

# 元智大學研究獎助生暨兼任研究助理管理要點

106.07.12 105-23 行政會議通過

一、元智大學(以下簡稱本校)為促進學生多元學習及協助學生安心就學，特依教育部「專科以上學校獎助生權益保障指導原則」(以下稱教育部指導原則)及勞動部「專科以上學校兼任助理勞動權益保障指導原則」(以下稱勞動部指導原則)，規範本校對於研究獎助生參與研究之學習範疇及僱傭關係之兼任研究助理之保障權益，以符合大專校院培育人才之目的，特訂定「元智大學研究獎助生暨兼任研究助理管理要點」(以下簡稱本要點)。

二、本要點所保障之學生研究助理，分為「研究獎助生」與「兼任研究助理」兩類。

(一)「研究獎助生」，係指本校學生依教育部指導原則第四點，擔任屬課程學習以學習為主要目的及範疇之研究助理。

(二)「兼任研究助理」，係指本校學生依勞動部指導原則第二點，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)進用學生研究助理時，應以書面文件確認雙方關係(「研究獎助生」或「兼任研究助理」)，並充分告知相關權利義務。

三、研究獎助生參與以學習為主要目的及範疇之教學研究活動，非屬於有對價之僱傭關係；其範疇如下：

1. 指為課程、論文研究之一部分，或為畢業之條件。
2. 前述課程或論文研究或畢業條件，係學校依大學法、專科學校法授權自主規範，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。

四、研究獎助生，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。

計畫單位或教師與學生在前述規範下，進行雙方簽署書面型態同意書為學習範疇，並經書面審查符合獎助標準者，始獲獎助。

五、「研究獎助生」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，應與第三點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)應有明確對應之課程、教學實習活動、論文研究指導等，並就其相關學習準則、評量方式、學分或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，得因學習活動，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，其權益保障或相關保險，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。

(六)因休學、退學或畢業等因而未具學生身分者，不得擔任除臨時工以外之研究助理。

(七)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報告或碩、博士學生所撰寫之論文，如指導之教授僅為觀念指導，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) 前款報告或論文，指導之教授不僅為觀念之指導，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，學生及指導之教授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授之共同同意後，始得為之。

#### 2. 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(如指導教授)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。

六、「研究獎助生」對於課程學習活動之措施或處置，認有違法或不當，致損害其權利或利益者，得於該措施或處置作成或發布之次日起三十日內以書面向本校學生申訴評議委員會提出申訴。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。前項學生申訴悉依「元智大學學生申訴處理辦法」規定辦理。

七、「兼任研究助理」應完成校內聘僱程序始得進用，並至遲於到職日完成簽訂勞動契約事宜。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。

八、「兼任研究助理」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。

九、「兼任研究助理」工作酬勞之給付，依勞資雙方約定時間核發。但因補助機關尚未核撥經費等特殊原因者，從其約定。惟不得預扣工作酬勞作為違約金或賠償費用。

十、「兼任研究助理」兼任助理因業務需要，經計畫主持人、教師或其他單位主管指定加班者，應事先申請，並經計畫主持人、教師或其他單位主管同意後，始得加班。未依規定完成核定程序者，不得視為加班。前項加班得選擇補休或支領加班費。

十一、「兼任研究助理」之給假，依勞動基準法(以下簡稱勞基法)、勞工請假規則、性別工作平等法及本校相關規定辦理。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。如因急病或緊急事故，應先口頭報告計畫主持人、教師或其他單位主管，經其同意，或委請同事代辦或補辦請假手續。兼任研究助理請假及差勤，由計畫主持人、

教師或其他單位主管依本校及勞基法規定辦理，出勤紀錄應保存至勞工離職之日起五年止。

十二、「兼任研究助理」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。

十三、「兼任研究助理」到職時，本校(計畫主持人、教師、各單位)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，主動申辦加保(轉入)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(轉出)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。

未依上述規定辦理，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。

十四、「兼任研究助理」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、教師或其他單位主管核准後，應於離職生效日前辦妥離職手續，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。

十五、「兼任研究助理」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。

十六、計畫主持人、教師或其他單位主管與兼任研究助理於聘僱期間應遵守下列事項：

(一)計畫主持人、教師或其他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。

(二)兼任研究助理應依工作時間出勤，並親自簽到退，違者議處。

(三)雙方應遵守職業安全衛生法及相關法規規定。

(四)兼任研究助理應謙和、誠實、謹慎、主動、積極從事工作，並接受計畫主持人、教師或其他單位主管之指揮監督。

(五)兼任研究助理於工作時間內，非經計畫主持人或單位主管允許，不得擅離工作崗位。

(六)本校因業務需要，在不違反勞動法令之規定下，得為工作之調整。

(七)兼任研究助理應尊重他人與自己之心理或身體之自主，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。

