

Definitions of Types of Employees/Exemption Statuses:

Types of Employees

The various definitions of employees at West Virginia University come from the Higher Education Policy Education Commission (HEPC), as described in Series 8 on Personnel Administration:

“SECTION 2. DEFINITIONS

2.1 This subsection defines the different types of employment that institutions may use and the status under the classification program and for benefits.

*[WVU note: **Classified Employees:** Are those employees whose jobs are assigned to titles, job families and pay grades in the Higher Education Policy Commission pay system. Per § 18B-9-2 (a) Definitions: "Classified employee" or "employee" means any regular full-time or regular part-time employee of a governing board, the commission or the council, including all employees of the West Virginia Network for Educational Telecomputing, who hold a position that is assigned a particular job title and pay grade in accordance with the personnel classification system established by this article or by the Commission and council....]*

2.1.1 Full-Time Regular Employee (FTR). Any employee in a classified position created to last a minimum of nine months of a twelve month period and in which such employee is expected to work no less than 1,040 hours during said period. The full-time equivalent (FTE) of such a position must be reported at no less than .53 FTE. Such an employee is covered under the classification program set out by this rule and is eligible for all applicable benefits of a full-time regular classified employee, subject to the qualifying conditions of each benefit. Such benefits shall be prorated in relation to a 1.00 FTE. Length of service as a full-time regular employee with the State of West Virginia shall be credited toward initial placement on the salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

2.1.2 Part-Time Regular Employee (PTR). An employee in a position created to last less than 1,040 hours during a twelve-month period. An employee in a PTR position is not eligible for benefits, but is covered under the classification program.

2.1.3 Temporary Employee. An employee hired into a position expected to last fewer than nine months of a twelve month period regardless of hours worked per week. A temporary employee is not eligible for benefits, but is covered by the classification program.

Other types of Employment:

2.1.4 Casual Employee. A casual employee position is a position created to meet specific operational needs at an institution for no more than 225 hours in a 12-month period. Individuals in a casual employee position are not eligible for benefits and are not covered by the classification program.

2.1.5 Student Employee. An employee enrolled at the institution as a student and whose primary purpose for being at the institution is to obtain an education. A student employee is not eligible for benefits and is not covered by the classification program. [WVU note: Student workers at WVU are not permitted to work more than 20 hours per week while school is in session.

2.1.6 Full-Time Faculty - Employment as a faculty member for a full academic year (at least a nine-month contract basis) for at least six (6) semester credit hours teaching per semester or the equivalent in teaching, research, public service, and/or administrative responsibilities. Faculty are not considered classified employees or subject to the classification program. *

2.1.7 Non-Classified Employee. Per S.B. 439, a “non-classified employee” means an employee of an organization who holds a position that is not assigned a particular job and job title with in the classification system and meets one or more of the following criteria:
(1) Holds a direct policy-making position at the department or organization level;
(2) Reports directly to the president or chief executive officer of the organization; or
(3) Is in a position considered by the president to be critical to the institution pursuant to policies adopted by the governing board, not to exceed more than ten percent of its total number of classified and non-classified employees.

By July, 2016 the total percentage of personnel placed in the category of “non-classified” may not exceed twenty five percent of the total number of classified and non-classified employees of that organization that are eligible for membership in the state retirement system of WV. The bill further states that no non-classified employee shall have his or her current annual salary reduced if his or her position is redefined as a classified position solely to meet the requirements of the bill.

FE/AP's:

In addition, WVU recognizes another category of faculty employee typically utilized in most United States institutions of higher education, the Faculty-Equivalent/Academic Professional (FE/AP). Employees in this general category are faculty-equivalent in such areas as teaching, research, public service, Extension Services, coaching and/or administrative responsibilities. (They are considered and treated like faculty in most ways, in particular in regard to leave and annual increment.) This group is further broken into two sub-categories: FE's (Faculty-Equivalents) are those primarily assigned to academic units, whose work/duties are academic in nature; AP's (Academic Professionals) are those who are assigned to administrative or operational units, whose work is predominantly administrative in nature. Currently, it is the Provost's Office that determines the eligibility of a position as FE/AP.

*Further information on faculty ranks and definitions can be found in the WVU Board of Governors Policy 2 under Section 3: “Faculty: Ranks and Definitions” at <http://bog.wvu.edu/r/download/7515>.

Exemption Statuses

The federal Fair Labor Standards Act (FLSA), enacted by the United States Congress in 1938, establishes minimum wage, overtime pay, child labor, equal pay and recordkeeping standards for employees who are covered by the act and not exempt from specific provisions therein. Per the overtime pay standards noted above, all employees are either exempt from overtime provisions, or they are non-exempt and covered by the overtime provisions. Exemption status of positions at WVU is set by the Classification and Compensation unit based upon the salary test (i.e., positions paid less than \$23,660 annually or \$455 per week are automatically non-exempt) and the three accepted standards or tests under the FLSA: Executive, Administrative or Professional status. It is entirely possible for two WVU positions with the same job title to

have different FLSA exemption statuses, as the duties of a job determine its overtime status and not title.

Exempt - Positions designated as exempt are those that are not subject to the minimum wage and overtime provisions set forth in the FLSA. Exempt positions are paid a set salary regardless of the hours worked in a workweek and are not eligible for overtime pay for hours worked in excess of 40 in a work week.

Examples of exempt positions at WVU include vice presidents, faculty/teaching positions, accountants, most professional technologists and administrators.

Non-Exempt - Positions designated as non-exempt are subject to the minimum wage and overtime provisions set forth in the FLSA; that is, they are overtime eligible. Non-exempt positions are required to be paid at least the current minimum wage and must be compensated for hours worked in excess of 40 in a work week. Payment for hours worked between 37.5 and 40 at WVU are compensated at the employee's regular rate of pay (i.e., straight time), but hours over 40 in a work week are compensated at a rate of one and one-half the employee's regular rate of pay (i.e., time and a half) Public employers such as West Virginia University are permitted by law to compensate non-exempt employees with compensatory time off (CTO) in lieu of payment, provided that the department chooses to offer CTO and there is a signed written document in which the employee agrees to accept CTO in lieu of overtime. Federal law does not require public employers to offer CTO in lieu of payment for hours over 40, but they are permitted to offer this alternative if they wish.

Examples of non-exempt positions include campus service worker, secretary, accounting clerk, trades specialist and nursing assistant.

More information –

<http://www.dol.gov/whd/flsa/> – For information on the Fair Labor Standards Act.

<http://wvhepcdoc.wvnet.edu/resources/133-8final.pdf> - For the complete HEPC Series 8 Procedural Rule.