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Title AFFORDABLE CARE ACT/EMPLOYER-SHARED RESPONSIBILITY			

1. PURPOSE AND SCOPE

The purpose of the policy is to specify a measurement method which shall be used by the College to determine full-time employee status under the “Employer-Shared Responsibility” provision of the Affordable Care Act (ACA); the categories of employees to which the method applies; the length of the measurement method period; and the treatment of employees upon return from paid or unpaid leave.

2. POLICY

It is the policy of the College to use the Look-Back Measurement Method, starting May 1, 2014, for both hourly and salaried employees. The measurement method selected for a category of employees applies to all employees in that category, whether they work full-time, part-time, have variable hours, or are seasonal employees.

3. DEFINITIONS

- 3.1 Affordable Health Coverage:** Health coverage is considered “affordable” if an employee’s share of the monthly cost for self-only coverage is not more than 9.5 percent of the employee’s monthly income from the employer (there are two alternative calculations of monthly income) or not more than 9.5 percent of the “Federal Poverty Level” for one.
- 3.2 Minimum Value:** Minimum value is met if the plan pays on average at least 60 percent of the total allowed benefits under the plan (this amount does not include premiums) and the participant does not pay more than 40 percent of the total actuarial value of the plan.
- 3.3 Full-time Employee:** One who works an average of at least 30 hours per week or 130 hours per month.
- 3.4 Monthly Measurement Method:** A method to track hours for eligibility by averaging total amount of hours worked, per month. Under this method, if an employee works at least 130 hours in a calendar month, the employee is eligible for coverage the following month. This method applies (temporarily) to new hires who at the time of hire are reasonably expected to be full-time.
- 3.5 Look-Back Measurement Method:** A method to track hours for eligibility by averaging total amount of hours worked over a period of 12 months. Under the ACA, an employer may choose a period of anywhere between 3 and 12 months. There are two kinds of Look-Back Measurement Methods:

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3.5.1 Standard Measurement Period: Used to track hours for ongoing employees. For the purposes of this policy, the College has chosen a standard measurement period of 12 months.

3.5.2 Initial Measurement Period: Used to track hours for all newly hired employees except for those employees who at the time of hire are reasonably expected to work full-time. The College has chosen an initial measurement period of 12 months.

3.6 Standard Administrative Period: A two-month time period which allows employers time to total and average the hours of service of each employee during the standard measurement period, notify eligible employees, explain coverage available under the plan, answer questions, collect materials from employees, and enroll employees who elect coverage before day one of the standard stability period.

3.7 Standard Stability Period: A 12-month time period during which the employer must offer coverage to all newly-hired employees who worked on average at least 30 hours per week or 130 hours per month during the initial measurement period. The employer must offer coverage regardless of the hours newly-hired employees actually work during the initial stability period, unless they cease to be employed by the employer.

3.8 Seasonal/Temporary Employees: For purposes of this policy, is defined as one in a position for which the customary annual employment is six months or less.

3.9 Customary Annual Employment: Typically working each calendar year in approximately the same part of the year, such as summer or winter.

3.10 Rule of Parity: One of two optional rules under the ACA an employer may use to determine whether a rehired employee or an employee returning from unpaid leave should be identified as an ongoing employee or as a newly hired employee. Under this rule and in certain circumstances, an employer may treat a rehired employee who has had a break of at least four consecutive weeks as a new employee. However, if under the rule the employee must be identified as an ongoing employee, an employee must be given credit for hours of service preceding the break in service and within the measurement period.

4. REFERENCES

- Affordable Care Act (ACA)/Employer Shared Responsibility provision

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1. Newly-hired Employees Reasonably Expected to Work Full-time

- 1.1** The College Human Resources Department shall temporarily track hours using the Monthly Measurement Method (even though the Look-Back Measurement Method would otherwise apply) for new-hires who are reasonably expected at date of hire to be full-time employees. These employees shall be offered medical coverage no later than the first day of the month following one full calendar month.
- 1.2** The Human Resources Department shall continue to track hours of the new employee (who is reasonably expected to work full-time) on a monthly basis until the new employee becomes an “ongoing” employee. On the first day of the first Standard Measurement Period after hire, the employee’s hours shall also be tracked using the Standard Look-Back Measurement Method. Specifically:
- 1.2.1** On first day of work, employee’s hours shall be tracked using the Monthly Measurement Method.
- 1.2.2** On first day of the first Standard Measurement Period after date of hire, an employee’s hours shall also be tracked using the (Standard) Look-Back Measurement Method.
- 1.2.3** The employee’s hours shall continue to be tracked using both the Monthly Measurement Method and the Look-Back Measurement Method until the last day of the first Standard Measurement Period after hire.
- 1.2.4** On the last day of the first Standard Measurement Period after hire, the new employee becomes an “ongoing” employee.
- 1.2.5** When the new employee becomes an “ongoing” employee, the employee’s hours shall be tracked using only the Look-Back Measurement Method. The Monthly Measurement Method shall no longer be used for this employee.

