

## Affordable Care Act Definitions, Assignment Business Rules, and Best Practices for Casual Employees

### Background

The Patient Protection and Affordable Care Act (ACA) is a set of health insurance reforms. Effective January 1, 2015, the ACA requires large employers (50 or more employees) such as the University of Texas at Austin (UT) to offer health insurance benefits to any employee averaging 30 work hours or more per week for 90 days, or 130 hours per month for 90 days, or 1560 hours for twelve months. This requirement is often referred to as the “employer mandate” of the ACA. Although this portion of the law does not take effect until January 1, 2015, the “first measurement period” that will be utilized to determine employee eligibility for the UT Select health insurance plan begins **November 1, 2013**. Effective January 1, 2015, if they become eligible, we must offer UT Select enrollment for a future 12-month period known as the stability period. The employee continues eligibility for UT Select regardless of work hours during the stability period, as long as employment continues. **For the university, how we measure employees and hours of service in 2013-14 is important for ACA compliance obligations and will help prevent triggering significant financial penalties in 2014-15. University of Texas is considered ONE employer, so hours worked across the university, even if in different departments, count towards ACA eligibility.**

### Developing New Business Rules and Best Practices

In order to accurately determine ACA eligibility, the university must know who is employed, dates of employment, number of hours worked, rate of pay, and how long employees worked within the 12-month measurement period. Due to our decentralized structure, individuals not currently tracked in a central technology solution pose a compliance and financial risk to the university. For this reason, we need to alter current business practices to improve tracking abilities.

### Three Employee Categories under the ACA

The ACA definition of full-time (FT) is different than our current state statute. Until the state statute is modified, we will have different criteria for state benefits eligible employees and ACA eligible employees.

Under the ACA, a **standard FT employee** is one who works an average of 30 hours per week, which is the equivalent of 130 hours per month, for at least 90 days. *This includes student workers.*

Under the ACA, a **variable hour employee** is one who works fluctuating hours each week or month. We must measure their average work hours to determine if they are FT under the ACA. If a variable hour employee averages 30 hours per week, which is the equivalent of 130 hours per month or 1560 hours per 12-month measurement period, they would be considered FT and offered medical insurance at the conclusion of the measurement period if they continue their employment with us. If during the measurement period, a variable hour employee becomes a standard FT employee, the university must offer the employee (and eligible dependents) the opportunity to enroll in our UT Select employee health insurance plan at the time in which they become a standard FT employee. *This includes student workers.*

Under the ACA, a **seasonal employee** may work an average of more than 30 hours per week for more than 90 days without being considered FT provided these employees are limited to seasonal work only and do not exceed 120 days of work within their 12-month measurement period, e.g. summer camp workers. If an employee works multiple events throughout the year, they are NOT seasonal employees. *This includes student workers.*

**NOTE:** *An Independent Contractor is paid through the Office of Accounting, not Payroll, and is not an employee for purposes of ACA. An Independent Contractor generally has a high level of expertise, requires no training, provides services to the general public, and will have more than one customer. Furthermore, it is important to ensure you designate an independent contractor with the correct criteria because if designated incorrectly as an Independent Contractor, and not an Employee or Casual Employee, a penalty may be assessed under the Affordable Care Act. See the checklist for further guidance:*

*<http://www.utexas.edu/business/accounting/pubs/eiccc.pdf>*

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**All employees must have an assignment in HRMS starting November 2013.**

- This now includes employees referred to as seasonal, contingent, casual, flat-rate, session workers and/or unassigned employees currently paid via a payroll voucher. Going forward, these employees must have a University Affiliate position and assignment, using the Casual Employee type.
- Business rules for variable hour employees will apply to seasonal employees until our technology is capable of tracking them separately.

