不僅為觀念之指導，且參與內容之表達而與學生共同完成報告或論文，且各人之創作，不能分離利用者，為共同著作，學生及指導之教師為報告或論文之共同著作人，共同享有著作權，其共同著作權（包括著作財產權及著作人格權）之行使，應經學生及指導之教師共同同意後，始得為之。
- (3) 兼任助理與指導之教師間，應事先就相關研究成果著作權之歸屬及事後權利行使方式等事項，達成協議或簽訂契約。

2. 專利權歸屬：

學生於學習活動之相關研究成果之專利權歸屬，依專利法第五條第二項規定，除專利法另有規定或契約另有約定外，學生自身為發明人、新型創作人、設計人之情形，對其所得之研究成果享有專利申請權，得依同條第一項向專利專責機關申請專利。但他人(如指導教師)如對論文研究成果之產出有實質貢獻，該他人亦有被認定為共同發明人之可能。

The "Learning-Type" student assistants (sponsored students) engaged in learning activities should adhere to the following principles:

- (1) The primary purpose of the learning activities should be directly related to the scope defined in the preceding clause and should be agreed upon by both the student and the supervising teacher.
- (2) There should be a clearly defined plan for implementing relevant learning

guidelines, graduation requirements, and scholarship methods, including research courses, internships, thesis research guidance, and other related learning activities. These should be announced publicly.

(3) Teachers should guide students in learning professional knowledge.

(4) During participation in the aforementioned learning activities, students may receive scholarships or necessary research or internship allowances or subsidies for their learning or service activities.

(5) The rights and interests of students participating in learning activities should be regulated and protected by the university. In addition to the existing group insurance for students, commercial insurance should be added to increase the coverage scope in accordance with the Occupational Safety and Health Act, and the necessary expenses should be allocated by the university or supported by the Ministry of Education.

(6) Ownership of intellectual property rights related to research results during learning activities shall be governed by the following principles unless otherwise agreed upon by both parties:

Ownership of Copyright:

(1) Research reports completed by students during their tenure at the university or theses written by master's or doctoral students, if the supervising teacher only provides conceptual guidance and does not participate in the writing of the content, and the report or thesis content is written by the student, then according to copyright law, the student is the author of the report or thesis and immediately owns copyright (including moral rights and property rights) upon completion of the thesis.

(2) If the aforementioned report or thesis is completed jointly by the student and the supervising teacher, with the supervising teacher not only providing conceptual guidance but also participating in the writing of the content, and the contributions of each cannot be separated, then it is considered a joint work, and both the student and the supervising teacher are joint authors of the report or thesis, sharing copyright. The exercise of joint copyright (including property rights and moral rights) should be done with the mutual consent of the student and the supervising teacher.

(3) Prior agreements or contracts should be reached between the student assistants and the supervising teachers regarding the ownership of intellectual property rights related to research results and the manner of exercising rights afterwards.

Ownership of Patent Rights:

The ownership of patent rights related to research results of students engaged in learning activities shall be governed by Article 5(2) of the Patent Act. Except as otherwise stipulated by the Patent Act or agreed upon by contract, students who are inventors, creators of new types, or designers have the right to apply for patents for the research results they have obtained, according to Article 5(1) of the same act, and may apply for patents to the competent

authority for patents. However, if another person (such as the supervising teacher) has made a substantial contribution to the output of the research results of the thesis, that person may also be recognized as a co-inventor.

- 五、「學習型」兼任助理對於課程學習或服務學習等活動之措施或處置，認有違法或不當，致損害其權利或利益者，得依「長庚大學學生申訴處理辦法」規定辦理。

學生提出申訴前，應由所屬系所(院)、計畫執行單位或其他學習主管單位先行協調處理，並提出書面說明。

If a "Learning-Type" student assistant believes that measures or actions taken regarding course learning or service learning activities are illegal or inappropriate, resulting in damage to their rights or interests, the matter can be handled in accordance with the "Student Complaint Handling Measures of Chang Gung University".

Before filing a complaint, students should first coordinate with their department(s), institute(s), project executing unit, or other learning supervisory units, and provide a written explanation.

- 六、「勞動型」兼任助理應完成校內聘僱程序始得進用。

前項契約內容應包含聘期、工作內容、工作地點、工作時間、工作酬勞、權利義務及其他工作條件等事項。

The "Labor-Type" student assistants must complete the internal hiring procedures before they can be employed.

The contract for the above shall include the period of employment, job responsibilities, workplace, working hours, remuneration, rights and obligations, and other working conditions.

