

~~INTERIM POLICY~~

~~NOTE: ————Appendices B-1 and B-2 of APM—035 are rescinded.~~

DRAFT – General University Policy Regarding Academic Appointees: APM - 036: Academic Employment

036-0 Policy

This section sets forth the University’s core employment policies governing academic appointees. It affirms the principles of fair and equitable recruitment, selection, promotion, and transfer, and complies with federal and state law, including the federal Fair Labor Standards Act (FLSA). It also defines the University’s expectations regarding service obligations and leaves of absence. These policies provide the foundation for all subsequent sections and ensure that academic employment practices uphold University standards of excellence, integrity, and accountability.

Personnel actions dealing with recruitment, selection, promotion, and transfer are of critical importance to the success of the University’s ~~Affirmative Action-Academic~~ Personnel Program. The education, experience, skill, knowledge, and any other qualifications required for a position shall be limited to those qualifications directly related to the satisfactory performance of the duties and responsibilities of the position. All aspects of academic employment, including, but not limited to, FLSA exemption status, leaves of absence, record keeping, official letters of recommendation, and personal references and letters of recommendation, shall be compliant with applicable federal and state law.

a. Recruitment

Current methods of recruitment and search for candidates for appointment shall be reviewed and, when necessary, new or modified methods shall be introduced in order to broaden the scope of the search. Attention shall be given to effective efforts to ~~enhance the pool of applicants for those job groups and units where underutilization has been determined to exist~~reach a broad pool of applicants.

b. Selection

Selections for appointment from among applicants who meet the requirements of each position shall ~~assure-ensure~~ continuation of University standards of excellence. In accordance with applicable law, no applicant may be denied employment, nor shall any applicant be selected for employment in preference to an equally or more qualified candidate, on the basis of race, color, national origin, religion, sex, physical or mental

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disability, medical condition (cancer- related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, pregnancy, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994. Every good faith effort shall be taken to assure equal opportunity for employment for ~~men and women in job groups that have traditionally been identified with one sex~~ all applicants. In selecting from among candidates who are substantially equally well-qualified for a particular position, the appointing authority is reminded to pay attention to the general University commitment and policy of encouraging promotion of University employees.

c. **Promotion**

Promotions shall be decided in accordance with the appropriate University policy in a manner which shall assure continuation of University standards of excellence. Opportunity for promotion shall be available equally to all eligible employees. In accordance with applicable law, no employee may be denied a promotion, nor shall any employee be selected for a promotion in preference to an equally or a more qualified applicant, on the basis of race, color, national origin, religion, sex, physical or mental disability, medical condition (cancer- related or genetic characteristics), genetic information (including family medical history), ancestry, pregnancy, marital status, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994.

d. **Transfer**

All transfers of employees shall be handled in accordance with University procedures and, in accordance with applicable law, shall be without regard to race, color, national origin, religion, sex, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, pregnancy, marital status, age, citizenship, sexual orientation, gender identity, or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994.

e. **Fair Labor Standards Act (FLSA) Exemption Status**

The University of California complies with the federal Fair Labor Standards Act (FLSA), administered by the United States Department of Labor (DOL) Wage and Hour Division, which establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. The FLSA and its regulations establish the criteria defining

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whether an employee is eligible for premium overtime pay (“non-exempt”) or exempt from premium overtime pay (“exempt”).

f. The policy for service obligations and academic leaves of absence is set forth in Regents Policy 7303, Service Obligations and Leaves of Absence.

Service Obligations: No compensation shall be paid to any employee of the University unless actively engaged in the service of the University, in accordance with such regulations as the President may establish. No one in the service of the University shall devote to private purposes any portion of time due to the University nor shall any outside employment interfere with the performance of University duties. Arrangements for outside professional activities by any employee of the University shall be subject to such regulations as the Regents or President may establish.

Leaves of Absence: The President is authorized to grant leaves of absence with or without pay, in accordance with Senior Management Group, academic personnel, and/or University personnel policies, as applicable. Any exceptions to policy for Senior Management Group members require approval by the Regents.