(八)僱用兼任研究助理，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。

十七、本校與「兼任研究助理」間之權利義務除依處理原則及本要點外，應依勞基法及其相關勞動法令辦理。

十八、本校由「學生申訴評議委員會」處理學生「研究獎助生」或「兼任研究助理」認定之爭議。對於前項申訴處理結果，雙方如有不服，得依勞資爭議處理法向主管機關申請調解、仲裁或裁決。

十九、本校各計畫主持人、教師、其他單位主管或學生兼任研究助理對於雙方關係之認定有

爭議時，得於簽具雙方關係確認文件之次日起十日內向學生申訴評議委員會提出申訴。

二十、「兼任研究助理」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，得向本校各權責單位提出申訴。對於申訴處理結果如有不服，得依勞資爭議處理法向主管機關申請調解、仲裁或裁決。

二十一、學生申訴評議委員會應於收到身分認定爭議之申訴案件之次日起三十日內召開會議，除有不受理或中止評議之情形外，應於收到申訴案件之次日起二個月內作成評議結果報告，必要時得予延長，並通知當事人。延長以一次為限，最長不得逾一個月。

二十二、學生申訴評議委員會應有二分之一以上委員出席，並經出席委員二分之一以上同意方得評議，且評議結果應經全體委員過半數之同意。本校應於作成評議結果後十日內以書面方式通知當事人及計畫主持人(教師、單位)。

二十三、本要點經行政會議通過後實施，修正時亦同。

**Yuan Ze University (YZU):**  
**Key points for managing students on research scholarship (SRSs) and part-time research assistants (PRAs)**

Jul 12, 2017: Adopted at the 23rd Administrative Council Meeting, Academic Year 2016

1. YZU has specifically formulated these key points to standardize the guidelines for protecting the rights and interests of SRSs and PRAs in terms of their learning areas and employment relationships when they participate in research. The purposes are to promote their diversified learning, provide them with peace of mind when they pursue their studies, and in general, contribute toward talent cultivation in institutions of higher learning. The regulations are prepared in accordance with the Ministry of Education's (MOE) "Guiding Principles for Protecting the Rights and Interests of SRSs in Colleges and Above" (henceforth referred to as "MOE's guiding principles") and the Ministry of Labor's (MOL) "Guiding Principles for the Protection of Labor Rights and Interests of PRAs in Colleges and Above" (henceforth referred to as "MOL's guiding principles").
2. These key points encompass two categories: SRSs and PRAs.
  - i. SRSs refer to YZU students who serve as research assistants and whose main purpose and scope are learning in accordance with Item 4 of the MOE's guiding principles.
  - ii. PRAs refer to YZU students who provide labor services for remuneration in accordance with Item 2 of MOL's guiding principles and have a subordinate relationship with YZU. Those in contractual or other non-employment relationships shall be handled in accordance with the relevant laws and regulations.

The relationship between YZU (its various units, project leaders, or faculty members) and the other party (SRSs or PRAs) shall be confirmed in printed documents. The other party shall be fully informed of their rights and obligations.

3. SRSs are not involved in an employment relationship with remuneration. They participate in teaching and research activities with learning as the main purpose and scope as follows:
  - i. The activities are part of some courses or dissertation research, or comprise a condition for graduation.
  - ii. The aforementioned courses, dissertation research, or graduation requirements are independently regulated by YZU in accordance with the "University Act" and "Junior College Act," and include internship courses, fieldwork exercises, experimental research, or other learning activities.
  - iii. The courses, dissertation research, or graduation requirements shall be applicable to local and foreign students, overseas Chinese students, and students from Hong Kong, Macao, and mainland China.
  - iv. Those who comply with the previous three items and do not provide any labor services or actual work other than learning activities.
4. SRSs refer to students who have received research scholarships to publish papers or to meet their graduation requirements, and who participate in research projects or attend research courses related to their own research. They assist in the implementation of related research under the guidance of their tutors and study and engage in research practice with the purpose of enhancing their research capabilities and producing research results.

Under the aforementioned guidelines, the project units or tutors shall sign a printed consent form with the SRSs stating the areas of study. Research scholarships shall only be granted to those students who have undergone written reviews and have met the criteria for the awards.

