



## Change in state rehire policy

### What is the change in rehire policy?

Effective April 1, 2016, the Virginia Department of Human Resource Management issued a change in state policy that applies to all state agencies including VCU. Under this new policy, VCU may not rehire former full-time or quasi-full-time faculty, classified staff, or University and Academic Professionals (working 30 hours or more) into positions ineligible for state health coverage (e.g. wage or adjunct) until the employees have been separated from the university for a minimum of 26 weeks.

### Why is this happening?

This policy change addresses compliance with the Affordable Care Act (ACA) which requires large employers, including VCU, to offer qualifying health coverage to employees who regularly work 30 hours or more per week, or pay a penalty.

- VCU faculty, classified staff, and University and Academic Professionals participate in the state employee health plan, administered by DHRM. DHRM uses a 12-month standard measurement period (May 1 – April 30) to determine whether an employee has worked 30 hours or more, on average, per week.
- Under ACA regulations, full-time and quasi-full-time employees without the required separation can be considered “ongoing” employees as opposed to “new” employees when rehired to other types of positions (e.g. wage or adjunct) at VCU.

	Old policy	New policy
Full-time or quasi-full-time (30 or more hours per week) VCU faculty, classified staff, and University and Academic Professionals rehired to VCU hourly or adjunct positions	Can be rehired immediately	Must have a 26 week separation prior to rehire
Full-time or quasi-full-time (30 or more hours per week) VCU faculty, classified staff, and University and Academic Professionals <i>retirees</i> rehired to VCU hourly or adjunct positions	Must have bona fide full calendar month separation prior to rehire in order to receive retirement benefits	Must have a 26 week separation prior to rehire

### What is the difference between new employees and ongoing employees?

Under ACA regulations, there are important distinctions between “new” employees and “ongoing” employees. These terms impact how an employee’s paid/worked time is calculated to determine if an employee is considered “full-time” and must be offered health coverage by the employer.

### **New employees**

New employees who are reasonably expected to work “full-time” by the ACA definition (30 hours or more per week on average) must be offered health care coverage within three months from the date of their hire.

- The Commonwealth’s health plan calls for new full-time and quasi-full-time employees to be offered health coverage effective on the first day of the month following their date of hire.
- The health plan meets and exceeds the ACA requirements for new employees.
- Employees new to VCU meet the ACA definition of “new” employees. Those who have been employed at VCU previously and are rehired at VCU may be considered “new” or “ongoing” employees depending on the length of their separations.

### **Ongoing employees**

Employees who have been employed for at least one complete “standard measurement period” and have not had the required separation as defined in ACA regulations.

- Employees who have separated and are rehired in the same higher education agency may be treated as new employees under the ACA only if they have no worked/paid hours for a period of at least **26 weeks** immediately preceding the rehire date.
- Employees who resume employment without the prescribed separation are considered ongoing employees under the ACA and their hours worked/paid during the preceding measurement period must be counted in determining full-time status when they are rehired, even if they are rehired into a wage or adjunct position.

### **What are the rules about employees and retirees from other state agencies?**

- Each state agency is considered a separate employer for purposes of the ACA. For this reason, formerly full-time or quasi-full-time faculty or classified staff members from other state agencies may be hired into hourly or adjunct positions at VCU immediately and be considered new (rather than ongoing) employees, unless they have *retired* from the other agency.
- The Virginia Retirement System and the Optional Retirement Plan for Higher Education consider all state agencies to be one employer (the Commonwealth of Virginia) for retirement purposes, therefore *retirees* must still have a bona fide full calendar month separation after retirement before becoming re-employed at any state agency in a position not covered for retirement (such as wage or adjunct).