Faculty and Other Academic Appointees: Academic appointees are subject to Academic Personnel Manual policies and/or University policies pertaining to leaves of absence, as applicable. Sabbatical leaves are granted in accordance with regulations established by the President and under principles affirmed in Regents Policy 2305.

All leaves of absence, with or without pay, are subject to approval by the University and may require documentation as appropriate and consistent with the applicable policy.

Leaves of absence cannot extend beyond the end date of the appointment.

036-4 Definitions

The following definitions establish key terms used throughout this policy. They clarify how federal and state labor laws apply to academic appointees, distinguish between exempt and non-exempt employment categories, and specify related concepts such as overtime, supervisory roles, and work schedules. These definitions are intended to provide consistency, ensure compliance, and guide the fair and accurate administration of academic employment practices.

a. Exempt Academic Appointee

An academic appointee who, based on duties performed and amount and manner of compensation, is exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA). Exempt academic appointees are compensated on a salaried

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basis and are expected to fulfill the responsibilities of their position without eligibility for premium overtime compensation.

b. Non-Exempt Academic Appointee

An academic appointee who, based on duties performed and amount and manner of compensation, is subject to all provisions of the FLSA. Non-exempt academic appointees are required to record hours worked on an hourly and fractional-hourly basis and are eligible for overtime compensation at the premium (time-and-one-half) rate. Non-exempt academic titles are identified in the University systemwide academic salary scales and title/job codes tables.

The hourly rate for fiscal year non-exempt academic appointees is typically listed in the corresponding non-exempt salary table. If no such table exists, the hourly rate for fiscal-year non-exempt academic appointees shall be calculated by dividing their annual rate by 2,088 (the number of working hours in a year). For academic-year non-exempt academic appointees, the hourly rate will be determined in accordance with the applicable sections of APM - 600.

c. Over-Schedule

Time worked that exceeds a non-exempt academic appointee's regular daily schedule on pay status.

d. Overtime

Time worked by a non-exempt academic appointee that exceeds forty (40) hours on pay status in a workweek.

e. Premium Overtime Rate

Compensation of at least one and one-half (1½) times the regular rate of pay, provided to non-exempt academic appointees for hours worked in excess of forty (40) in a workweek.

f. Primary Duty

The principal, main, or most important duty performed by an academic appointee, as defined by the Department of Labor (DOL).

g. Regular Rate of Pay

The regular rate of pay, as defined under the FLSA, used to calculate premium overtime compensation for non-exempt academic appointees.

h. Supervisor

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For the purposes of this policy, academic appointees may be assigned the role of Supervisor. A Supervisor is an academic appointee with assigned supervisory authority over employees, including staff, other academic appointees, or student appointees. This includes, but is not limited to, persons in charge of courses as defined in Academic Senate Regulations and Regents Bylaw 40.1 (“instructors of record”) and principal investigators (under Uniform Guidance, 2 C.F.R. Part 200, and UC Contracts and Grants Manual). Supervisory authority may extend to part-time academic appointees with formal supervisory responsibilities. See APM - 110 for the definition of “student appointee.”

i. Workweek

For time reporting purposes, applicable to non-exempt academic appointees, a fixed period of seven (7) consecutive twenty-four (24) hour periods, normally beginning at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

036-6 Obligations

The following provisions set forth the obligations of academic appointees and faculty administrators in fulfilling their responsibilities. These obligations ensure compliance with federal and state requirements, uphold the University’s role as a public trust, and distinguish between official recommendations provided on behalf of the University and personal recommendations provided in an individual capacity.

a. Attendance, Time Reporting, and Leave Accrual Records

The University has an obligation as a public employer to align compensation with work effort provided to the institution, consistent with the award of federal grant funds and the allocation of State funds committed to the University as a public trust. These obligations are set forth in Uniform Guidance, 2 Code of Federal Regulations (C.F.R.) Part 200, Art. IX, Sec. 9 of the California Constitution, and Regents Policy 7303: Policy on Service Obligations and Leaves of Absence.