**NOTE:** Hourly and monthly employees are also subject to the ACA rules. If departments believe that their casual employees work regularly enough to be tracked through a regular hourly or monthly assignment in HRMS, then the employee should be assigned to an hourly or monthly assignment, in accordance with current business rules. ***Current university business rules require the use of a regular hourly or monthly assignment, timekeeping through the established university systems, and payment via Payroll when there is an expectation that the assignment will continue more than two consecutive weeks.***

**Why do my employees, including Casual Employees, now need to have an assignment in HRMS and have their hours tracked?**

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| <ul style="list-style-type: none"><li>• Allows for electronic delivery by Human Resources (HR) of the required ACA Health Insurance Marketplace Notice that must be given within 14 days of hire</li><li>• Allows for Payroll and HR to know start and stop dates of employment for ACA eligibility determinations</li><li>• Allows Payroll and HR to track multiple assignments in the same measurement period; all hours worked in multiple departments and concurrent appointments with other UT institutions will count toward ACA eligibility</li></ul> | <ul style="list-style-type: none"><li>• Allows all work hours to be captured to determine the average of work hours for ACA eligibility determinations</li><li>• Allows rate of pay calculations to ensure FLSA minimum wage standards are met and to determine if UT Select is considered “affordable” per ACA requirements</li><li>• Allows benefits eligibility determinations to be made based upon our current state statute criteria</li></ul> |
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**Student Employees**

Student employees must also be tracked for purposes of ACA. Student employees should be assigned to positions using a student job classification; especially those that would fall in the academic student job classifications because of the audits that are in place. Both academic and non-academic student should not be treated as casual employees. The Casual Employee category of University Affiliate positions in HRMS cannot be used with any of the student job classifications. Thus, for ACA tracking purposes, other University Affiliate categories must not be used for student job classifications. Instead, **for student job classifications, regular student assignments should be created in HRMS for tracking and payment via OV1.**

**Breaks in Service**

Breaks in service are not considered for ACA benefit eligibility purposes unless the employee has separated from the university for more than 26 consecutive weeks. In other words, if the employee resumes service after a break of less than 26 consecutive weeks, it would not be considered a break in service under ACA.

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**University Affiliate – Casual Employee**

**University Affiliate-** University affiliates are individuals who have a relationship with the University of Texas at Austin outside of traditional employment.

**Casual Employee-** is a specific type of university affiliate. A Casual Employee is considered an employee of the University for income tax purposes based on the evaluation of the individual's relationship with the university and the degree of control the university has over the individual. A casual employee typically requires training or supervision and has no other customers. The term "Casual Employee" was created by the university to distinguish this type of employee from regular university employees that have monthly or hourly assignments. ***An individual providing continuing services of more than two consecutive weeks in duration is not considered a casual employee and should be assigned to a university hourly or monthly position.***

<b>HRMS Position and Assignment Rules for University Affiliate - Casual Employees</b>	
<ul style="list-style-type: none"><li>• Assign for 0 hours (0% assignment)</li><li>• May be pooled or non-pooled</li><li>• Eligible for privileges</li><li>• Requires Background Check</li><li>• Incidental Account Number Required</li><li>• Requires Sponsor EID</li></ul>	<ul style="list-style-type: none"><li>• Pay through Payroll voucher OVM</li><li>• Requires Assignment End Date</li><li>• Requires I9</li><li>• Requires SSN</li><li>• Cannot be used for student job classifications</li></ul>






**Payroll Voucher (OVM) Payments**

Because Casual Employees do not record their time through the hourly timesheet or the monthly electronic timesheet, their hours will be required on payroll voucher payments. This is a new requirement for the OV2 and OV7 documents effective November 1, 2013.

**Reminder:** ***Payroll voucher payments made through OV2 and OV7 documents are for individuals who are performing services for a short period of time, generally, two consecutive weeks or less or those who work sporadically.*** If a current UT employee is providing additional services to their employing department that are similar to their regular job duties, the OV2 and OV7 documents are not the appropriate methods of payment. For more information, please see the [Payroll Services](#) website for [OV2](#) and [OV7](#) payments or contact your SWS HR Partner.

