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**Irina Petrovna** **Bezotetskaya** – Candidate of legal sciences, docent of the Civil, entrepreneurial and transportational law chair of the Far-Eastern state transport university (Khabarovsk). *E-mail:* *bip-26@mail.ru*

**Vasilisa Igorevna** **Panfilova** – lecturer of the Civil, entrepreneurial and transportational law chair of the Far-Eastern state transport university (Khabarovsk). *E-mail:* *vitaflamma@gmail.com*

**Irina Mikhailovna** **Filyanina** – candidate of sociological sciences, docent at the Civil, entrepreneurial and transportational law chair of the Far-Eastern state transport university (Khabarovsk). *E-mail: imfilyanina@festu.khv.ru*

# Legal regulation of the relations for concluding the effective contracts with the academic staff

*This* article examines *the approaches to the implementation of the* effective contract *with the* academic *staff of a u*niversity*. Empirical researches of the* effective contract implementation in *u*niversity *of the Khabarovsk reviewed. Discusses the legal and methodological problems of transition to effective contract. The study identified evaluation of the* academic *staff’s motivation level and effective indicators of* academic *staff’s work.*

# Legal regulation of the relations for concluding the effective contracts with the academic staff

*В статье исследуются вопросы внедрения эффективного контракта с научно-педагогическими работниками образовательных организаций высшего образования. Переход на новую модель системы оплаты труда осуществляется в целях реализации Указа Президента РФ от 07.05.2012 г. №599 «О мерах по реализации государственной политики в области образования и науки». Мероприятия, направленные на совершенствование основных элементов системы оплаты труда, сопряжены с переводом работников сферы образования на эффективный контракт. Проведено эмпирическое исследование процедуры внедрения эффективного контракта в образовательных организациях г. Хабаровска, реализующих образовательные программы высшего образования.* *Проанализированы правовые и методологические проблемы перехода на эффективный контракт. Исследование позволило оценить уровень мотивации научно-педагогических работников к работе в новых условиях оплаты труда и ожидаемые результаты, выявить наиболее эффективные показатели деятельности педагогических работников.*

***Keywords:*** *employment agreement, effective contract, registration, legal regulation, academic teaching, the Far East.*

# *Ключевые слова: трудовой договор, эффективный контракт, показатели эффективности, правовое регулирование, научно-педагогический работник, Дальний Восток.*

# The program on improve for the compensation systems in the public office or local government office in 2012 – 2018 years (hereafter referred to as Program) [1] fix a term as "effective contract". Effective contract is a kind of [contract](https://en.wikipedia.org/wiki/Contract) used in the [labour law](https://en.wikipedia.org/wiki/Labour_law) to attribute the rights and responsibilities between the parties to a bargain. Contract is an agreement that sets out an employee’s: specification of duties, wage conditions, index and etc.

Implementation plan [approved](http://www.lingvo-online.ru/ru/Search/Translate/GlossaryItemExtraInfo?text=%d1%83%d1%82%d0%b2%d0%b5%d1%80%d0%b6%d0%b4%d0%b5%d0%bd&translation=approved&srcLang=ru&destLang=en) by the Decree of the Government of the Russian Federation from 30.04.2014 № 722-p p "roadmap" [2]. This plan [correlate](http://www.lingvo-online.ru/ru/Search/Translate/GlossaryItemExtraInfo?text=%d1%81%d0%be%d0%be%d1%82%d0%bd%d0%be%d1%81%d0%b8%d1%82%d1%8c&translation=correlate&srcLang=ru&destLang=en) with implementation to the effective contract since 2014.

Questionnaire survey has been carried out for study the question of effective contract with the academic staff. Academic staff on higher education institutions (FESTU, FESMU and etc) taken part in this questionnaire survey. The questionnaire taken into consideration the education, teaching service, domain, information awareness of the effective contract. Questionnaires were covered by the teachers in the amount of 78 people with different basic vocational education: legal, economic, technical, medical and otherwise.

**The procedure for implementation of the educational institutions in the effective contract**

Educational organizations transition to a model of effective contract is possible under presence the following conditions:

- Public tasks approved by the founders;

- The target performance indicators approved by the founder;

- The wage system and regulation of labor workers;

- The system performance evaluation of employees.

The mechanism of transition to effective contract fleshed out in the order of the Ministry of Labour of RF from 26.04.2013 № 167n "On approval of recommendations on registration of labor relations with an employee of the state (municipal) institutions under the administration of an effective contract" [3]. Based on the provisions of these guidelines, the transition to an efficient contract is carried out:

1. New contracts conclusion of employment in accordance with the Labour Code when applying for a job.

2. The agreement registrations to amend certain terms of the employment contract the parties (hereafter referred to as additional agreements) with the prisoners an employment contract.

Amendments to the existing employment contracts of employees in most cases can only be done by agreement of the parties (Art. 72 of the LC RF). Without the consent of the head of the employee shall be entitled to make changes to employment contracts only for reasons related to the change of organizational or technological working conditions (Art. 74 of the LC RF).