These obligations are consistent with UC policy. Specifically, University of California – Policy P-196-13 Payroll: Attendance, Time Reporting and Leave Accrual Records and the Business and Finance Bulletin IA-101 Internal Control Standards Departmental Payrolls set forth the minimum requirements for recording attendance and time reporting required by the University and establishes the responsibility for the maintenance of such records and the responsibilities of academic supervisors.

b. Official Letters of Recommendation

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Official Letters of Recommendation for employment are endorsed by the University, represent the views of the University, and are written by someone authorized to speak on the University's behalf. Such letters are typically issued by faculty administrators (see APM - 241 and APM - 246); however, other Administrators or Supervisors may also be asked to provide Official Letters of Recommendation. In such cases, it is essential that the letter reflects the official position of the University rather than personal endorsement, and the author must ensure they are acting in an official capacity. An example of an official letter of recommendation is a letter issued by a chancellor, in their official capacity, recommending another administrator for a position at another institution, reflecting the University's formal endorsement.

Official Letters of Recommendation are issued using University of California letterhead or via a University issued email address.

Administrators and Supervisors include current department chairs, deans, provosts, chancellors, and faculty administrators (see APM - 241 and APM - 246), principal investigators, instructors of record, and any other academic appointee with supervisory authority, whether full-time or part-time, regardless of the current relationship between the letter writer and the requestor.

References or letters of recommendation written by former Administrators and Supervisors may be written in an Official or a personal capacity (APM - 036-6 c.) as indicated in the request.

An academic administrator or supervisor providing an Official Letter of Recommendation to a current or former employee of the University of California, which includes academic appointees, staff employees, as well as student appointees, is required to first consult with the appropriate entities, as defined in local procedures, to determine if the employee is a respondent in a sexual harassment complaint filed with the University as follows:

In accordance with California Education Code 66284, an academic administrator or supervisor is prohibited from providing an Official Letter of Recommendation to an employee, if it is determined the requesting employee is a respondent in a sexual harassment complaint filed with the University, and any of the following has occurred:

1. The employee is determined in a final administrative decision to have committed sexual harassment.
2. Before a final administrative decision is made, and while an investigation is pending, the employee resigns from their current position.

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3. The employee enters into a settlement with the University based on the allegations of the sexual harassment complaint.

Academic administrators and supervisors should include the following language in Official Letters of Recommendation stating the intent to represent the viewpoint of the University:

“The following recommendation is endorsed by the University of California and represents the viewpoints of the [campus] and the University of California system as an employer.”

Other forms of recommendations, such as surveys and phone calls, are not considered Official Letters of Recommendation. Examples of letters that are not Official Letters of Recommendation may be found in APM - 036-6 c.

The Chancellor, or the Chancellor’s designee, shall develop appropriate implementation procedures, including identifying and communicating the “appropriate entities” that will provide verification of whether a requesting employee is a respondent in a sexual harassment complaint that meets the criteria established in California Education Code 66284.

c. Personal References and Letters of Recommendation

Personal references or letters of recommendation represent the views of the individual letter writer and are provided in an individual capacity, whereas official letters reflect the University’s endorsement and are written by someone authorized to speak on the University’s behalf.

Most letters of recommendation written by faculty members and other academic appointees are not considered an Official Letter of Recommendation; instead, they are personal references and letters of recommendation that do not serve as an Official Letter of Recommendation from the University.

Academic appointees, including emeriti faculty, may provide references or letters in a personal capacity, and the academic appointee is not required to consult with the appropriate entities to determine if the current or former employee is a respondent in a sexual harassment complaint filed with the University, as outlined in APM - 036-6 b.

Personal references or letters of recommendation for employment that are not official may be provided using University of California letterhead or via a University issued email address.