- 七、「勞動型」兼任助理工作酬勞由勞資雙方依相關規定辦理，惟不得低於中央主管機關所核定之基本工資。除法令另有規定外，均自報到之日起支薪，離職生效日停止支薪。

The remuneration for the "Labor-Type" student assistants shall be handled by both labor and management parties in accordance with relevant regulations, but it shall not be lower than the basic wage determined by the central competent authority. Unless otherwise stipulated by law, payment shall commence from the date of reporting for duty and cease on the effective date of resignation.

- 八、「勞動型」兼任助理工作酬勞之給付，工資每月發給一次，除法令另有規定或契約另有約定外，每月工資之發給，於次月五日全額撥款入個人薪資轉存戶。

The remuneration for the "Labor-Type" student assistants shall be paid monthly,

unless otherwise stipulated by law or agreed upon in the contract. The full amount of monthly wages shall be deposited into the individual salary transfer account by the 5<sup>th</sup> day of the following month.

九、「勞動型」兼任助理工作時間應遵守勞動基準法(以下簡稱勞基法)規定，不得超時工作；並應逐次記載兼任助理出勤情形。

The working hours of the "Labor-Type" student assistants shall comply with the provisions of the Labor Standards Act (hereinafter referred to as the Labor Standards Act), and overtime work shall not be permitted. The attendance of student assistants shall be recorded systematically.

十、「勞動型」兼任助理之給假，依勞基法規定、勞工請假規則、性別工作平等法及本校相關規定辦理。

(一) 前項人員如須請假或調移工作時間者，應事先辦妥請假或調班手續。如因突發事件不克前來，應先口頭報告計畫主持人、教師或單位主管，經其同意，或委請同事代辦或補辦請假手續。

(二) 「勞動型」兼任助理請假及差勤，由計畫主持人、教師或單位主管依本校及勞基法規定辦理，出勤紀錄應保存五年。

Leave for the "Labor-Type" student assistants shall be handled in accordance with the provisions of the Labor Standards Act, labor leave regulations, Gender Equality in Employment Act, and relevant regulations of the university.

(1) If such personnel need to take leave or adjust their working hours, they should complete the leave application or the shift change procedures in advance. In case of unforeseen circumstances preventing them from coming, they should report orally to the research project principal investigator, teacher, or unit supervisor beforehand. With their consent, colleagues may act on their behalf or handle the leave procedures retroactively.

(2) Leave and attendance records of the "Labor-Type" student assistants shall be managed by research project principal investigator, teacher, or unit supervisor in accordance with the university's regulations and the Labor Standards Act, and attendance records shall be retained for five years.

十一、「勞動型」兼任助理協助或參與計畫主持人執行研究計畫所產出相關研究成果，除雙方另有約定外，依下列規定辦理：

(一) 著作權歸屬：依著作權法第十一條規定，學生為著作人，本校享有著作財產權。

(二) 專利權歸屬：依專利法第七條第一項規定，研究成果之專利權歸屬於本校。

For the "Labor-Type" student assistants who assist or participate in the

implementation of research projects conducted by research project principal investigators, the ownership of relevant research outcomes shall be handled as follows unless otherwise agreed upon:

(1) Copyright Ownership: In accordance with Article 11 of the Copyright Act, students are considered the authors, while the university retains the copyright.

(2) Patent Ownership: Pursuant to Article 7, Paragraph 1 of the Patent Act, the patent rights for research outcomes belong to the university.

十二、「勞動型」兼任助理到職時，本校(計畫主持人、教師、單位主管)應依「勞工保險條例」、「就業保險法」、「全民健康保險法」、「勞工退休金條例」等規定辦理加保及提繳勞工退休金，其契約期滿或中途離職時，亦應主動申辦退保及停繳勞工退休金。

前項人員應自行負擔之保費及自提之勞工退休金，除有特殊情形外，原則由本校按月自薪資中代為扣繳。

未依第一項規定辦理，其所衍生之費用或違反規定而受罰，應由當事人、計畫主持人、教師或單位主管負責。

Upon the employment of "Labor-Type" student assistants, the university (research project principal investigators, teachers, or unit supervisors) shall handle the enrollment in labor insurance, employment insurance, national health insurance, and the contribution to the labor pension fund in accordance with the "Labor Insurance Act," "Employment Insurance Act," "National Health Insurance Act," and "Labor Pension Act." Upon the expiration of the contract or early termination of employment, the university must also initiate the process for insurance withdrawal and cessation of labor pension contributions.

The portion of the insurance premiums and labor pension contributions that these individuals are responsible for shall, in principle, be deducted from their monthly salary by the university, unless special circumstances arise.

Failure to comply with the above provisions will result in any related expenses or penalties being borne by the individuals concerned, including the research project principal investigator, teacher, or unit supervisor.

