

 <p>Category: HR / Labor Relations</p> <p>Responsible Office: <u>Human Resources</u></p>	<p><b>Procedure Title:</b> Student Assistant Positions</p> <p>Document Number: 8300</p> <p>Effective Date: September 01, 2014</p> <p>This procedure item applies to: State-Operated Campuses</p>
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### Summary

Student Assistant positions are established for the purpose of giving financial support to students while at the same time accomplishing necessary work for the campus. This procedure sets forth guidelines on the use of Student Assistant positions at the State-operated campuses.

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### Process

#### Appointment Criteria:

Student Assistants are part-time positions in the non-competitive class of Civil Service with non-statutory salary rates and are not assigned to a bargaining unit. No fringe benefits are provided to individuals in these positions, unless specifically noted in the procedure. Their work status is temporary and no long-term commitments are possible. Student assistants are paid at an hourly rate only for hours actually worked.

Student Assistants must be paid at least the federal minimum wage. The maximum rates are communicated via email to the campuses by the Office of University-wide Human Resources.

Individuals assigned to these positions during the academic year must be regularly enrolled students of the State University of New York. Campus policy may define "regularly enrolled." This includes state-operated campuses, statutory campuses, and community colleges.

Individuals assigned to these positions over the summer must be enrolled in the State University of New York for summer classes or for the upcoming fall semester.

Each campus should divide student assistant positions into various levels of difficulty with appropriate pay ranges established, such as:

1. Minimum level of specialized skills or previous work under the immediate supervision of an experienced employee. Only minimum training normally required.

2. Previous related experience required. Duties usually require considerable skill. Skills normally obtainable in previous work assignments, educational classes, or hobbies.
3. Para professional assignments. Expertise required, often as a result of student college training. Usually related to the student's instructional program.

**Work Eligibility:**

Student assistant employment at all times, including semester breaks and during the summer is limited to a maximum of 29 hours per week combined.

Campuses may limit student assistant hours of employment to 20 hours per week while classes are in session based on campus policy. Students who are in good academic standing may be allowed to work more than 20 hours (but not more than 29 hours) a week based on campus policy. Students who are struggling academically should continue to be limited to 20 hours per week.

International students are limited per USCIS regulations to working no more than 20 hours per week while classes are in session.

Student assistants may work more than one job on the student assistant payroll on campus if campus policy allows the practice. However, campuses must have procedures in place to ensure that the above maximum number of hours per week is not exceeded for combined hours in the jobs.

**Benefits:**

Student Assistants do not qualify for benefits with the following exceptions:

1. Student assistants are eligible to enroll in the New York State Employees' Retirement System. Enrollment currently requires a 3% contribution to the Retirement System for students. The equivalent of ten years of full-time service is needed to become eligible for pension benefits.
2. Student assistants injured during the performance of their duties are covered by New York State's worker's compensation policy.

**Jury Duty:**

A 1991 amendment to the State Judiciary Law, Section 519 gives New York State employees ineligible for paid leave, (hourly employees, student employees, etc) who would normally receive no wages for time spent on jury duty, entitlement to certain payments. Specifically, when employees not eligible for leave are called to jury duty, the employer must pay the employee up to **\$40.00** a day for the first three days of jury duty which conflict with the employee's regular work schedule. Proof that such absences are required must be submitted.

OSC Payroll Bulletin No. P-976 addresses this issue. Please be advised that the time entry code for this transaction is JUR.

**Military Leave:**

Student assistants are eligible for military leave under Section 242 of the New York State Military Law. Campuses should refer to Civil Service General Information Bulletin 2001-04 and Advisory Memo 2001-06 for additional information.

**Meal Breaks:**

A meal break of a minimum of 30 minutes of unpaid time must be taken when a student assistant works more than 6 consecutive hours. This unpaid break must be recorded on the timesheet.

