

## EXEMPT TEMPORARY (EX – EMPLOYEE CLASS) GUIDELINES

The Exempt Temporary eClass is used for hiring and pay changes involving FLSA-exempt temporary employees who do not meet university definitions for adjunct, graduate assistants, post-doctoral fellows or other FLSA-exempt eClasses (see notes below). Some typical uses of the eClass are described below:

### Research & Lab Assistants - Trainees/Those Whose Work is Part of Academic Progress (Students)

**Non-VCU Graduate Assistants:** Graduate and doctoral students from other universities who are performing work in a trainee capacity at VCU. (These individuals do not meet the definition for VCU Graduate Assistant eClass because they are not students at VCU). These individuals perform activities that are “designed to provide students with professional experience in the furtherance of their education and training and are academically oriented for their benefit.” (Wage and Hour Opinion Letter, Jan. 28, 1988) Individuals in this eClass typically have a primary responsibility to assist in degree-related professional or academic functions that support research or instructional services. Work is performed under the supervision of a faculty member. Specifically, these individuals perform one or more of the following:

- Research activities or assignments that are *related to* the student’s academic program.
- Assist in the instructional process and have direct contact with a student or a group of students. The individual may be directly involved in a tutorial or group instructional environment and may grade papers and analyze work products as part of his/her overall assignment. (Use Position Class EXGS.)

**VCU Student Lab Assistants:** Students who are lab teaching assistants whose responsibilities are part of their academic progress, but who are not full-time students or who otherwise do not meet the definitions for Graduate Teaching Assistants. (Use Position Class EXLT.)

**VCU Graduate or Undergraduate Research Assistants:** Students who perform research under a faculty member’s supervision while obtaining a degree. The research is relevant to the student’s course of study. Students perform activities that are designed to provide professional experience in the furtherance of their education and training and are academically oriented for their benefit. (Not required to meet FLSA salary test.) (Use Position Class EXRA.)

**Note:** Employees in the Exempt Temporary eClass are those who do not meet the definition of VCU Graduate Assistants (enrolled as full-time graduate students at VCU), or Post Docs, but otherwise meet the Fair Labor Standards Act exemption status. This eClass should not be used for students whose primary job responsibilities are administrative or clerical in nature or consist of other activities that do not generally fit within the Graduate Research Assistant or Graduate Teaching Assistant job responsibilities.

### Duties Similar to Exempt University & Academic Professional Employees

**Coaches:** Athletic coaches who are instructing student-athletes how to perform their sport. This eClass does not apply if a coach’s primary duties are recruiting students to play sports or visiting high schools and athletic camps to conduct student interviews. (Meets the teaching exemption and is not required to earn \$684/week.) (Use Position Class EXCO.)

**Coaches Contract Supplements:** Athletic coaches with contracts stipulating additional compensation for duties such as speaking engagements and public appearances. (Use Position Class EXCO.)

**Curriculum Development/Instructional Design Specialists:** Employees hired to create or improve courses offered by a School/unit. May focus on content, pedagogy, etc. (Use Position Class EXID.)

**Senior Level Executive Staff Support:** Employees hired to perform exempt level Executive or Professional work in support of the President, Provost, a Dean, or Vice President. Approval must be obtained from the Office of the President or Senior Vice President, as applicable. (Use Position Class EXES.)

### One Time Payment – Exempt Employees Only

**One Time Payment:** A flat, negotiated payment to a current employee (wage or full-time) for work on an independent project external to the employee’s department or for performance at an event. The payment must not be related to the employee’s primary job. The work must occur outside of the primary position’s normal work hours or leave must be taken during the period the work is performed. The work completed must be the parameters of an Independent Contractor Agreement, with the exception that

this individual is an employee. (Payment would otherwise be as an Independent Contractor, but cannot be because the individual is a current employee.) (Use Position Class EXFP)

- Individual relies upon own expertise rather than following specific instructions from the department regarding performance of the required work
- Performs the work to the specifications of, but not under the direction of, a University employee or student
- Payment cannot be used as a bonus or award
- Example: An exempt staff member plays a musical instrument at an alumni event. The staff member would be paid a one time, negotiated flat amount, rather than an hourly rate.
- One time payments will be paid only once a month – dates for payment must start on the 10<sup>th</sup> of month and end on the 24<sup>th</sup>.
- One time payments over \$2,500 require VCU HR approval

**Other Exceptions:** There may be other uses for this eClass for other FLSA-exempt individuals who do not fit our other existing eClass definitions. Those individuals will be treated on an exception basis and will require approval by VCU Human Resources. Duties for positions of this type must align with University job titles that defaults to an exempt FLSA status. (Use Position Class EXOT.)

**University Job Title:** All Exempt Temporary positions that are not student positions or one-time payments must be matched to a University job title. Exempt Temporary positions must align with University job titles that default to an exempt FLSA status.

**Approval:** The Exempt Temporary PAF must be approved by the Dean/Department Head, HR Professional, Office of the President or Senior Vice President (for Senior Level Executive Support only) and VCU Human Resources (for non-delegated HRPs and one time payments greater than \$2,500). No additional PAF is required for these employees.

**Salary Test:** Unless the employee meets the FLSA definition for trainee jobs similar to graduate assistants, or the employee's primary work is teaching, practicing law or practicing medicine, salaries for these employees must meet the minimum salary requirements under the FLSA and must be paid at least \$684 per week; this amount may not be prorated. For more information on FLSA, refer to VCU's Overtime Guidelines or contact your [HR Professional](#).

**Manpower Control Program:** In order to comply with IRS guidelines, the Commonwealth of Virginia's Manpower Control Program, and VCU guidelines, Exempt Temporary employees are permitted to work no more than twenty-nine (29) hours per week on average and no more than 1480 hours (no more than 70.63 FTE) during the 12-month *Standard Measurement Period* of May 1st to April 30<sup>th</sup>. If, at any time during the *Standard Measurement Period*, it is determined that the projected hours might exceed this hourly limit, the employee's hours must be reduced and/or their position may be subject to earlier termination.

**Recruitment:** Individuals who are students and fall under the "Research & Lab Assistants - Trainees/Those Whose Work is Part of Academic Progress (Students)" category do not require recruitment via VCU's online recruitment system. Positions that fall under the "Duties Similar to Exempt University & Academic Professional Employees" header are subject to recruitment or require a recruitment waiver. (Coaches contract supplements are an exception and only require an individual's contract to be attached to the PAF as justification.) One time payments for exempt employees do not require recruitment.