5. The learning activities of the SRSs shall comply with the following principles:
  - i. The main purpose of the learning activities shall be directly related to the scope specified in Item 3, and the activities shall be conducted under the guidance of lecturers or tutors, and with the mutual consent of the SRSs and tutors.
  - ii. The corresponding courses, practical activities related to teaching, and guidance for dissertation research shall be clearly specified. The related learning criteria, evaluation methods, credits or graduation requirements, and forms of scholarship shall also be clearly defined and publicly announced.
  - iii. The tutors shall undertake actions to guide the SRSs in the learning of professional knowledge.
  - iv. The SRSs may receive scholarships or the necessary research, internship allowances or subsidies arising from the previous learning activities during the period of their participation in those activities.
  - v. Reference shall be made to the “Labor Standards Act” (LSA) with reference to the protection of the rights and interests or related insurances applicable for SRSs when they participate in learning activities. In addition to the original group insurance for students, commercial insurance shall be purchased to increase the scope of coverage and compensation amounts for occupational accidents.
  - vi. Those who have their student statuses revoked owing to various reasons—such as deferment of studies, withdrawal from studies, or graduation—are not allowed to serve as research assistants and may only be employed as temporary workers.
  - vii. The ownership of the copyrights of the research results related to the SRSs’ learning activities shall be governed by the following principles, unless otherwise agreed by both parties.
    - a. Ownership of copyrights:
      - For reports completed by the SRSs or dissertations prepared by master’s and doctoral students during their periods of study, the authors of the completed reports or dissertations shall own the copyrights (including the personality and property rights) in accordance with the “Copyright Act.” This is on the conditions that the supervising professors have only provided guidance for the concepts and do not participate in the writing and expression of the contents, and that the reports or dissertations are written by the SRSs themselves.
      - When the supervising professors not only provide guidance for the concepts but also participate in the writing and expression of the contents of the reports or dissertations mentioned in the preceding point, and they complete those reports or dissertations with the SRSs such that these are joint works for which the contributions of each party cannot be separated, the supervising professors shall be regarded as the co-authors of the reports or dissertations and jointly own the copyright to the works. The co-authorship (including the property and personality rights of the works) shall not be exercised until mutual consent has been established between the SRSs and the supervising professors.
    - b. Ownership of patent rights:
      - According to Article 5, Item 2 of the “Patent Act,” the SRSs themselves as the inventors/creators or designers of new models shall have the rights to apply to patent their research results, unless otherwise stipulated in the “Patent Act” or the contractual documents. They may apply to the Intellectual Property Office in accordance with Article 5, Item 1 of the “Patent Act.” However, if other persons (such as the supervising professors) have made substantial contributions to the output of the research results of the dissertations, the other persons may also be identified as co-inventors/co-creators.
6. If the SRSs deem that the measures or handling of learning activities during the courses are illegal or inappropriate, or damage their rights or negatively affect the stakeholders, they may notify the Students’ Grievance Review Committee (SGRC) in writing and file their appeals within 30 days from the day after the measures or handling were made or published. After their

appeals have been lodged, the faculties/colleges, program implementation units, or other learning supervisory units that they are attached to shall coordinate and handle the cases and provide written explanations. The students' appeals mentioned earlier shall be handled in accordance with "YZU's Regulations on the Handling of Students' Appeals."

7. PRAs shall first complete YZU's employment procedures before they commence work, and shall sign the labor contract no later than the date of employment. The contents of the contract being referred to shall include the terms of employment, work content and location, working hours, remunerations, rights and obligations, and other working conditions.
8. The remunerations for PRAs shall be handled by both the employers and employees in accordance with the relevant regulations, but the amount shall not be lower than the basic salary approved by the Central Competent Authority.
9. PRAs' remunerations shall be duly paid according to the timeframe agreed upon between both the employers and employees. Separate agreements may be made when there are special circumstances, such as when the funding agencies have not approved the subsidies to be granted. However, remunerations for work done shall not be withheld as liquidated damages or expenses for compensations.
10. When PRAs are required to work overtime due to business needs and have been designated by the project leaders, tutors, or other unit supervisors, they shall apply in advance and can only work overtime after concurrence by said project leaders, tutors, or other unit supervisors. If the approval procedures in accordance with the regulations are not complied with, any extra hours worked shall not be considered as overtime for payment. Those who have worked overtime may choose to take compensatory leave or receive overtime pay.
11. PRAs' leave shall be handled in accordance with the LSA, "Regulations on Leave-taking by Workers," "Gender Equality in Employment Act," and YZU's related regulations. Personnel who wish to go on leave or revise their working hours shall complete the relevant leave or shift procedures in advance. In case of sudden illness or emergency, the project leaders, tutors, or other unit supervisors shall be informed verbally to obtain their consent, after which a colleague can be entrusted to handle or follow up with the leave procedures. The leave and work duties of PRAs shall be handled by the project leaders, tutors, or other unit supervisors in accordance with YZU's related regulations and the LSA. Their attendance records shall be retained for five years from their date of resignation for record purposes.
12. For PRAs who assist or participate in the project leaders' implementation of the research results produced by their research projects, the related matters shall be handled in accordance with the following regulations unless otherwise agreed by both parties:
  - i. *Ownership of copyrights*: The students are one of the authors according to Article 11 of the "Copyright Act," and YZU shall enjoy the property rights of the copyright.
  - ii. *Ownership of patent rights*: The patent rights of the research results belong to YZU according to Article 7, Item 1 of the "Patent Act."
13. Upon the PRAs' commencement of employment, YZU (project leaders, tutors, and various units) shall abide by the relevant regulations—including the "Labor Insurance Act," "Employment Insurance Act," "National Health Insurance Act," and "Enforcement Rules of the Labor Pension Act"—and initiate the applications for additional insurance (transfer-in) and make contributions to labor pensions. Upon contract expiry or when the PRAs resign early, YZU shall also initiate the applications for surrendering the insurance (transfer-out) and to cease contributions to labor pensions. Unless there are special circumstances, the insurance premiums and labor pensions that the PRAs are to bear themselves shall be deducted from their salaries on a monthly basis by YZU, who shall make the payments on their behalf. If the aforementioned guidelines are not followed, the resulting expenses or penalties for violations shall be borne by the PRAs, project leaders, tutors, or unit supervisors.
14. When PRAs intend to resign before expiration of their contracts, they shall submit their notice of resignation according to the notice period stipulated in the LSA. After approval by the project