Other examples of letters that are not Official Letters of Recommendation, include:

- Letters solicited by the University for an academic review file that reflect personal observations and evaluation of a peer colleague's academic qualifications of scholarly and instructional merit.
- Letters written by faculty members for current and former students regarding their academic performance for the purposes of applying for non-employment opportunities, such as education, programs, scholarship, and awards.
- Other letters used for a purpose other than employment, e.g., grant applications and awards nominations.

036-14 Eligibility

This section defines the criteria used to determine whether an academic appointee is classified as exempt or non-exempt under the federal Fair Labor Standards Act (FLSA). It clarifies that eligibility is based on the nature and duties of the appointment rather than its duration or temporary changes. The section also addresses the evaluation of multiple concurrent appointments, ensuring that employees hold a single FLSA status across all roles. These provisions are intended to promote consistency and compliance with federal labor law.

a. Individual Appointment Considerations

1. Exempt or non-exempt status depends on the nature of the appointment, not individual temporary changes.
2. Long-term changes in duties or appointment percentage may change an academic appointee's status.
3. The length of an appointment does not determine exempt or non-exempt status.

b. Multiple Concurrent Appointments

1. An employee can hold only one FLSA exemption status – exempt or non-exempt – at a time.
2. When an academic appointee holds more than one concurrent appointment and the job titles associated with the appointments have differing FLSA exemption statuses, all work performed must be evaluated to determine a single FLSA status. The resulting status is applied to all appointments that the academic appointee currently holds.

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- a) When at least one of the differing appointments is academic, the local Academic Personnel Office should conduct an individualized analysis.
 - b) To determine if the employee's primary duty is exempt or non-exempt, the work performed in all the appointments must be considered together as a whole.
 - c) Earnings from all appointments combined must pass the FLSA salary basis test, if applicable.
3. If an academic appointee holds concurrent appointments at multiple UC locations, the primary duties as well as earnings from all locations must be considered as part of the whole in determining the FLSA status.
4. Factors to consider when determining primary duties for an employee with concurrent appointments include, but are not limited to:
- a) The relative importance of exempt or non-exempt duties as compared with other types of duties (e.g., as an academic institution, teaching duties may be more likely to be the primary duty);
 - b) The amount of actual time spent performing exempt or non-exempt work (rather than each position's appointment percentage); and
 - c) The employee's level of independence from supervision.

036-18 Salary and Compensation

This section defines how exempt and non-exempt appointees are compensated under federal labor requirements, clarifies when premium overtime pay is due, and outlines eligibility rules for holiday pay based on appointment type and work schedule. These provisions ensure that compensation practices are consistent and compliant with applicable law and University policy.

a. Academic Salary Scales (see also APM - 600)

Salary scales and salary ranges for exempt and non-exempt academic job titles are published and maintained at the systemwide level. Current and historic academic salary scales are posted on the systemwide academic personnel compensation webpage.

b. Overtime and Over-Schedule (Applicable to Non-Exempt Academic Appointees Only)

For compensation purposes, overtime is time worked by non-exempt academic appointees that exceeds 40 hours on pay status in a workweek. Over-schedule is time worked that exceeds a non-exempt academic appointee's regular daily schedule on pay status.

Overtime and over-schedule may result in the payment of premium overtime pay to the academic appointee.

1. Approval

Overtime and over-schedule may be assigned by the Supervisor to meet essential operating needs. Overtime and over-schedule must be approved in advance, but if overtime or over-schedule is worked, it must be compensated whether approved or not. Academic appointees are expected to seek advance approval from their Supervisor for overtime and over-schedule work.

2. Compensation for Time Worked Over-Schedule

Over-schedule must be compensated based on the nearest quarter hour (15-minute intervals) or less if consistent with how time is tracked in local timekeeping systems. When the hours worked by an academic appointee exceed their regular daily schedule on pay status, the academic appointee will be compensated at the straight-time rate of pay, provided that the academic appointee does not exceed 40 hours of actual work in that workweek.

Additionally, the Supervisor may adjust the academic appointee's schedule in that same workweek to avoid hours of actual work exceeding the academic appointee's regular schedule or 40 hours in that workweek.

c. Compensation for Overtime (Applicable to Non-Exempt Academic Appointees Only)

Overtime must be compensated based on the nearest quarter hour (15-minute intervals).

