







Hiring A Student Employee (continued)

5. Send students the following link and advise them to complete the instructions under "Procedure for New Student Employees." After successful completion of the orientation and test, instructions and links for the I-9, hiring packet, and HR Calendar will be provided. <https://hr.charlotte.edu/students>
6. Students are sent an I-9 email confirmation, which they need to forward to the department/supervisor.
7. After the I-9 email confirmation is seen, a future start date can be set and the appropriate action can be completed and submitted, for example, an EPAF.



Separating a Student

- Discuss any potential termination of a student with the Student Employment Office.
- Discuss problem areas with the student, prior to initiating corrective or disciplinary actions.
- If the problem continues, you may initiate termination action.
- Submit a Temporary Employment Change Request Form and a Student Evaluation Form. Both can be found here: <https://hr.charlotte.edu/forms/temporary-and-student-employment>



International Students Considerations

- [International Students in the United States](#)

As per the [2022 Open Doors International Educational Exchange Report/Survey](#), nearly one (1) million international students at U.S. colleges and universities. The state of North Carolina is home to [20,278](#) International Students and NC large schools are nationally ranked as followed:

- 38- North Carolina State University with a total enrolled & OPT students of 5195
- 42- Duke University and Medical Center with a total enrolled & OPT students of 5039
- 83- University of North Carolina - Charlotte with a total enrolled & OPT students of 2633
- 89- University of North Carolina - Chapel Hill with a total enrolled & OPT students of 2501

All Higher Education Institutions and enrolled F-1 students MUST follow the [8 CFR Part 214 - NONIMMIGRANT CLASSES regulations](#)



On-campus vs. Off-campus Employment Authorization for International Students

• On-Campus Employment

International students in F-1 or J-1 status enrolled in academic courses are allowed to work part time, up to 20 hours per week, on-campus during the academic year and full-time, 40 hours per week, during summer vacation when not in enrolled in summer classes.

- On-campus employment includes work done as a teaching or research assistant as well as jobs in the university library, dormitory dining facilities, laboratories, and administrative offices.
- On-campus also includes employment with on-location commercial firms which provide services for students on campus, such as stores or restaurants located in a University owned building (Chartwells)
- Completion of the I-9 process to establish employment eligibility with UNC Charlotte

• Off-Campus Employment

In addition to on-campus employment, F-1 and J-1 international students can work off-campus in certain circumstances. However, authorization and approval from the ISSO is always required prior to a student undertaking any off-campus work.

- Curricular Practical Training (CPT)
- Optional Practical Training (OPT)



International Scholar and Faculty Hiring Considerations

- UNC Charlotte welcomes international faculty and scholars to teach, conduct research, and collaborate with colleagues on its campus. During a given academic year, UNC Charlotte hosts approximately 125 faculty and scholars from more than 25 different countries.
- The International Student and Scholar Office (ISSO) helps UNC Charlotte departments hosting international faculty and scholars by providing assistance in the process of [sponsoring international faculty and scholars](#).

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Handling Student-Employee Records

- When does FERPA apply to student-employee records?
 - If the student is employed based on their student status (in other words, being a student is an eligibility requirement for the position), then those records would be considered "education records" under FERPA.
 - The records are confidential and may not be disclosed without the student's consent, unless an exception applies.
 - The student has a right to inspect them.
 - However, if the student's employment is not based on their student status, then the records would not be education records under FERPA.
 - Note: disclosure would then be analyzed under the N.C. State Human Resources Act (G.S. 126-1)



Handling Student-Employee Records

- Are student employees permitted to view other students' education records protected by FERPA?
 - Yes, FERPA permits university employees to have access to a student's educational records if they have a "legitimate educational interest" without prior written consent from the student.
 - Student employees sign a confidentiality agreement and receive training on their FERPA obligations
- What constitutes "legitimate educational interest?"
 - NOT curiosity or solely being an employee.
 - It is limited to specific records that are essential to doing their job.
 - "Need to know basis"

[illegible]

Graduate Student Considerations

- The major goal of graduate assistantships "is two-dimensional: to promote the student's *progress toward a graduate degree* and to provide additional resources to accomplish the mission of the University."
- Graduate student compensation is determined by the student's primary program
- The compensation packages allow for differentiation - different pay for different duties and experience
- NinerWorks assistantships: set these up months in advance - students need to know what they're getting
- Make sure the student is getting what was offered. They don't want to bother faculty, but often they aren't getting paid (I-9 not complete, grant fund not set up, no contract at all).



