

### Introduction

There are several federal and state laws governing restrictions on work hours and salary provisions that affect Radford University (RU) non-benefited employees, including adjunct employees. The following provides workload guidance for employing adjunct faculty in order to ensure compliance with key provisions of: the Department of Health and Human Services' Affordable Care Act (ACA), the Commonwealth of Virginia's Manpower Control Program (MCP), the U.S. Department of Labor's (DOL) Fair Labor Standards Act (FLSA), the Internal Revenue Service (IRS), and the RU Teaching and Research Faculty Handbook.

### Background

The IRS issued a regulation on the "Shared Responsibility for Employers Regarding Health Coverage", that requires specific employers to offer health care benefits to employees who work thirty (30) hours or more per week, on average, over a twelve (12) month period. This same requirement is part of the federal ACA.

On February 4, 2013, the Chief of Staff for the Commonwealth of Virginia instructed all executive branch agencies, including RU, to limit the number of hours worked by wage and hourly employees to no more than twenty-nine (29) hours or less, on average, per week.

In addition, the Commonwealth of Virginia's budget (section of the MCP) was amended on April 3, 2013 and revised in 2015, to include language addressing how the Commonwealth will ensure compliance with the ACA as it applies to limiting the hours worked by adjunct faculty in institutions of higher education. The amendment language states: "*Adjunct faculty at institutions of higher education may not work more than 29 hours per week on average over a twelve month period, including classroom or other instructional time plus additional hours determined by the institution as necessary to perform the adjunct faculty's duties*".

In February 2014, the IRS provided additional guidance on a "reasonable" method to calculate instructional adjunct hours. It states: "*Adjunct Faculty – The final regulations credit an adjunct faculty member with 2 ¼ hours of service per week for each hour of teaching or classroom time as a reasonable method for calculating time the adjunct spends on class prep and grading papers, but institutions **also** need to separately credit adjuncts for any additional mandatory out-of-classroom time, such as holding office hours or attending faculty meetings.*"

The Commonwealth's Department of Human Resource Management (DHRM) developed guidelines for state agencies on complying with the provisions of the MCP as it relates to the twenty nine (29) hour restrictions. Guidance includes information on wage, variable, and seasonal employment, as well as adjunct faculty appointments. DHRM consulted with institutions of higher education to develop a methodology for calculating hours worked by adjunct faculty. As part of this discussion, it was determined that each institution of higher education is considered its own "employer" and could develop their own methodology for calculating hours worked by adjunct faculty. In addition, the Commonwealth has directed that the calendar period is May 1 through April 30. This means that between the standard measurement period of May 1 and April 30, employees in an adjunct Contract(s) may not work more than an average of 29 hours per week.

Teaching Load: *Teaching & Research Faculty Handbook 2.3*

“The full time teaching responsibilities for fulltime faculty with no significant responsibilities other than teaching, the normal (adjusted) teaching load is fifteen semester hours per semester”.

A reasonable percentage of 73% of a full-time teaching load is recommended for an adjunct position (29 maximum hours/40 full time hours).

Office Hours: *Teaching & Research Faculty Handbook 2.6*

“Faculty members shall allocate a minimum of one hour of office hours for each three semester hours of scheduled teaching”.

Based on the multiple regulations and guidance provided above, below are the allowable adjunct faculty loads to be considered **before** offering an adjunct term teaching contract.

### **Key Definitions**

RU’s Definition of Adjunct Faculty (from RU’s Teaching and Research Faculty Handbook):

“Adjunct faculty positions supplement the faculty of a department wherever additional faculty are needed. Adjunct faculty hold appointments for three years during which they are eligible for but not guaranteed teaching assignments, as defined by their letter of appointment, without eligibility for tenure.”

The Adjunct Appointment is the three-year agreement between the adjunct and the school/unit/department to accept teaching contract assignments. The appointment process includes documentation of credentials and completion of human resources processing to establish the adjunct as an ‘employee’ at RU. There is no guarantee of contract assignments at any time during the three-year period.

The Adjunct Contract Employment period follows the respective term beginning and ending dates as set by the Registrar’s office. Contract Term dates begin with the ‘date classes begin’ through the ‘date grades are due’ as noted on the official RU Academic Calendar. The adjunct contract is considered the official work contract once the offer has been accepted and acknowledged by the respective adjunct.

### **Calculating the Average Hours Worked**

Whenever an employee is receiving pay and hours are being reported, those hours must be included in the average calculation. If an employee is working continuously during the measurement period, calculating the average hours worked per week is straightforward: total all the hours worked in the 12-month measurement period and divide it by the total number of weeks worked (52 weeks).

However, this procedure only applies if there are no break periods. A “break period” is any time during the measurement period when an employee does not work nor receive pay.

**The break period may directly influence the calculation of average hours worked per week.**

Unpaid time lasting less than four consecutive weeks (28 consecutive calendar days)	The weeks with zero hours reported are included in the determining the average hours worked per week calculation.
Unpaid time lasting from 4 to 26 consecutive weeks (from 29 to 182 consecutive calendar days)	The weeks with zero hours reported are not included in the average calculation. Therefore, the average will be calculated using fewer than 52 weeks. The employee continues in the same measurement period he/she was in when the break started.
Unpaid time lasting more than 26 consecutive weeks	On returning to work, the employee can be treated as a new hire with a new measurement period that begins the first day of work through April 30.