2. Seasonal Employees

If the College hires an employee who falls within the definition of a seasonal employee, the employee, whether or not expected to work full-time at the time of hire, shall be treated differently from other newly-hired employees reasonably expected to work full-time. When newly hired, the seasonal employee shall have his or her hours tracked using the Initial Look-Back Measurement Method.

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3. Employer Discretion to Change Measurement Method and Period for Future Years

- 3.1** For future years, the College may change the categories of employees for whom it shall apply the Monthly Measurement Method or the Look-Back Measurement Method or may elect to use a Look-Back Measurement Period, Administrative Period, or Stability Period of a different length or with a different start date than indicated above.
- 3.2** Election to change methods shall be effective only as of the first day of a Standard Measurement Period and not in the middle of a measurement cycle.

4. Ongoing Employees

- 4.1** The College has made the following elections regarding the Measurement, Administrative and Stability Periods in the Standard Look-Back Measurement Method for ongoing employees:
- 4.1.1** The College has opted to use a 12-month Standard Measurement Period starting on 5/1/2014 and ending on 4/30/2015. This shall repeat each year.
- 4.1.2** The College has opted to use a 2-month Standard Administrative Period starting on 5/1/2015 and ending on 6/30/2015. This shall repeat each year.
- 4.1.3** The College has opted to use a 12-month Standard Stability Period starting on 7/1/2015 and ending on 6/30/2016. This shall repeat each year.

5. New Hires

- 5.1** New hires who are reasonably expected to work full-time:
- 5.1.1** Until a newly hired full-time employee who is reasonably expected at date of hire to work full-time becomes an ongoing employee, the Look-Back Measurement Method shall not be used. The Human Resources Department shall temporarily track these employee hours using the Monthly Measurement Method even though the Look-Back Measurement Method would otherwise apply and shall offer coverage on the first day of the following month.
- 5.1.2** The College shall continue to track hours on a monthly basis until the new employee becomes an “ongoing” employee.

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5.2 All other new hires, NOT reasonably expected to work full-time:

- 5.2.1 Initial Measurement Period:** The College has opted to use a 12-month Initial Measurement Period which shall begin the first of the month after a newly-hired employee begins working.
- 5.2.2 Initial Administrative Period (not split):** The College has opted to use a one-month Initial Administrative Period which shall not be split but shall start immediately after the Initial Measurement Period ends and before the Initial Stability Period begins.
- 5.2.3 Initial Stability Period:** The College has opted to use a 12-month Initial Stability Period which shall start immediately after the associated Administrative Period ends. Health coverage shall be offered during the associated Initial Administrative Period to employees whose hours averaged 130 hours or more per month during the associated Initial Measurement Period. Coverage shall be effective on the first day of the Initial Stability Period.
- 5.2.4** The combined passage of time between a newly-hired employee's start date and the date the newly-hired employee is offered health coverage (if eligible, shall not exceed more than 13 months, plus an additional partial month). In other words, the Initial Measurement Period and the Initial Administrative Period combined shall not exceed 13 months, plus an additional partial month.
- 5.2.5** In addition to tracking hours through the Initial Measurement Period, new hires shall also have their hours tracked through the first Standard Measurement Period that starts after the date of hire, i.e., for a limited period of months, both the Initial Look-Back and the Standard Look-Back Measurement Methods shall be used at the same time. After one full Initial Measurement/Administrative Stability period is complete, a newly-hired employee becomes an ongoing employee. The College shall stop using the Initial Measurement period and continue tracking hours using only the Standard Measurement Period.

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6. Treatment of Employees Who Leave and Then Return to Work Under Both the Monthly Measurement Method and Look-Back Measurement Method

6.1 Employees Returning from Paid Leave

When using the Look-Back Measurement Method and/or the Monthly Measurement Method to track employee hours, an employee's "hours of service" shall include hours of paid leave (e.g. sick or vacation time) used by an employee during a month or during a Look-Back Measurement Period even though the employee did not actually work those hours.

6.2 Employees Returning from Regular Unpaid Leave

6.2.1 The College shall determine whether employees returning from unpaid leave are identified as "ongoing employees" or "newly- hired employees."

6.2.2 The College is using the Rule of Parity to determine whether the returning employee is still an "ongoing" employee or whether the employee should be identified as a "newly-hired" employee.

6.2.3 The College has opted to use the Look-Back Measurement Method for all categories of employees.

6.2.3.1 Unpaid Leave for More than 26 Weeks: Employees who return from unpaid leave of more than 26 consecutive weeks shall be considered newly-hired employees upon return to work and hours shall be measured using the Initial Look-Back Method.

6.2.3.2 Unpaid Leave for Four Weeks or Less: Employees who return from unpaid leave of not more than four consecutive weeks shall be considered ongoing employees upon return to work and shall be placed back in the Standard Measurement and Stability Period they were in before the break.