十三、「勞動型」兼任助理如擬於契約期滿前先行離職，應依勞基法規定之預告期間提出申請，經計畫主持人、教師或單位主管核准後，應於離職生效日前十日辦妥離職手續，並得申請核發離職證明書。

未依預告期間提出辭呈逕行離職，致本校受有損害者，本校得依法請求賠償。

If a "Labor-Type" student assistant intends to resign before the expiration of the

contract, they must apply in accordance with the notice period stipulated in the Labor Standards Act. Upon approval by the research project principal investigator, teacher, or unit supervisor, they must complete the resignation procedures at least ten days before the effective date of resignation and may request the issuance of a resignation certificate.

If the resignation is not submitted within the notice period and results in damage to the university, the university may seek compensation according to the law.

十四、「勞動型」兼任助理或本校之一方，於聘僱期間，如有勞基法第十一條、第十二條、第十四條及本校相關規定所訂終止契約情事者，依勞基法相關規定辦理。

If either the "Labor-Type" student assistant or the university encounters circumstances during the employment period that warrant contract termination as specified in Articles 11, 12, and 14 of the Labor Standards Act and related university regulations, the termination will be handled in accordance with the relevant provisions of the Labor Standards Act.

十五、計畫主持人、教師或單位主管與「勞動型」兼任助理於聘僱期間應遵守下列事項：

- (一) 遵循本規範、本校相關規章、政府所頒法令及相關專業工作準則。
- (二) 計畫主持人、教師或單位主管之配偶及三親等以內血親、姻親，不得在其主管單位中任職。
- (三) 僱用兼任助理，應遵守就業服務法及性別工作平等法規定，不得有就業歧視。
- (四) 兼任助理應依工作時間出勤，並親自簽到退，違者議處。
- (五) 兼任助理應本於職守公正廉明、謹慎謙和之精神，執行職務管理，並接受計畫主持人、教師或單位主管之指揮監督。
- (六) 兼任助理於工作時間內，非經主管允許，不得擅離工作崗位。
- (七) 兼任助理應尊重他人與自己之性或身體之自主，避免不受歡迎之追求行為，並不得以強制或暴力手段處理與性或性別有關之衝突。

Responsibilities during employment for research project principal investigators, teachers, or unit supervisors and "Labor-type" student assistants include the following:

- (1) All parties must adhere to this set of regulations, related university rules, government laws, and relevant professional work standards.
- (2) The spouse and blood relatives or in-laws within three degrees of consanguinity of the research project principal investigator, teacher,

or unit supervisor cannot be employed in their supervisory unit.

- (3) Hiring student assistants must comply with the Employment Service Act and the Act of Gender Equality in Employment, ensuring no employment discrimination.
- (4) Student assistants must attend work according to scheduled hours and personally sign in and out; failure to comply will result in disciplinary action.
- (5) Student assistants must perform their duties with fairness, integrity, caution, and humility, managing tasks responsibly and obeying the directions and supervision of the research project principal investigator, teacher, or unit supervisor.
- (6) Student assistants must not leave their work posts during working hours without the permission of their supervisor.
- (7) Student assistants should respect the sexual and bodily autonomy of others and themselves, avoid unwanted advances, and must not handle conflicts related to sex or gender with coercion or violence.

十六、本校與「勞動型」兼任助理間之權利義務除依處理原則及本規範外，應依勞基法及其相關勞動法令辦理。

The rights and obligations between the university and the "Labor-Type" student assistants shall be handled in accordance with the handling principles and this set of regulations, as well as in compliance with the Labor Standards Act and related labor laws and regulations.

十七、「勞動型」兼任助理對於勞動權益之措施或處置，認有違法或不當，致損害其權利或利益者，得依「長庚大學職工申訴實施辦法」規定辦理。

「勞動型」兼任助理提出申訴前，應由所屬系所(院)、計畫執行單位或其他學習主管單位先行協調處理，並提出書面說明。

If a "Labor-Type" student assistant believes that any measures or actions regarding their labor rights are illegal or improper and harm their rights or interests, they may proceed in accordance with the "Chang Gung University Staff Complaint Implementation Measures."

Before filing a complaint, the "Labor-Type" student assistant should first seek coordination and resolution through their affiliated department (college), project execution unit, or other supervisory unit, and submit a written explanation.

十八、本規範經校務會議通過，陳請校長核定後實施，修正時亦同。

This set of regulations shall be approved in the University Affairs Meeting and implemented upon approval by the President. The same procedure applies to any

amendments.

In case of any discrepancy between the Chinese version and the English version, the Chinese version shall prevail.