1. Premium Overtime

Hours on paid leave do not count as time worked for the purpose of determining eligibility for premium overtime.

When a non-exempt academic appointee exceeds 40 hours of actual work in a workweek, the academic appointee will be compensated at the premium pay rate of one and one-half times the regular rate of pay for hours over 40 in the workweek; or

2. Straight-Time Overtime

When a non-exempt academic appointee's hours on pay status, but not actual time worked, exceed 40 hours in a workweek, the academic appointee will be compensated at the straight-time rate of pay.

d. Holiday Pay (see also APM - 720)

1. Full-Time Academic Appointees

- a) Exempt full-time academic appointees are eligible for holiday pay for official administrative holidays designated annually if they are on pay status at any point during the week in which the holiday occurs.
- b) Non-exempt full-time academic appointees are eligible for holiday pay if they are on pay status on their last scheduled workday before the holiday and their first scheduled workday following the holiday.
- c) Full-time academic appointees are also eligible for holiday pay if the holiday:
 - i. Falls on an academic appointee's regular day off. The academic appointee is entitled to either holiday pay on the day off or an alternative day off with holiday pay, as determined by local procedures;
 - ii. Occurs immediately before their appointment start date, if the holiday is the first workday of the month; or
 - iii. Occurs immediately after their last workday of their appointment, if the holiday is the final workday of the month.
- d) Full-time academic appointees (exempt and non-exempt) on alternate work schedules are entitled to the same number of holidays and the same amount of holiday pay granted to academic appointees on a regular full-time work schedule.
- e) New or re-appointed full-time academic appointees (exempt and non-exempt) are not eligible for holiday pay for a holiday that occurs before the first day of their appointment or after they are separated from employment with the University, except as specified in APM - 036-18 d. 1. c).

2. Part-Time Academic Appointees

- a) Exempt part-time academic appointees will receive holiday pay for the number of hours in proportion to the percentage of their appointment (e.g., if an academic appointee with a 75 percent appointment is scheduled to work for six hours on Memorial Day, the academic appointee would not have to work and would receive six hours of holiday pay).

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- b) Non-exempt part-time academic appointees on pay status 50 percent time or more of a month (excluding holiday hours) will receive holiday pay in proportion to the percentage of time they are on pay status.
- c) New or re-appointed part-time academic appointees (exempt and non-exempt) are not eligible for holiday pay for a holiday that occurs before the first day of their appointment or after they are separated from employment with the University.

3. Additional Provisions Applicable to Non-Exempt Academic Appointees

- a) Non-exempt academic appointees who are required to work on a University holiday other than the December 25th winter holiday will be paid regular pay for all hours worked. In addition, the non-exempt academic appointee will receive holiday pay at the regular straight-time rate.
- b) Non-exempt academic appointees who are scheduled to work on a holiday but take time off due to illness are eligible only for holiday pay.
- c) Non-exempt academic appointees who are required to work on the December 25th winter holiday will be paid at one and one-half times their regular rate for all hours worked. In addition, the non-exempt academic appointee will receive holiday pay at the regular straight-time rate.
- d) Non-exempt academic appointees who have been suspended for disciplinary reasons for a period that includes or immediately precedes or follows a holiday, and non-exempt academic appointees who have an unauthorized absence immediately preceding or following a holiday, will not receive holiday pay for that holiday.

036-20 Conditions of Employment

This section outlines the conditions that apply to academic employment with respect to time, leave, and work expectations. While many of the detailed requirements apply primarily to non-exempt academic appointees (such as tracking hours worked, overtime eligibility, and rest or meal breaks), it is important that supervisors understand these provisions in order to support the employees they supervise. For faculty themselves, the policy affirms existing practices around leave reporting and clarifies expectations for compliance with federal and state law.

a. Recording Leave Balances and Use of Paid and Unpaid Leave

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1. Recordkeeping

The University will maintain a complete and accurate record of all leave balances provided to and used by eligible academic appointees, including the academic appointees' current available leave balance and accrual rate, if applicable.

