

**Policy 1325  
Wage Employment**

**Date of Current Revision: June 2022  
Responsible Officer: Director of Human Resources**

**1. PURPOSE**

It is the policy of the university to employ qualified persons for wage employment in order to meet personnel needs as outlined herein. The objective of this policy is to define wage employment and to outline the conditions of employment for wage employees.

**2. AUTHORITY**

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

**STATE OR FEDERAL STATUTE AND/OR REGULATION**

Wage employees are not covered by the Virginia Personnel Act provided in section 2.2-2905 of the Code of Virginia.

See the Restructured Higher Education Act (Chapter 4.10 of Title 23 of the Code of Virginia), as well as IRS code section § 4980H.

**3. DEFINITIONS**

**At-Will Employment**

An employee/employer relationship that can be terminated by either party at any time with or without cause. An at-will employee may resign from work or be terminated from work, with or without cause, with or without severance, or without advance notice. Wage employees are at-will employees.

**Standard Measurement Period**

Under the Affordable Care Act, JMU must identify a retroactive measurement, or “look back” period, in order to determine which employees will meet the Act’s definition of “full-time” employee and must offer healthcare coverage in order to avoid significant tax penalties. The Commonwealth of Virginia has determined the period to be the 12-month period of May 1 - April 30.

**Wage Employment**

Employment within the university to meet part-time, temporary or seasonal needs. Wage employees shall not exceed an average of 29 hours per week and are limited to working no more than 1,500 hours over the standard measurement period, the 12-month period of May 1 - April 30.

#### 4. APPLICABILITY

This policy applies to all non-student wage employees and, where applicable, their supervisors.

#### 5. POLICY

Wage employment is intended to provide additional staff for part-time, seasonal, peak workloads, interim replacements, short-term projects or jobs that do not necessitate the employment of full-time classified employees. Wage employees shall be hired strictly on a part-time, at-will basis.

The university will recruit, select and hire wage employees in accordance with federal and state law and university Policy [1313](#) – Classified and Wage Positions – Recruiting, Selecting and Hiring. An offer of employment is contingent on the results of a criminal history investigation. See Policy [1321](#) - Criminal Background Checks. As part of the Onboard process, employees must present appropriate documentation in a timely manner to comply with requirements of the Form I-9 and the E-Verify system. See Policy [1326](#) - Immigration Reform and Control Act.

Wage employees may apply for any vacancy, including university-only recruitments; however, when hired into a classified position, service as a wage employee does not count toward any form of continuous state service. Wage employees entering full-time employment must serve a probationary period.

Wage employees are expected to satisfactorily perform all assigned duties. While wage employees are not subject to formal performance evaluations, supervisors will monitor wage employee performance and provide informal performance evaluation and coaching as needed.

#### 6. PROCEDURES

6.1 All newly hired and rehired wage employees must be cleared for hire upon review of the ePAR by HR's Onboard Specialist in Recruitment and Employment Services prior to their first day of employment/re-employment. Supervisors must confirm via the ePAR routing notification that new wage employees have completed the onboard process including compliance with the Form I-9 requirements.

6.2 Wage employees shall have their hours of work limited to 29 hours per week on average and to a total of 1,500 hours during the 12-month period of May 1-April 30. With supervisor approval, wage employees may temporarily exceed 29 hours per week; however, these employees may not exceed the 29 hours per week average or the 1,500-hour limit.

*All wage work hours will be combined. Wage employees working two or more jobs at the university may only work a combined total of 1,500 hours during the 12-month period. See JMU Financial Procedures Manual Sections [5005.312](#) and [5005.413](#) for applicable procedures.*

6.3 According to Affordable Care Act (ACA) regulations, the university shall not rehire a former JMU full-time employee into a wage position until the employee has separated for a minimum of 26 weeks. Hiring supervisors should contact their HR Consultant or Recruitment Specialist for assistance when making re-hire decisions on any JMU employee recently

employed in a full-time position at JMU and who wishes to return to JMU in any part-time capacity.

- 6.4 Wage employees should only remain active in the Human Resources Management System (HRMS) during the period of actual employment and thereby retain any rights and privileges of active wage employees. Wage employees that have not worked any hours for more than 60 days or four pay periods (whichever is greater) must be separated.

On a monthly basis, Human Resources will notify supervisors of wage employees who have not worked any hours in the preceding 60-day period to request completion of an ePAR to separate the non-working wage employee. See Section 9 - Exclusions for additional details.