leaders, tutors, or other unit supervisors, the resignation procedures shall be completed before the effective date of the resignation and submissions shall be made for the issue of resignation certificates. If PRAs who resign without serving the requisite notice period cause any damages to YZU, YZU may demand compensation according to the law.

15. When the contracts are terminated by either the PRAs or YZU as stipulated in Articles 11, 12, and 14 of the LSA and YZU's regulations during the employment periods, the cases shall be processed according to the relevant provisions of the LSA.
16. Project leaders, tutors, or other unit supervisors and PRAs shall abide by the following items during the latter's employment period:
  - i. Spouses, relatives within three degree of kinships, and relatives-in-law of project leaders, tutors, or other unit supervisors are not allowed to work in the latter's supervisory units.
  - ii. PRAs shall attend work according to the working hours and sign in and out in person. Offenders shall be punished accordingly.
  - iii. Both parties shall abide by the "Occupational Safety and Health Act" and the relevant regulations.
  - iv. PRAs shall be modest, honest, prudent, proactive, and actively engage in work, and accept the instructions and supervision of the project leaders, tutors, or other unit supervisors.
  - v. PRAs are not allowed to leave work during the official working hours without the prior permission of the project leaders, tutors, or other unit supervisors.
  - vi. PRAs' work may be adjusted by YZU owing to business needs, but the adjustments shall not violate the provisions of the LSA.
  - vii. PRAs shall respect the psychological or physical autonomy of others and themselves, avoid unwelcome pursuits, and refrain from using coercive or violent means to deal with conflicts related to sex or gender.
  - viii. The employment of PRAs shall comply with the provisions of the "Employment Service Act" and "Gender Equality in Employment Act," and there shall be no employment discrimination.
17. The rights and obligations between YZU and PRAs shall be handled in accordance with the LSA and related labor laws in addition to the processing principles and these key points.
18. Any disputes over the identification of students as SRSs or PRAs shall be handled by YZU's SGRC. If either party is dissatisfied with the review results, they may seek mediation, arbitration, or ruling with the Competent Authority in accordance with the "Settlement of Labor-Management Disputes Act."
19. When the project leaders, tutors, other unit supervisors, or students serving as PRAs have disputes over the determination of the relationship between both parties, they may appeal to the SGRC within ten days from the day after signing the documents confirming the relationship.
20. If the PRAs consider that the measures or handling of labor rights and interests to be illegal or inappropriate, or cause damage to their rights or interests, they may file a complaint with YZU's units in charge. If they are dissatisfied with the results of the appeal, they may seek mediation, arbitration, or ruling with the Competent Authority in accordance with the "Settlement of Labor-Management Disputes Act."
21. The SGRC shall hold a meeting within 30 days from the date of receiving an appeal case on identity disputes. Unless there is a case of the review being rejected or suspended, the report on the review results shall be ready within two months from the day after receipt of the appeal case. If necessary, the deadline may be extended but the parties shall be duly notified. There shall only be a one-time extension, which shall not exceed one month at the maximum.
22. More than half of the SGRC members shall be present, and more than half of the members present shall agree before the review can be conducted. The review results shall be approved by more than half of all the members. YZU shall notify the parties and the project leaders, tutors, and other unit supervisors in writing within ten days after the review results are finalized.



23. These key points, as well as all subsequent revisions therewith, shall be duly adopted by the Administrative Council prior to implementation.