



## **ADMINISTRATIVE PROCEDURE**

### **Scheduling of Non-Benefit-Eligible Positions and Health Insurance Eligibility**

#### **Section 1. Purpose**

- 1.1 The purpose of this administrative procedure is to set forth the guidelines for scheduling, monitoring and tracking the hours actually worked by non-benefit-eligible employees.
- 1.2 Concord University has a legal obligation to track hours actually worked by adjunct faculty and other employees in positions that have not been historically deemed benefit-eligible. The basis of this legal obligation is the conditions imposed by the federal Patient Protection and Affordable Care Act ("ACA").

#### **Section 2. Definitions**

- 2.1 **Adjunct Faculty.** Adjunct faculty are defined as those part-time, non-tenure track teaching positions that do not meet the definition of full-time, temporary or term appointment faculty as defined in the applicable regulations. These faculty positions are further discussed in Concord University's Board of Governor's policy No. 8.
- 2.2 **Administrative Period.** A period of one month for making determinations of full-time status of on-going employees and for offering/implementing full-time employee health insurance coverage for the ensuing Stability Period. The administrative period shall also be that one month period immediately following the initial Measurement Period for newly hired variable employees.
- 2.3 **Health Insurance Plan Eligibility.** Full-time employees who work an average of no fewer than 30 hours per workweek are eligible for benefits to include health insurance. If a new employee is reasonably expected to work on average no fewer than 30 hours per workweek at the time of hire, the employee must be automatically treated as full-time and offered health insurance coverage within the new hire enrollment period.
- 2.4 **Initial Measurement Period.** A designated period of time of six (6) months used to determine whether a newly hired variable employee is full-time. Concord University's initial measurement period for all variable employees employed as of

December 1, 2013 will be the six (6) months from December 1, 2013 to May 31, 2014.

- 2.5 Non-Benefit-Eligible Employee. A non-benefit-eligible employee is one who, but for the ACA, would not have been considered full-time by an institution nor would have been considered eligible for health insurance coverage prior to January 1, 2015.
- 2.6 Semester. Concord University divides its academic year into three section or semesters: Fall, Spring and Summer.
- 2.7 Stability Period. An annual designated period of twelve (12) months during which Concord University will offer health insurance coverage to all full-time employees. For on-going employees, the stability period coincides with the fiscal year which serves as Concord University's health insurance plan year.
- 2.8 Standard Measurement Period. An annual designated period of eleven (11) months used to determine whether an on-going employee is full-time. The standard measurement period runs from July 1 through May 31.
- 2.9 Variable Employee. An employee for whom it cannot reasonably be determined at the time of hire whether the individual will be regularly scheduled to work more than 30 hours per workweek.

### **Section 3. Administrative Procedure**

- 3.1 The assignment of adjunct faculty members shall be made by the Division Chair or Department Chair subject to review and approval by the Vice President and Academic Dean with final approval by the Office of Human Resources for the specific purpose of ensuring adherence to this procedure. All adjunct faculty shall be selected through a systematic process designed to employ the most qualified person while adhering to affirmative action/EEO and minimum qualification guidelines.
- 3.2 Adjunct faculty are intended to be relied upon to supplement, but not to supplant, full-time instructional staff.
- 3.3 Adjunct faculty shall not teach a course load that exceeds nine (9) credit hours per semester. Adjunct faculty shall not actually work more than 29 hours in any workweek. All other non-benefit-eligible employees are similarly limited to working no more than 29 hours in any workweek.
- 3.4 Division Chairs and/or Department Chairs are to ensure adjunct faculty hours actually worked per workweek do not exceed that number permitted in Section 3.3 above. Division Chairs and Department Chairs shall require each adjunct to

submit a weekly report of time actually worked. Department Chairs shall regularly submit summaries of all hours actually worked by adjuncts to the Office of Human Resources for review, measurement, and records-keeping.

- 3.5 The Office of Human Resources will review the summaries of hours actually worked for adjunct and all other non-benefit-eligible employees on an annual basis to coincide with Concord University's fiscal year, which also serves as the benefits' plan year for purposes of determining health insurance coverage eligibility.
- 3.6 The Office of Human Resources will review newly hired adjunct and other non-benefit-eligible employees after the initial measurement period and after an entire standard measurement period.
- 3.7 Once an adjunct or other non-benefit-eligible employee has been employed for an initial measurement period and an entire standard measurement period, the employee is tested by the Office of Human Resources for full-time status as an on-going employee, beginning with the immediately ensuing standard measurement period.
- 3.8 An employee who tests as full-time during the initial measurement period, but not as full-time during an overlapping or immediately following standard measurement period will continue to be treated as full-time until the end of the stability period associated with the initial measurement period.
- 3.9 An employee who does not test as full-time during the initial measurement period but who tests as full-time during the overlapping or immediately following standard measurement period will be treated as a full-time employee for the entire stability period that corresponds to the standard measurement period.
- 3.10 The first stability period shall be the fiscal/plan year 2015 (July 1, 2014 to June 30, 2015 relative to the first measurement period of fiscal/plan year 2014 (December 1, 2013 to May 31, 2014). Each stability period thereafter will reference the standard measurement period in the preceding fiscal year for on-going employees.

#### **Section 4. Enforcement**

- 4.1 The Office of Human Resources shall be responsible for the enforcement of this administrative procedure to ensure Concord University's compliance with the ACA.
- 4.2 Effective upon the adoption of this administrative procedure, each adjunct faculty appointment letter/contract shall include the following language:

“By entering into this contract, the employee agrees to abide by the terms and conditions of Concord University’s Administrative Procedure relating to the Scheduling of Non-Benefit-Eligible Positions and Health Insurance Eligibility. These terms and conditions require the employee to agree: (1) not to actually work in excess of 29 hours in any one workweek in connection with work performed under this contract, and; (2) not to perform *any* work for any other entity or agency of the State of West Virginia, except as may have been disclosed by the employee in writing to the Office of Human Resources prior to or upon the execution of this contract. The employee also acknowledges that he/she will be required to maintain and to submit to the division chair or program coordinator timely and accurate records of all hours actually devoted to work of any kind under the terms of this contract. Any failure by an employee to adhere strictly to all of these terms will be considered a basis for an immediate termination of this contract by Concord University.”

- 4.3 Language mirroring that contained in Section 4.2 above shall also be included in the appointment/offer letters for all other non-benefit-eligible, variable employees; provided, however, that the word “contract” shall be replaced with the words “at-will employment” as appropriate.
- 4.4 In order to assist in ensuring compliance with the terms of this administrative procedure, employees of Concord University whose primary position is non-exempt from the provisions of the Fair Labor Standards Act shall not be permitted to apply for or to teach as adjunct faculty at Concord University or any other West Virginia public institution of higher education.
- 4.5 Only the President of Concord University has the authority to waive any provision of this administrative procedure.