Employer shall be obliged to notify the worker about upcoming changes of certain parties to the employment contract (para. 2 of art. 74 LC RF). The contract shall be legalized in written form. Change to be sent out no later than two month prior to the date of the introduction. Employment contract shall terminate by mutual agreement of the parties provided that the worker's consent is given in writing. Employer shall be obliged propose to worker another earning power of work a new terms in organization. When the worker agrees with the upcoming changes to it is a supplementary agreement to the employment contract. If employer haven’t approach’s work or worker disagree with this work, labor contract will be surcease (para. 7 of art. 77 LC RF).

The introduction of effective change in the conditions of the contract of employment contract, in fact, is the will of one party – the employer. The worker has to either accept or terminate the employment contract. This problematic situation can be the reason for the occurrence of litigation. Therefore, the employer should be borne in mind that the criteria for classifying innovations to changes in organizational or technological working conditions are not established, and in each case are evaluated subjectively.

**Await the issue**

Results expected of the implementation of effective contract:

• increasing the prestige and attractiveness of professions of employees involved in the provision of public (municipal) services;

• implementation in the institutions of wage workers linked to the quality of the provision of public (municipal) services;

• improve the skills of workers involved in the provision of public (municipal) services (performance of works);

• establish a transparent mechanism for remuneration of heads of agencies.

Besides the already discussed above the expected results we note such as the promotion and preservation of human capacity and ensure a decent wage employees of educational institutions as a result of improving the quality and quantity of public services rendered by them.

**Performance measures of the effectiveness of the academic staff.**

Experts point out that for a successful transition of universities to "effective contract" should solve some problems common understanding of the term "efficiency of the teacher" [6]. How measure the results of individual teaching activities of the teacher when the educational process is an activity the whole educational system?

The system measure the effectiveness of the teaching staff should be built taking into account the cross-cutting sectoral indicators to measure the effectiveness of the institutions in the provision of public / municipal services / performance of works. Specifying the indicators and criteria for evaluating the effectiveness of the teaching staff for the purpose of incentive payments is put in direct dependence on the results of work and the quality of public / municipal services / work performed. Thus, the conversion rate on the contract will be effective is the use of the text of the employment contract of the term "indicators and criteria for performance evaluation."

Experience of implementing effective contract with the teaching staff shows that the educational institutions of higher education are two basic methods used to establish indicators:

1) individual indicators. It established in relation to specific scientific and pedagogical workers, and taking into account their outstanding results in scientific and educational spheres;

2) collective indicators. It set in relation to the whole academic staff (hereinafter – AS).

These indicators correlated with indicators for monitoring the effectiveness of educational institutions of higher education. Performance indicators take into account the results of the AS by type of work performed.

Point effective contracts are not effectiveness, because do not take into account criteria such as:

- Competence of each AS.

- The specifics of work each AS.

The "effective contract" will be based on performance devoid of specifics that may ultimately have a negative impact on the wages of employees of the faculty. The model of "effective contract" defined the purpose of its introduction, but its content side - criteria for assessing the labor, the dependence of the payment criteria is reached, and the most important methods for evaluating the effectiveness - not designed nor practically or theoretically. It is also evident that the proposal for specific forms must be preceded by a theoretical analysis of "effective contract" on which you can assess how productive practical models "effective contract [8].

**Payment of academic staff**

Compensation of employees is an important motivational factor affecting the material scope of his interests. The level of pay is a measure of the prestige of the profession and recognition of her social status. Wage teaching staff indicated in the Program. Dynamics proposed of indicative values of the indicator by 2018 the ratio of the average monthly wage AS government educational institutions of higher education to the average monthly wage in the subject of the Russian Federation is expected to reach – 200%. It can be assumed that the aim of the reforms is to restore the social status of skilled workers in the field of education, improvement of professional prestige.

Among the expected results under the "road map" to raise professional prestige and social status of teachers of high school is not said. As part of the transition to efficient contract activities "road map" seeks to increase the level of motivation of scientific and pedagogical staff. We are talking about a certain weight "demotivate" academic staff, which is necessary to create competitive conditions for obtaining wealth. This will have a beneficial effect on the quality of education and improving the efficiency of education and science in general. Research on the effectiveness of the relationship science – teaching staff and the introduction of effective contract show that only 45,7% of workers FESTU and 42,9% of workers FESMU believe that effective contract contributes to the effectiveness of the teaching staff.

Program stated that the achievement of performance is carried out with regard to the categories of workers in general. This preserves due to differences in the complexity of labor differentiation of wage workers. The wages of specific employee depends on his skill, complexity, quantity and quality of work and can be both above and below the target value.

The one whole recommendation for the establishment of systems of remuneration of employees of state and local government agencies for 2015 issues of wages governed by considering "the possibility of reallocating funds earmarked for salaries in an effort to achieve a share of conditional permanent part of wages of employees not lower than 60%" [4] . These recommended ratio between the base and stimulating parts of the payroll 70% to 30%. But his ratio in recent years is not respected. Often inspire part of payroll low than the 30% [7].