**Timesheets:**

Student assistants are required to complete a biweekly timesheet for each job they are working. Each timesheet must be approved by the supervisor. Additional processing instructions should be provided by the campus.

**Student FICA (Social Security and Medicare) Exemption:**

Section 3121(b)(10) of the Internal Revenue Code sets forth an exemption from FICA tax for employees of schools, colleges, and universities who are enrolled and regularly attending classes at those institutions. Only those student employees who provide services that are "incident to and for the purpose of pursuing a course of study" and whose educational relationship with the school predominates over the person's employee relationship will qualify.

In addition to its regulations, the IRS has issued Revenue Procedure 2005-11, which sets forth certain "safe harbor" tests that, if met, will deem the student-employee to be exempt from FICA tax. In other words, if the student employee qualifies under these safe harbor rules, the person will be treated as exempt from FICA tax without the necessity of looking to the "facts and circumstances" test. The IRS recognizes that it may be possible for an individual to not meet the Revenue Procedure 2005-11 safe harbor tests and still qualify for the student FICA exemption by looking at the facts and circumstances surrounding the student's employment. As a general rule, the policy of the University will be to make student FICA determinations based on Revenue Procedure 2005-11 safe harbor guidelines; that is, those student employees who meet these guidelines will be treated as exempt from FICA tax, while those student employees who do not will be subject to FICA tax on their wages.

Under Revenue Procedure 2005-11 safe harbor rules, a wage payment made by the campus to an individual who (a) is at least a half-time undergraduate student or at least a half-time graduate or professional student, (b) is not a full-time employee of the campus, (c) is not a "professional employee" and (d) does not receive certain specified employment benefits, will qualify for the student FICA exemption.

International students are exempt from Social Security and Medicare under IRC Section 3121(b)(19) if they are:

1. A nonresident alien;
2. Present in the U.S. under an F, J, M, or Q visa;
3. Performing services in accordance with the primary purpose of the visa's issuance (i.e. the primary holder of the visa, the "-1").

**Unemployment Insurance:**

Per Section 511:15 of the N.Y. Unemployment Insurance Law, (Students and students' spouses at educational institutions) the term "employment" does not include services rendered for an educational institution by a person who is enrolled and is in regular attendance as a student in such an institution, or the spouse of such student employed by that institution if such spouse is advised at the beginning of such services that the employment is provided under a program of financial assistance to such student.

<http://www.labor.ny.gov/ui/dande/title2.shtm>

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**Forms**

There are no forms relevant to this procedure.

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**Related Procedures**

There are no related procedures relevant to this procedure.

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**Other Related Information**

There is no other information relevant to this procedure.

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**Authority****Federal:**

Internal Revenue Bulletin: 2005-2, January 10, 2005, Rev. Proc. 2005-11.

26 U.S. Code § 3121, Internal Revenue Code definitions.

United States Department of Homeland Security, U.S. Citizenship and Immigration services, website on Foreign Students.

**State:**

N.Y. JUD. LAW § 519 : NY Code - Section 519: Right of juror to be absent.

New York State OSC Payroll Bulletin No. P-976.

N.Y. MIL. LAW § 242 : NY Code - Section 242: Rights of public officers and employees absent on military duty as members of the organized militia or of reserve forces or reserve components of the armed forces of the United States.

N.Y. LAB. LAW § 511. NY Code - Section 511: Employment. Section 511:15 of the N.Y. Unemployment Insurance Law.

New York State Workers Compensation Board, New York State Workers' Compensation law website, Who Is Covered By The Workers' Compensation Law?

N.Y. WKC. LAW § 2 : NY Code - Section 2: Definitions.

N.Y. WKC. LAW § 3 : NY Code - Section 3: Application.

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**History**

This SUNY Procedure was communicated via email to the Chief HR Officers, the HR list, and the Payroll list by the SUNY System Administration Director of University-wide Human Resources on August 26, 2014.

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**Appendices**

There are no appendices relevant to this procedure.