Overview

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Hiring A Student Employee - New Hires

Here are the steps in the order that they need to be completed:
1. Create a posting in Hire-A-Winer
2. Conduct Interviews
3. Make Offer
4. If required, request Criminal Background Check. [Link]
5. If the student clears the CBC process or a CBC is not required, go to 5:
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.unc 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 ETAP.

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 action.
- 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.unc Charlotte.edu/forms/remember_and_student_employment]

International Students Considerations

- International Students in the United States

As per the US News International Education Exchange Report/Forum, study and third-trillion international students at U.S. colleges and universities. The state of North Carolina is home to 20,736 international students and ranked the largest foreign-educated students ranked at 4th:

- Duke University and Medical Center with the total enrolled 4,519 students of $360
- University of North Carolina - Charlotte with the total enrolled 4,102 students of $263
- University of North Carolina - Chapel Hill with a total enrolled 4,512 students of $261
- All Higher Education Institutions and enrolled 4,102 students IN 2017-2018

[https://remember_and_student_employment]
On-campus vs. Off-campus Employment Authorization for International Students

- **On-Campus Employment**
  - International students in F or J status are allowed to work on or off-campus, up to 20 hours per week during the academic year and full-time during academic breaks when on-campus enrollment is maintained.
  - On-campus employment includes work on campus as part-time or seasonal assistant positions in the International Office, Academic Affairs, and Human Resources.
  - Work on-campus is limited to positions with no academic credit hours while on-campus work can be in any academic or non-academic position.

- **Off-Campus Employment**
  - International students in F or J status are allowed to work off-campus, up to 20 hours per week during the academic year and full-time during academic breaks when on-campus enrollment is maintained.
  - Completion of the 180 day rule is required for eligibility at the University of California.

International Scholar and Faculty Hiring Considerations

- UC Berkeley adheres to internal faculty and student policies on hiring, merit, and research, and distributes information on the hiring process. A full-time position at the University is a limited appointment to teach or research for a specified period.

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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 (e.g., in other positions), these records would not 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 be education records under FERPA.
  - Note: Disclosures would then be subject to the FERPA Act (U.S. Code 34-5).
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 education 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 FERPA obligations.
  - What constitutes "legitimate educational interest?"
    - ROSM: Curiosity or solely being an employee.
    - It is limited to specific records that are essential to doing their job.
    - "Need to know basis"
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 exceptions for common higher education jobs:
  - A teacher is exempt if their primary duty is teaching, tutoring, instructing, or training to impart knowledge, even if they are performing that duty as an employee of an educational institution. See 29 C.F.R. § 541.001.
  - 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 requirements. Because they qualify for the teaching exempation, they are not subject to the salary basis and salary level tests.

Research Assistants: Generally, research assistants are not subject to the FLSA if they perform research under a faculty member's supervision and are not engaged in teaching. However, the Department of Labor has not established a minimum salary for research assistants, and a school may require that they be paid a stipend for performing research.

Student Residential Assistants: Students enrolled in some educational programs who are residential assistants and receive room and board, housing stipends, or tuition credits are not considered employees under the FLSA. Therefore, they are not entitled to minimum wage 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, energy or cash) are generally considered employees entitled to minimum wage and overtime compensation.

Nuradin 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 "soil 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.

Nuradin 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.
Nuradin 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 topic recognition 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."

Nuradin 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?