2. Supervisor

The Supervisor is responsible for approving timesheets and leave reporting, where applicable, and will review each submission for accuracy and make updates to ensure accurate time and leave reporting consistent with APM - 036-6-a. If the Supervisor makes an adjustment to what was reported, the academic appointee will be provided with a copy of the revised submission. According to campus procedures, the Supervisor's responsibility may be delegated to another non-student academic appointee with direct knowledge and oversight of the work performed.

3. Non-Exempt Academic Appointees

The University will record leave used by non-exempt academic appointees to at least the nearest quarter hour (15 minutes). Non-exempt academic appointees must track the total number of hours they work on a daily basis and provide the total number of hours they worked each day by the end of each pay period utilizing local time-keeping practices.

When reporting time worked and leaves of absence, the academic appointee is required to certify that the total hours recorded in the timekeeping system are true and correct and represent their total hours worked and total absences for the pay period, including periods of leave without pay. Any misstatement or falsification of hours of time and leave reporting may be cause for disciplinary action up to and including termination.

4. Exempt Academic Appointees

The University will record leave used by exempt academic appointees in full-day increments, depending on the length of the leave. Exempt academic appointees on less than full-time status will have leave recorded in increments equal to that portion of a day they normally are scheduled to work. The foregoing does not apply when an academic appointee is taking family and medical leave on an intermittent or reduced schedule basis (see APM - 715-16-(2)).

b. Hours of Work

1. Exempt Academic Appointees

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For compensation purposes, the workweek for full-time exempt academic appointees is generally considered to be 40 hours, although greater emphasis is placed on meeting the responsibilities assigned to the position rather than working a specified number of hours. During the workweek, an exempt academic appointee is expected to work their regular schedule and to generally be available as business requires. To establish an appointment percentage for a part-time exempt academic appointee, the number of hours the academic appointee will generally be expected to work on a weekly basis as part of their regular schedule will be divided by 40 hours.

An exempt academic appointee is paid an established salary and is not eligible for premium overtime compensation. An exempt academic appointee may only receive additional compensation beyond the established salary for their position as provided in the Academic Personnel Manual Section IV. Salary Administration.

2. Non-Exempt Academic Appointees

For compensation purposes, the regular number of hours worked by a full-time, non-exempt academic appointee is 40 hours in a workweek. Work beyond 40 hours in a week is subject to premium overtime compensation.

A non-exempt academic appointee will maintain records of any over-schedule or overtime worked each day. Such time worked must be designated either as over-schedule time earned at the straight-time rate or as overtime earned at the premium rate.

a) Meal Periods

A non-exempt academic appointee whose total workday is at least five hours will be provided with a meal period of at least 30 minutes unless the academic appointee and their Supervisor agree to waive this period or unless operational considerations require the academic appointee to continue working during this period. An academic appointee must be completely relieved from duty during meal periods. Meal periods are neither time worked nor time in pay status.

b) Rest Periods

The Supervisor will grant a full-time academic appointee two 15-minute rest periods, one to be taken in the first half of the workday and one in the second half of the workday, unless operational considerations require the academic appointee to continue working during these periods. The Supervisor will grant a part-time academic appointee one 15-minute rest period for each work period of three continuous hours or more, not to

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exceed two rest periods per day, unless operational considerations require the academic appointee to continue working during these periods. Such rest periods are considered time worked.

c) Activities Before or After the Work Schedule

When the University requires an academic appointee to change into or out of uniform (donning and doffing), engage in special washing or cleaning procedures, or perform other activities on or at a University facility before or after the work period, the time spent in such activities is considered time worked.

d) Travel Time

Assigned travel during an academic appointee's normal working hours, including travel during corresponding hours on scheduled days off, is counted as time worked. Travel time between home and the workplace is not time worked.

