# AFFORDABLE CARE ACT (ACA) TRACKING GUIDELINES

## GRADUATE ASSISTANTS

In 2004, the *College and University Professional Association for Human Resources* (CUPA-HR) requested a formal opinion from the Secretary of Labor regarding whether an employer-employee relationship existed between Universities and *graduate assistants*. At that time, the Secretary of Labor, Elaine Chao, indicated in response that the 1994 rule that *graduate assistants* were exempt from *Fair Labor Standards Act* (FLSA) rules remained in effect. This directive was despite the new (FLSA) regulations that were implemented in August of 2004. Unfortunately, the IRS is under no obligation to follow that past directive by the Department of Labor and it remains to be seen if the relationship between *graduate assistants* (and student workers) and the University will be impacted by the ACA.

Absent from a clear exemption for *graduate assistants*, care must be taken to account for the number of hours they work.

*Graduate assistants*, particularly those engaged in classroom or laboratory assignments, presently do not account for their time and are treated as if they are on salary. *Graduate assistants* are considered to work at a percentage of effort that equates to 20 hours per week. This level of effort places them below the ACA eligibility threshold and thus they would not be eligible for health insurance.

However, problems could arise particularly in laboratory settings where the demands of the assistantship could create work weeks well in excess of twenty hours. The law seems clear that, regardless of the percentage of effort assigned, actual hours worked will determine eligibility for benefits.

For that reason, supervisors of *graduate assistants* must maintain monthly time records that must be signed by the supervisor and *graduate assistant*, certifying the hours worked. Furthermore, it must be stressed that those individuals who work 1560 hours or more per year *(or an average of 30 hours or more per week)* would qualify for the opportunity to participate in the employee health insurance plan.

## STUDENT WORKERS

While *student workers* presently submit weekly time sheets, LSU entities must carefully monitor the total hours worked by students, particularly in regard to employment in multiple departments and the common practice of employing *student workers* as full-time contingent employees during semesters and summer breaks.

As currently stated, the ACA would provide for health insurance benefit eligibility for *student workers* regardless of whether or not class is in session. Should a *student worker* be allowed to work 1560 hours or more per year *(or an average of 30 hours or more per week)*, the student would become eligible for health insurance benefits. As a result, all *student workers* as a group would not remain in the same status for health insurance purposes.

## CONTINGENT AND WAGES AS EARNED (WAE) EMPLOYEES

The use of *contingent* and/or (WAE) employees for 30 hours or more per week for extended periods of time *(in excess of 90 days)* must be closely monitored in light of ACA requirements. Presently, (WAE) and *contingent employees* are exempt from benefit coverage because of their classification. Under the ACA, that exemption is not recognized.

Each LSU entity must closely monitor these employee categories to track the total number of hours worked and to determine if there are multiple appointments or breaks in service. Those *contingent* and/or WAE employees who work 1560 hours or more per year *(or an average of 30 hours or more per week)* would qualify for the opportunity to participate in the employee health insurance plan under the provisions of the ACA.
PART-TIME FACULTY

For teaching faculty at many LSU entities, percent of effort for part-time faculty can be determined based on the number of courses generally assigned to full-time non-tenure track faculty. Some examples for the interpretation of full-time and part-time faculty for the purposes of the ACA at the LSU main campus include:

- A full-time faculty load consists of 4 classes, accounting for at least 12 credit hours per semester.
- A part-time faculty load of 3 classes (at least 9 credit hours) will be equivalent to at least 75 percent effort, which is considered full-time for the purposes of the ACA.
- A part-time faculty load of 2 classes (up to 8 credit hours) will be below a 75 percent effort and therefore will be considered part-time for the purposes of the ACA.

While not necessarily a common occurrence, some care should be taken to ensure that part-time faculty are not employed within multiple departments within a campus or even between campuses. Presently, entities within the LSU System rarely coordinate their hiring of part-timers.