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Defining Employees Paid via Regular Monthly and Hourly Payroll	Defining Employees Paid via Payroll Vouchers OV2 and OV7	Defining Seasonal Employees Paid via Payroll Vouchers OV2 and OV7
<p>ACA Non-benefits eligible employees do not receive benefits from the university, and most represent a short-term population of employees who do not work 30 hours or more per week, or work less than 90 days. The ACA tracking guidelines still apply to these employees.</p> <ul style="list-style-type: none"> <li>• May include variable hour employees who have assignments in HRMS</li> <li>• Employees can be assigned Hourly or Monthly</li> <li>• Timekeeping is mandatory through either paper timesheets or the electronic timekeeping system and must match the HRMS assignment hours</li> <li>• Assignments must be coordinated with other departments if multiple assignments exist. If you see the person already has an assignment, or you learn he/she is working for another department(s), then it is your responsibility to contact the other department to coordinate the assignments. Do not assume the other department(s) is aware the employee is working for your department. This is a risk area for the university so communication is key!</li> </ul> <p><i><b>NOTE: State statute definition of benefits eligibility still applies, i.e. 20 hrs /135 days rule.</b></i></p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>• Monthly paid, assigned via HRMS <ul style="list-style-type: none"> <li>○ Extension Instructors</li> <li>○ Student employees</li> </ul> </li> <li>• Hourly paid, assigned via HRMS</li> </ul>	<p>ACA guidelines consider these employees "variable hour" employees, while at UT, variable hour employees include:</p> <ul style="list-style-type: none"> <li>• Employees who work fluctuating hours each week or month. <ul style="list-style-type: none"> <li>○ If you do not anticipate that the employee will average 30 hours per week or 130 hours per month for 90 days, or 1560 hours for twelve months, then we will track hours during a 12-month measurement period to determine ACA eligibility. If they become eligible, we must offer UT Select enrollment for a future 12-month period known as the stability period. The employee continues eligibility for UT Select regardless of work hours during the stability period, as long as employment continues.</li> <li>○ Beginning in January 2015, if at hire you anticipate the employee will work an average of 30 hours per week or 130 hours per month for at least 90 days, then the employee must be assigned in a position that will allow the university to offer our UT Select employee health insurance plan.</li> </ul> </li> <li>• Currently paid via OV2 or OV7 Payroll voucher</li> <li>• At the start date, it cannot be determined that the employee is reasonably expected to work, during the entire measurement period, at least 30 hours per week for 90 days or 130 hours per month for 90 days or 1560 hours for the twelve months.</li> <li>• A new employee who is expected to work 30</li> </ul>	<p>For UT Austin, seasonal employees include:</p> <ul style="list-style-type: none"> <li>• Employees who only work for a defined seasonal period</li> <li>• Seasonal work periods cannot exceed 120 days in a 12-month measurement period</li> <li>• Effective November 2013, all seasonal employees must have an HRMS assignment.</li> <li>• Until UT Austin has a technology solution to track seasonal employees separately, the tracking rules for variable hour employees will be used for seasonal employees</li> <li>• Assignments must be coordinated with other departments if multiple assignments exist; <b>upon hiring a new employee, departments will need to ask if the employee has any other assignments.</b> Although you may hire them as seasonal, if they worked in another department within the same measurement period, this may trigger ACA eligibility depending on the combined average hours worked.</li> </ul> <p><i><b>NOTE: State statute definition of benefits eligibility still applies, i.e. 20 hrs /135 days rule.</b></i></p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>• Individuals employed only during a scheduled season (shorter than 120 days), such as a defined performance season (Texas Performing Arts show, sports season, ACL, SXSW, etc.)</li> <li>• Camp employees</li> </ul>