**Examples**

***Employee worked and reported hours for 16 weeks, had 2 consecutive weeks without hours worked, worked for 23 weeks and then had 1 week without hours worked.***

Because the employee did not have four consecutive weeks of unpaid time, all weeks are included when calculating the average hours worked during the measurement period.

Average hours worked: Total hours / 42 weeks

***Employee worked for 16 weeks in fall semester, had 5 consecutive weeks without hours worked (winter break), was rehired for the spring semester and worked another 16 weeks.***

Because the break period is greater than 4 consecutive weeks but less than 26 weeks, the 6-week break period cannot be included when calculating the average hours worked during the measurement period.

Average hours worked: Total hours / 32 weeks

**Calculation of Hours Worked Per Credit Hour**

In order to ensure adjunct faculty are working no more than 29 hours per week, on average, during the SMP, a baseline calculation was developed to determine how many work hours equates to one (1) credit hour for instructional adjuncts. The following chart can be used in assigning adjunct contract hours per semester.

<b>Expectation of Total Contracted Hours Per Instructional Credit Hour</b>					
Credit Hour/ Classroom Time	Class Prep Hours	Total Per Credit Hour (2.25 prep hours x number of credit hours)	Outside Classroom Hours -per week (office hours and/or meetings)	Total Contracted Hours (per credit hour)	FTE Based on Special Purpose load of 15 hours
1	2.25	2.25	1	3.25	.07
2	2.25	4.5	1	5.5	.13
3	2.25	6.75	1	7.75	.20
4	2.25	9	2	11	.27
5	2.25	11.25	2	13.25	.33
6	2.25	13.5	2	15.5	.40
7	2.25	15.75	3	18.75	.47
8	2.25	18	3	21	.53
9	2.25	20.25	3	23.25	.60
10	2.25	22.5	4	26.5	.67
11	2.25	24.75	4	28.75	.73
12***	2.25	27.0***	4	31.0***	.80***

\*\*\* 12 credit hours is out of compliance as it results in 31 hours per week.

Based on the calculation of 73% of a normal teaching load for a non-tenure-track teaching faculty (fifteen hours per semester per T&R handbook, Section 2.3), as well as the other multiple restrictions

and guidelines as noted above, adjuncts can be contracted for up to eleven (11) credit hours per each semester (fall and/or spring) and a combined eleven (11) total credits for all intersessions.

	Fall and Spring	All Intersessions combined in SMP	Total
Maximum Credit Hours Allowable for Adjunct Faculty	22	11	33

### Adjuncts with Instructional Duties Only (Credit and Non-Credit)

Before any adjunct teaching faculty appointment can be offered, schools/units/departments are responsible for finding out from the prospective adjunct faculty if they have or have had any other adjunct or hourly contracts(s) at RU during the SMP. In order to ensure adjunct faculty contracts will not exceed the maximum allowable credit hours during the SMP, the chart above can be used to track all adjunct hours worked.

### Adjuncts Who Have Been Authorized for Additional Part-Time Non-Benefited Position(s)

Adjunct faculty are not allowed to accept additional employment in another part-time, non-benefited position at RU unless they have been authorized to do so by the respective hiring authorities. This occurs mainly with appointments in multiple schools/units/departments. This is to ensure compliance with the provisions of the FLSA.

If the adjunct faculty member is permitted to hold more than one part time position, the total combined hours for all part-time, non-benefited positions held during the SMP cannot exceed more than twenty nine (29) hours per week on average. If at any time during the SMP it is determined, that the projected hours might exceed this hourly limit, the employee's hours must be reduced and/or the adjunct position may be subject to earlier termination.

Before an adjunct contract can be issued, schools/units/departments are responsible for finding out from the prospective adjunct faculty if they have or have had any other adjunct or hourly appointment(s) at RU during the SMP.

### Contract Issuance/Renewals for Adjunct Faculty

Any three-year appointment letter issued to an adjunct faculty member **must** accompany the most current *Adjunct Faculty Terms and Conditions* document. This document outlines the employee's responsibilities for complying with the work hour restrictions under the MCP, the limitation on accepting more than one non-benefited position, and the specific requirements for non-teaching adjunct appointments under the FLSA.

### Employees with Primary Faculty Appointments Who Also Have an Adjunct or Hourly Appointment(s) (i.e. Secondary Job)

The hourly limit under the ACA does not apply to full-time faculty who are eligible for benefits under the health care plan established by DHRM. Likewise, if a full-time faculty member has a secondary appointment processed as an adjunct or hourly overload, the hourly restriction does not apply to the secondary job(s).

### **Responsibility for Compliance with the Manpower Control Program**

Adjunct faculty are responsible for complying with the credit hour and/or work hour restrictions under these procedures and under the MCP. They must disclose any non-benefited (e.g. adjunct or hourly) position(s) they hold or have held at RU during the SMP before accepting any other adjunct appointment. If at any time it appears the adjunct faculty member is expected to exceed the hourly limit, they may be required to reduce hours worked and/or the adjunct contract may be terminated early.

### **Questions**

For questions regarding preparing adjunct faculty contracts, contact the Office of Academic Budgets and Administration at 540-831-5261 or 540-831-6112, or Human Resources at 540-831-5008.