A. PURPOSE

The purpose of this policy is to identify a specific category of part-time employment with the University and define the terms and conditions under which this type of exempt employee works.

B. AUTHORITY

Code of Virginia Section 23.1-1301, as amended, grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 6.01(a)(6) of the Board of Visitors Bylaws grants authority to the President to implement the policies and procedures of the Board relating to University operations.

C. DEFINITIONS

Conflict of Interests - A personal interest by a University employee or the employee’s immediate family member in a contract or transaction to which Old Dominion University is a party.

Employee - A person who is hired to provide dependent personal services to the University on a regular basis in exchange for compensation. The University has the right to control and direct the person regarding the result of the work to be accomplished and the details, methods and means by which that result is accomplished. An employee is subject to income tax withholding and is paid through the payroll process.

Exempt Employee/Position - An employee who is not subject to the provisions of the Federal Fair Labor Standards Act (FLSA). The position meets the FLSA job duties exemption test and the employee’s salary meets the FLSA salary basis exemption test. Such employees are normally in management or professional positions.

Hiring Supervisor - The management level with the authority to hire, assign work, manage work schedules, approve leave, evaluate, and discipline employees.

Independent Contractor - An independent contractor provides independent personal services. A person is considered an “independent contractor” when the work is controlled only in regard to the results and not the means of achieving them. Typically, when a person is an independent
contractor, he or she bears the risk of profit or loss directly from his/her efforts, may hire assistants, and may provide services to more than one employer at a time. An independent contractor is not subject to income tax withholding and is paid through the Accounts Payable process. If a person meets this definition, then the Independent Personal Services Certification Form and related paperwork available from the Office of Finance should be completed.

**Non-instructional Part-time Faculty Employee** - A person hired in a part-time non-teaching and non-research position with responsibilities that are comparable to administrative and professional faculty. This category is also referred to as “4031”, which is the budget subaccount code used to designate the funding for this type of employee.

**Performance Testing** – Written validation that the work for which the employee was hired has been performed and documented.

**D. SCOPE**

This policy applies only to the hiring of employees of the University in a non-teaching and non-research exempt position to meet seasonal, temporary, part-time, or casual workforce needs. (Non-exempt positions are covered under the Wage Employment Policy, #6024.)

**E. POLICY STATEMENT**

It is in the best interest of the University to hire the best-suited candidate to do the work needed. ODU is an equal opportunity employer and a competitive recruitment process helps to ensure equal opportunity and results in the selection of the best-suited candidate at a reasonable level of compensation.

Non-instructional part-time faculty serve an important role in the fulfillment of the mission of the University. If the term of employment is expected to be greater than 12 months, then written approval by the President is required before hiring the employee.

**F. PROCEDURES**

It is in the best interest of the University to hire the best-suited candidate to do the work needed. ODU is an equal opportunity employer and a competitive recruitment process helps to ensure equal opportunity and results in the selection of the best-suited candidate at a reasonable level of compensation.

Non-instructional part-time faculty serve an important role in the fulfillment of the mission of the University. If the term of employment is expected to be greater than 12 months, then written approval by the President is required before hiring the employee.

1. The Hiring Supervisor, in consultation with the Office of Academic Affairs or the Department of Human Resources, shall determine, according to University policies and procedures, whether to hire a salaried employee with benefits, a part-time employee, or an independent contractor. If an independent contractor is considered, the related forms and checklists on worker classification available from the Office of Finance should be completed to ensure compliance with IRS requirements.

2. When considering what type of employee to hire, the hiring supervisors in academic areas should consult with the Office of Academic Affairs; hiring supervisors in other university
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areas should contact or the Department of Human Resources for guidance in making the appropriate determination.

3. No search is necessary to hire a non-instructional part-time faculty employee.

4. No non-instructional part-time faculty employee is permitted to work more than 2930 hours per week.

5. All non-instructional part-time faculty employees with a potential conflict of interests are required to complete the Conflict of Interests/Dual Reporting Form to advise the University of the potential conflict.

6. The hiring of non-instructional part-time faculty employees must be approved by the Department/School Head, or Chair, or Dean.

7. The salary paid must be a minimum of $455 per week in order to comply with the FLSA salary basis test required for exempt positions. If the salary basis test is not met, the Hiring Supervisor must maintain time sheets documenting the hours worked on a daily basis.

8. In certain circumstances, administrative, professional and computer employees may be paid on a “fee basis” rather than a salary basis when the employee is paid an agreed sum for a single job regardless of the time required for its completion. To determine whether the fee payment meets the minimum salary level requirement in 7., the test is to consider the time worked on the job and determine whether the payment is at a rate which would equate to at least $455 per week if the employee worked 40 hours. An example is an artist paid $250 for a picture that took 20 hours to complete. This meets the minimum salary requirement since the rate would equate to $500 if 40 hours were worked.

9. If the sum paid in one year (from the date of hire) is expected to exceed $25,000, the approval of the appropriate Vice President is required.

10. If the sum paid in one year (from the date of hire) is expected to exceed $35,000, the approval of the President is required.

11. Once a non-instructional part-time faculty employee has served 12 months, that employee cannot be continued unless written approval is obtained from the President. The request for an extension should be submitted to the appropriate Vice President for approval and then submitted to the Department of Human Resources Office of Institutional Equity and Diversity. The Department of Human Resources Office of Institutional Equity and Diversity will make a recommendation to the President and the President’s decision is final. If the request for an extension is denied, a position should be established as full-time or part-time salaried with benefits and a competitive job search conducted. The employee is eligible to apply and compete for the position. If funding is not available to establish the salaried position, the employee should be separated from employment.

12. In the case of a non-instructional part-time faculty employee hire in a unit or department that is in the reporting line of the Provost and Vice President for Academic Affairs, all employment forms shall be submitted to the designee of the Provost and Vice President for Academic Affairs. These forms shall include, but are not limited to, the Temporary Employment Data Form (4031) and all required new hire forms and related documents.
13. In the case of a non-instructional part-time employee hire in all other units or departments other than those that are in the reporting line for the Provost and Vice President for Academic Affairs, all employment forms shall be submitted to the Human Resources Staffing and Operations Manager. These forms shall include, but are not limited to, the Non-Instructional Part-Time Faculty Temporary Employment Payroll Form (4031), and all required new hire forms and related documents.

14. It is the duty of the Department/School Head, or Chair or Dean to verify and document the delivery of the employee’s services to the University and the completion of all assigned work. This will include written goals, performance testing, and expected outcomes.

G. RECORDS RETENTION

Applicable records must be retained and then destroyed in accordance with the Commonwealth’s Records Retention Schedules.

H. RESPONSIBLE OFFICERS

Director of Total Compensation and Staffing, Department of Human Resources
Provost and Vice President for Academic Affairs and Vice President for Human Resources

I. RELATED INFORMATION

State and Local Government Conflict of Interests Act, Code of Virginia Section 2.2-3100 et seq., as amended
Virginia Public Procurement Act, Code of Virginia Section 2.2-4300 et seq., as amended
University Policy 6024 – Wage Employment Policy
University Policy 6130 - Policy for Direct Employment of Wage Employees
Worker Classification Review Process, ODU Office of Finance