Compensation is public knowledge; students are aware and make decisions based on their offers



Legal Overview - Wage & Hour Considerations

- The Fair Labor Standards Act (FLSA) requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay for all hours worked over 40 hours in a workweek.
- However, the FLSA provides exemptions for common higher education jobs.
 - A teacher is exempt if their primary duty is teaching, tutoring, instructing, or lecturing to impart knowledge, and if they are performing that duty as an employee of an educational establishment. See [29 C.F.R. 541.303](#).
 - Given these standards, professors, instructors, and adjunct professors typically qualify for this exemption.



Legal Overview - Wage & Hour Considerations for Student-Employees

- Most students who work for their college or university are hourly non-exempt workers and do not work more than 40 hours per week. The following slide provides examples of students who often receive a salary or other non-hourly compensation.
- During the academic year at UNC Charlotte:
 - International students work no more than 20 hours per week.
 - Undergraduate domestic and permanent-resident students work no more than 29 hours per week.



Legal Overview - Wage & Hour Considerations for Student-Employees (continued)

Graduate Teaching Assistants. A graduate teaching assistant whose primary duty is teaching is exempt from FLSA minimum wage and overtime pay requirements. Because they qualify for the teacher exemption, they are not subject to the salary-basis and salary-level tests.

Research Assistants. Generally, an educational relationship exists when a graduate or undergraduate student performs research under a faculty member's supervision while obtaining a degree. Under these circumstances, the Department of Labor would not assert that an employment relationship exists with either the school or any grantor funding the student's research. This is true even though the student may receive a stipend for performing the research.

Student Residential Assistants. Students enrolled in bona fide educational programs who are residential assistants and receive reduced room or board charges or tuition credits are not generally considered employees under the FLSA. Therefore, they are not entitled to minimum wages and overtime under the FLSA.



Legal Overview - Wage & Hour Considerations for Student-Employees (continued)

- An employment relationship will generally exist when a student receives compensation and his or her duties are not part of an overall education program.
- For example, students who work at food service counters, sell programs or usher at events, or wash dishes in dining halls and anticipate some compensation (for example, money or meals) are generally considered employees entitled to minimum wage and overtime compensation.

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Nurradin v. Tuskegee University (U.S. District Court for the Middle District of Alabama, 2022)

- Plaintiff, a graduate student at Tuskegee University, claimed she was a non-exempt employee under the FLSA, and the University did not pay her for hours worked over 40 hours per week.
- The University argued the student was not entitled to overtime or minimum wage payments because the FLSA does not apply to graduate research assistants.
- Facts: Plaintiff was pursuing a master of science degree in environmental science at Tuskegee. She took a position as a graduate research assistant working in the "post-harvest center" on campus. Her student employment contract indicated she was expected to work 25 hours per week and would be paid \$11.00 per hour.

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Nurradin v. Tuskegee University (continued)

- Plaintiff argued she was not paid a stipend, she did not conduct research for a professor, and the work had nothing to do with her graduate degree.
- Plaintiff stated she worked almost every day, including most weekends, and although she consistently worked more than 40 hours per week, she was never paid for more than 25 hours per week.

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Nurradin v. Tuskegee University (continued)

- The University argued that, because the Plaintiff was a graduate research assistant, she was not subject to the wage and overtime provisions - or any provisions - of the FLSA.
 - "Naturally, her studies and graduate research assistant responsibilities included topics and work related to the environmental effects of farming and agricultural practices...therefore, the tasks described by Plaintiff...were in fact research-related and related to her major."



Nurradin v. Tuskegee University (continued)

- **Conclusion:** Plaintiff provided enough information to allege she was an hourly, non-exempt employee. The case would continue to move forward on this claim.
- The Court indicated it would need to look at the Plaintiff's contract terms and whether her work was in fact related to her graduate degree.
- The University did not get the case dismissed at this initial stage, and would need to prove Plaintiff was exempt from the FLSA because she was engaged in degree-related research or work.



Questions?