In our opinion, no effective, no other contracts, no pay system will not allow to increase the average wages without an increase in payroll and / or reduce the number of employees of higher educational institutions. Specifying the conditions of remuneration in the employment contract has a prerequisite of any employment contract on the basis of para. 2, Art. 57 LC RF in budget organizations, and in the text of any employment contract should be clearly stated and remuneration, additional payments, bonuses and incentive payments.

**Conclusions**

We don’t think that effective contract detachment to separate legal category wise. There are no legal grounds for considering it as a kind of employment contract. The recommended form of effective contract proposed to prescribe in detail the specific types of work and functions, types and amount of remuneration. It is recommended to reflect the duties of employees of the institution within the text of the labor contract. There is no need for such work performed more detail in the text of the labor contract. This unnecessarily load the text of the document will require continuous monitoring of performance and possible changes to the terms of the contract, an additional burden will fall on personnel and other services.

Efficient to use existing mechanisms. The legislator explicitly sets h. 6 Art. 47 of the Federal Law "On Education" that concrete labor (official) duties of teachers are determined not only by labor contracts (service contracts), and job descriptions [5]. Individual teacher plan to account for the planning and execution of all types of work legislation on education, which reflects the results of his teaching and other activities. The indicative can enter in text of the individual plan of AS and providing gradation in importance and others.

Potential threats to the implementation of the new wage system and it has already identified the following deficiencies:

1) Reduction of the quality of scientific and pedagogical workers of services and performance of the research work. A large number of parameters that must be done in the short term will lead to a fictitious individual job functions. There is a risk to the reorientation of teacher 'production figures "(simulation performance) instead of achieving the desired result.

2) Rejection conditions of a new system of scientific and teaching staff of educational institutions in view of the lack of information on the objectives, the expected results of administering an effective contract to develop indicators, opaque mechanism for evaluating performance.

3) The lack of financial security during the transition to the new system of remuneration;

4) Absence of the possibility of an objective assessment of each individual employee.

5) The occurrence of certain costs arising from the need to achieve a regular assessment of indicators of quality, performance and effectiveness of each employee.

6) The refusal of the workers to sign additional agreements and the emergence of the need for personnel decisions.

The idea of effectively contract will be viable if decide following conditions:

1) determine the reference period required to assess performance;

2) determine the goals and objectives for each level of the model.

3) determine the indicators for order to prevent fictitious figures at the expense of basic training (teaching) work.

4) form a methodology and criteria for evaluating performance.

Educational objectives were transformed for render of educational services and achievement of the parameters consequence of reforming to education has been shifting the emphasis from the interests of further development of the society to address the specific needs of the customer of education services. Thus, the customer deftermines the goal of education. Namely, the teacher come to be "effective manager". And they sell their labou in concurrence between educational institutions. This model of "effective contract" completely meets requirements to the conception.

***Literature and the sources:***

1. *Об утверждении Программы поэтапного совершенствования системы оплаты труда в государственных (муниципальных) учреждениях на 2012 – 2018 гг. : распоряжение Правительства РФ от 26.11.2012 N 2190-р // Собрание законодательства РФ. – 2012. – № 49. – Ст. 6909.*
2. *Об утверждении плана мероприятий («дорожной карты») «Изменения в отраслях социальной сферы, направленные на повышение эффективности образования и науки» [Электронный ресурс] : распоряжение Правительства РФ от 30.04.2014 № 722-р // Собрание законодательства РФ. – 2014. – № 19. – Ст. 2469*
3. *Об утверждении рекомендаций по оформлению трудовых отношений с работником государственного (муниципального) учреждения при введении эффективного контракта [Электронный ресурс] : приказ Минтруда России от 26.04.2013 № 167н : в ред. от 20.02.2014 № 103н // Бюллетень трудового и социального законодательства РФ. – 2013. – № 8.*
4. *Единые рекомендации по установлению на федеральном, региональном и местном уровнях систем оплаты труда работников государственных и муниципальных учреждений на 2015 год [Электронный ресурс] : утв. решением Российской трехсторонней комиссии по регулированию социально-трудовых отношений от 24.12.2014, протокол № 11 // Бюллетень трудового и социального законодательства РФ. – 2015. – № 1.*
5. *Еремина, С. Н. «Эффективный контракт» в трудовом праве / С. Н. Еремина // Журнал российского права. – 2014. – № 4 (208). – С. 20 – 28.*
6. *Козлов, А. В. Индекс востребованности как показатель эффективности педагогической деятельности / А. В. Козлов // Аккредитация в образовании. – 2013. – № 1 (61). – С. 31.*
7. *Результат как ориентир [Электронный ресурс]. –.– Режим доступа: http://eurekanext.livejournal.com/223192.html; (дата обращения 28.05.2015).*
8. *Скаржинская, Е. М. Математическое моделирование «Эффективного контракта» в КГУ им. Н. А. Некрасова / Е. М. Скаржинская // Экономика образования. – 2013. – № 4. – С. 58 – 60.*