- i. Time spent by an academic appointee traveling from work site to work site during the workday counts as time worked.
- ii. For travel that does not keep an academic appointee away from home overnight, travel time to the first destination and from the final destination, except for the time the academic appointee normally would spend traveling to and from the workplace, counts as time worked.
- iii. Travel that keeps an academic appointee away from home overnight is counted as time worked when it occurs during an academic appointee's normal working hours, including on scheduled days off.
- iv. Travel time outside of regular work hours while the academic appointee is a passenger is not time worked unless the academic appointee performs actual work during that time.
- v. If an academic appointee performs work while traveling (i.e., enroute to the destination), that time counts as time worked regardless of the method of transportation or hours during which it is performed.

- vi. If an academic appointee does not have regular working hours, the Supervisor will assign regular work hours for any workweek during which travel will occur for the purpose of identifying and tracking compensable travel time.

3. Lactation Break Period

The University will provide a reasonable amount of break time to accommodate an academic appointee each time they need to express milk or nurse. This includes academic appointees working remotely. Break schedules, including the frequency, duration, and timing of breaks, will vary depending on factors related to the lactating academic appointee and the child.

a) Exempt Academic Appointees:

The time provided for lactation break periods does not need to be recorded.

b) Non-Exempt Academic Appointees:

Non-exempt academic appointees may use their regular (paid) rest periods or their regular (unpaid) meal periods for lactation purposes. Supervisors are encouraged to allow flexible scheduling of regular rest periods, whenever possible, to accommodate lactation break periods. Additional reasonable lactation breaks must be provided if needed. Any additional lactation break time in excess of the academic appointee's regular rest periods during which no work is performed will be unpaid.

036-24 Authority

Any changes to the exempt/non-exempt salary threshold and any impact on the overall FLSA exemption status for academic job titles will be established at the systemwide level.

Appointments should use the FLSA exemption status assigned to the associated job title; however, the Chancellor is authorized to change the FLSA exemption status for individual appointments at their location, in compliance with the legal requirements of the FLSA, if (1) the position does not pass the FLSA salary basis test, or (2) the academic appointee holds more than one appointment and the associated job titles have different FLSA exemption statuses. The Chancellor may delegate this authority to the campus Vice Provost/Vice Chancellor for Academic Personnel/Academic Affairs who may delegate to the Associate Vice Provost/Vice Chancellor for Academic Personnel/Academic Affairs; no further redelegation is permitted.

036-26 Compliance

The Chancellor is responsible for overseeing compliance with this policy which includes:

- a. The Chancellor, or the Chancellor's designee, shall develop appropriate implementation procedures (e.g., APM - 036-06 b. Official Letters of Recommendation).
- b. Designating the local office responsible for the ongoing reporting of policy compliance.
- c. Being accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established.
- d. Reviewing the administration of this policy.

036-80 Procedures

This section establishes the procedures for evaluating and administering FLSA exemption status for academic appointees. It provides guidance on applying the salary threshold test, assessing multi-location and without-salary appointments, addressing affiliate arrangements, and determining the status of recall appointments. These procedures ensure that classification decisions are applied consistently, comply with federal law, and reflect the specific circumstances of each appointment.

a. Monitoring FLSA Status

Changes in appointment configuration may necessitate a re-evaluation of an employee's FLSA status.

1. Minimum Salary Threshold Test

The FLSA salary threshold test assesses whether an academic appointee earns at least a specific dollar amount per week. Bona fide teachers (e.g., professors, lecturers, extension teachers, K-12 teachers, readers, tutors, teaching assistants) and academic appointees in a bona fide professional capacity practicing law are exempt from this test.

- a) Annual pay rate and percentage of appointment are only general guides to ensuring satisfaction of the FLSA salary threshold test; actual regular earnings must be assessed.
- b) Minimum threshold calculations for titles with salary ranges and for academic appointees paid off- or above-scale must be done individually.