6.2.3.3 Unpaid Leave for between 4-26 Weeks:

6.2.3.3.1 Considered a newly-hired employee: If the number of unpaid weeks is **greater** than the number of weeks worked prior to the unpaid absence, employee is considered newly hired and hours shall be measured using the Initial Measurement Period beginning on the

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date the employee has at least one paid hour of work after returning from unpaid leave.

6.2.3.3.2 Considered ongoing employee: If the number of unpaid weeks is less than the number of weeks worked prior to the unpaid absence, employees shall be considered ongoing employees and shall be placed back in the Standard Measurement/Stability Period they were in before the break.

6.2.3.3.3 For newly hired full-time employees whose hours are currently measured using the Monthly Measurement Method pursuant to section 1 but shall thereafter have hours tracked using the Look-Back Measurement Method:

6.2.3.3.3.1 Unpaid Leave for More than 26 Weeks:

An employee who returns from unpaid leave of more than 26 consecutive weeks shall be considered a newly-hired employee upon return to work and hours shall be measured using the Monthly Measurement Method.

6.2.3.3.3.2 Unpaid Leave for Four Weeks or Less:

An employee who returns from unpaid leave of not more than four consecutive weeks shall be considered an ongoing employee upon return to work and hours shall be measured using the Monthly Measurement Method. However, because hours shall be tracked using the Monthly Measurement Method, no prior service hours shall be credited unless an employee returns within the same month the employee left.

6.2.3.3.3.3 Unpaid Leave for between 4-26 Weeks:

6.2.3.3.3.3.1 Considered a newly hired employee: If the number of unpaid weeks is greater than the number of weeks worked

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prior to the unpaid absence, employee is considered newly hired and hours shall be measured under the Monthly Measurement Method beginning on the date the employee has at least one paid hour of work after returning from unpaid leave.

6.2.3.3.3.2 Considered an ongoing employee: If the number of unpaid weeks is **less** than the number of weeks worked prior to the unpaid absence, employee shall be considered an ongoing employee and hours shall be measured using the Monthly Measurement Method. However, because hours shall be tracked using the Monthly Measurement Method, unless an employee returns within the same month the employee left, no prior service hours shall be credited.

7. Rule of Parity

Length of Unpaid Leave	Treatment Upon Return
More than 26 weeks	Treat as a new hire; count only hours of service after return from leave
More than 4 weeks and up to 26 weeks	Treat as an ongoing employee, if hours on leave are <u>less than</u> hours of service prior to leave Treat as a new hire, if hours on leave are <u>more than</u> hours of service worked prior to leave
Not more than 4 weeks	Treat as an ongoing employee, and count hours of service before and after the leave

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8. Determining Timing of Benefits Upon Return from Regular Unpaid Leave

8.1 For Those Identified as Ongoing Employees: If determined under 6.2 to be ongoing employees upon return, hours shall be measured using the appropriate Measurement Method they were in before the break as described above.

8.1.1 If employees return to work and are identified as full-time employees (after calculating the average monthly hours worked during the appropriate Measurement Method), they shall be offered coverage immediately (as soon as administratively feasible and no later than the first day of the next month—there is no waiting period) and treated as full-time employees through the end of the Standard Stability Period (if using the Look-Back Measurement Method) or through the end of the month (if using the Monthly Measurement Method).

8.1.2 If employees return to work and are identified as part-time employees (after calculating the average monthly hours worked during the appropriate Measurement Method), they need not be offered coverage immediately. Instead, the employer would continue to track hours and shall calculate again at the end of the current measurement period to determine eligibility.

8.2 For Those Identified as a Newly-Hired Employee: If determined under 6.2 to be a newly-hired employee upon return, no prior hours of service shall be credited. Hours shall be measured using the appropriate Measurement Method for newly-hired employees as described in section 1 beginning on the date the employee had at least one paid hour of work after returning from the break.

9. Employees Returning from Special Unpaid Leave

An employee returning from “special unpaid leave” due to FMLA, military duty, or jury duty or due to break periods of least four consecutive weeks shall be considered an ongoing employee upon return, regardless of the amount of weeks absent. Hours of service accumulated prior to the absence shall be credited, and hours of service during the absence shall also be credited as if the employee had not been absent, based on average hours actually worked prior to absence. Because the employees shall be considered ongoing employees upon return, they shall be placed back in the Look-Back Measurement period/Monthly Measurement period and benefits shall be offered if appropriate.

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- 10.** If employees return to work and are treated as full-time employees (after calculating the average monthly hours worked during the appropriate Measurement Method), they shall be offered coverage immediately (as soon as administratively feasible and no later than the first day of the next month) and treated as full-time employees through the end of the Standard Stability Period (if hours are being tracked under the Look-Back Measurement Method) or through the end of the month (if hours are tracked under the Monthly Measurement Method).