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<ul style="list-style-type: none"> <li>○ Nurses, Physicians and other healthcare employees that work more than two weeks but less than 20 hours per week</li> <li>○ Swim coaches at Longhorn Aquatics</li> <li>○ Interpreters</li> </ul>	<p>hours per week may still be a variable hour employee if their period of employment is expected to be of limited duration, and it cannot be determined that the employee is expected to work full-time over the initial measurement period.</p> <ul style="list-style-type: none"> <li>● Assignments must be coordinated with other departments if multiple assignments exist; if you see the person already has an assignment, or you learn he/she is working for another department(s), then it is your responsibility to contact the other department to coordinate the assignments. Do not assume the other department(s) is aware the employee is working for your department. This is a risk area for the university so communication is key!</li> </ul> <p><i><b>NOTE: State statute definition of benefits eligibility still applies, i.e. 20 hrs /135 days rule.</b></i></p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>● Stage hands, ushers, security, ticket takers, etc. for sporadic events that occur infrequently</li> <li>● Interpreters working outside of their normal assignment</li> <li>● Recreational Sports employees who are paid by the game, day, trip or class</li> <li>● Test proctors</li> </ul>	

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Business Rules for Employees Paid via Regular Monthly and Hourly Payroll	Business Rules for Variable Hour Employees and Seasonal Employees Paid via Payroll Vouchers OV2 and OV7
<p>Step 1. HRMS Position – Non Benefits Eligible less than 30 Hours and less than 90 days; hourly or monthly</p> <p>Step 2. HRMS Assignment – <b><i>NOTE: It is imperative that the HRMS assignment matches actual hours worked.</i></b></p> <p>Step 3. Coordinate dual assignments with any other campus departments. If you see the person already has an assignment, or you learn he/she is working for another department(s), then it is your responsibility to contact the other department to coordinate the assignments. Do not assume the other department(s) is aware the employee is working for your department. This is a risk area for the university so communication is key!</p> <p>Step 4. Paid via Regular Payroll – may be assigned monthly or hourly, and will be included in monthly or semi-monthly pay cycle.</p>	<p>Step 1. HRMS Position – University Affiliate - Casual Employee</p> <p>Step 2. HRMS Assignment – Spanning their expected work duration or end of fiscal year. For continuing employees, you should re-assign at the beginning of each fiscal year.</p> <ul style="list-style-type: none"> <li>• For casual employees currently working as of November 1, 2013, and you anticipate that they will work throughout the year without a break of longer than 26 weeks, then assign them November 1, 2013- August 31, 2014. <ul style="list-style-type: none"> <li>○ Example: Employee works as an usher and you anticipate he/she will work throughout the year at shows in the Fall, Spring and Summer, then assign them November 1, 2013-August 31, 2014.</li> </ul> </li> <li>• For casual employees currently working as of November 1, 2013, and they will not be working throughout the year, but only for a defined period of time, then use November 1, 2013 as the begin date and anticipated last day as the end date. <ul style="list-style-type: none"> <li>○ Example: Employee works as an usher and is only working during November 2013 thru the end of January, 2014. Use November 1, 2013 as the start date and January 31, 2014 as the end date.</li> </ul> </li> <li>• For casual employees that begin after November 1, 2013, then use their actual start date as the begin date. If you anticipate the person will work throughout the year, without a break of longer than 26 weeks, then assign them for the remainder of the fiscal year. <ul style="list-style-type: none"> <li>○ Example: employee starts November 15th and will work sporadically as an usher throughout the year. Use November 15, 2013 as the start date and assign</li> </ul> </li> </ul>

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	<p align="center">thru August 31, 2014.</p> <ul style="list-style-type: none"> <li>• For casual employee that begins work after November 1, 2013, and you do not anticipate them working through the year, but only for a defined period of time, then use the actual start date as the begin date and end their assignment when the work is expected to end.               <ul style="list-style-type: none"> <li>○ Example: employee starts November 15, 2013 as an usher and will only work 3 shows, ending March 27, 2014, and will not work again until the next November. Use November 15, 2013 as the start date and assign thru March 27, 2014.</li> </ul> </li> </ul> <p>Step 3. Coordinate dual assignments with any other campus departments. If you see the person already has an assignment, or you learn he/she is working for another department(s), then it is your responsibility to contact the other department to coordinate the assignments. Do not assume the other department(s) is aware the employee is working for your department. This is a risk area for the university so communication is key!</p> <p>Step 4. Paid via Payroll Vouchers OV2 and OV7 – Include hours worked for each semi-monthly pay cycle</p>

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