- c) Other factors of employment may affect FLSA status, including whether the academic appointee holds multiple concurrent appointments in different titles or receives a regular stipend that increases weekly earnings.
- d) If an academic appointee's percentage of time is increased or reduced permanently or for an extended time, the FLSA status should be reassessed.
- e) Frequent shifts in FLSA status are inadvisable; if available funding is expected to be insufficient to meet the minimum salary threshold for an entire fiscal year, the academic appointee should be classified as non-exempt and overtime eligible.

b. Multi-Location Appointments

For academic appointees holding concurrent appointments at more than one UC location, the academic appointees' primary duties as well as earnings from both locations must be considered when determining FLSA status.

c. Without Salary Appointments

Generally, without salary academic appointees not earning compensation from UC are not considered employees by the DOL and are not covered by the FLSA.

- 1. Holding a without salary teaching appointment does not automatically qualify an academic appointee as exempt (per the FLSA teaching exemption). For example, an academic appointee who also holds an administrative or research position paid below-threshold earnings will be classified as non-exempt even if holding a without salary teaching appointment.

d. Affiliate Appointments - UC Faculty

- 1. The terms of an affiliation agreement between UC and an affiliate govern the employment status of UC faculty placed at affiliate institutions (e.g., public hospitals, government agencies).
 - a) UC faculty placed at an affiliate institution who do not earn compensation from UC are not considered UC employees covered by the FLSA.
 - b) UC faculty placed at an affiliate institution who earn compensation from UC are considered UC employees covered by the FLSA.

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2. An affiliate employee holding a without salary UC faculty title who is appointed to a paid UC administrative position does not automatically qualify as an exempt employee (per the FLSA teaching exemption).
 - a) An administrative or research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a without salary teaching appointment.
 - b) Howard Hughes Medical Institute (HHMI) and Ludwig Institute investigators are employees of the HHMI or Ludwig Institute and are subject to the above affiliate provisions.
3. UC faculty with appointments split between UC and an affiliate may be classified as exempt or non-exempt depending on the academic appointee's primary duty. For an academic appointee to be designated as exempt, the primary duty at the University must be the performance of an exempt task.

e. Recall Appointments

1. Faculty recalled for teaching duties are exempt under the teaching exemption.
2. Non-faculty and faculty recalled for non-teaching duties are either exempt or non-exempt depending on the duties performed and salary earned.

Revision History

Month DD, 2025:

- Policy title updated to clarify that this document applies to academic employment specifically, and to formally finalize its status, removing the interim designation.
- Technical revisions to 036-0 a. Recruitment and 036-0 b. Selection to be inclusive of State contractor obligations and anti-discrimination efforts and remove references associated with specific Federal compliance obligations that no longer apply.
- New sections (e and f) added to section 036-0, reflecting the University's compliance with the Fair Labor Standards Act (FLSA), including the clarification of exempt and non-exempt academic appointee status. This update describes how University employment practices align with federal labor law standards, particularly concerning wage and hour provisions.
- Updated definitions and procedures throughout the document, providing clear and consistent language for FLSA categorization and compensation practices.

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- Technical revisions to letters of recommendation in response to California Education Code Section 66284, which governs the restriction on providing letters for employees involved in sexual harassment investigations.
- Addition of clear eligibility guidelines for determining exempt vs. non-exempt status, including factors such as primary duties, salary thresholds, and multi-location appointments, supporting better compliance and consistent treatment for academic employees.
- Updated compensation and timekeeping policies, addressing key aspects such as overtime, holiday pay, and recordkeeping requirements for non-exempt appointees.
- Included more detailed guidance on FLSA status evaluations, including monitoring salary thresholds, multi-location appointments, and affiliate appointments, providing greater clarity on compliance expectations.
- Clarifications on service obligations and leaves of absence in compliance with Regents Policy 7303, ensuring that academic appointees are fully informed of their rights and responsibilities with respect to leave usage and compensation.

June 1, 2010:

- Originally published as an interim policy in the Academic Personnel Manual, replacing Appendices B-1 and B-2 of APM - 035.

For details on prior revisions, please visit the policy issuance web page.