#### 6.5 Compensation

Wage employees shall be paid only for hours worked and cannot accrue paid leave, compensatory time or overtime leave credits.

Each wage recruitment or position is reviewed by Human Resources in conjunction with the hiring supervisor. A wage rate is established to attract qualified candidates, in accordance with the [Salary Administration Plan](#).

Wage employees may receive wage increases granted by the Governor and/or the General Assembly. Wage adjustments will be made when the university is advised to do so by the Virginia Department of Human Resource Management (DHRM).

Supervisors may request additional pay increases for their wage employee(s) through the in-band adjustment (IBA) process as outlined in Part VI Pay Practices of the [Salary Administration Plan](#). IBAs for wage employees are funded by the department's own budget (not from the Central Funding Pool) and must be approved by HR. To qualify for an IBA, a wage employee must have at least 12 months of continuous employment at the university. Wage employee IBAs typically will be determined on the same schedule as classified employee IBAs.

Wage employees, except those who meet the criteria for exempt status, are considered non-exempt for the purposes of application of the Fair Labor Standards Act (FLSA) and must be paid overtime at the one and one-half time rate for hours worked over 40 in a workweek in accordance with Policy [1303](#) - Provisions for Granting Overtime and Compensatory Leave. Therefore, records of hours worked must be kept for all wage employees, regardless of their status.

#### 6.6 Benefits

Wage employees are covered under the Virginia Workers' Compensation Act. When eligibility is established, compensation is provided after a standard seven-calendar day waiting period.

Wage employees shall be allowed leave without pay for military service. When a wage employee returns from active military service, reemployment will be granted under the terms provided in the United Services Employment and Reemployment Rights Act (USERRA).

Wage employees who meet eligibility requirements may take the allowable weeks of unpaid family or medical leave as outlined in the Family and Medical Leave Act (FMLA). See Policy

[1308](#)-Family and Medical Leave Act. Currently, wage employees cannot participate in the state's health insurance program, nor in other benefits programs designed for full-time employees. However, wage employees may participate in supplemental retirement accounts, such as 403(b) and/or 457 accounts. In addition, wage employees may be eligible for some of the optional voluntary benefits offered by the university and described within the benefits [website](#).

Non-student wage employees who meet the criteria are eligible for on-campus tuition waiver in accordance with Policy [1402](#) – Tuition Waiver Program for Faculty and Staff Course Work Taken at James Madison University. Wage employees are not eligible for tuition reimbursement for courses taken at other educational institutions.

#### 6.7 Conflict Resolution

Wage employees may file complaints alleging discrimination and harassment with JMU's Office of Equal Opportunity in accordance with Policy [1324](#) - Discrimination and Retaliation Complaint Procedures (Other than Title IX Sexual Harassment (Policy 1346) and Sexual Misconduct (Policy 1340)). Wage employees may file complaints alleging sexual harassment or sexual misconduct with the Title IX coordinator in accordance with Policy [1340](#) - Sexual Misconduct and Policy [1346](#) – Title IX Sexual Harassment.

University mediation services, as described within the Human Resources [website](#) are available to JMU wage employees. Wage employees may consult with DHRM's Office of Employment Dispute Resolution concerning work-related problems. They also have access to DHRM's State Employees' Discrimination Complaint procedures administered by the Office of Equity, Diversity and Inclusion. Wage employees are not eligible to use the state's Grievance Procedure.

### 7. RESPONSIBILITIES

Supervisors are responsible for the consistent application of this policy and are responsible for ensuring hours worked are consistent with this policy. Supervisors are responsible for ensuring new wage employees are compliant with Form I-9 requirements.

The responsibility to plan, schedule, and track part-time work falls to the employee and the hiring department with oversight and support provided by Payroll Services, Student Employment, and Human Resources.

The director of the Office of Equal Opportunity is the individual designated by the university to receive, investigate, and process discrimination and harassment complaints under Policy [1324](#)- Discrimination and Harassment (Other than Sexual Harassment or Misconduct). The Title IX Coordinator is the individual designated by the university to coordinate the institution's compliance with Title IX and oversees the university's process for receiving, investigating, and processing complaints under Policy [1340](#) - Sexual Misconduct and Policy [1346](#) – Title IX Sexual Harassment.

All departments, offices, and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) – Records Management.

## **8. SANCTIONS**

Employees who violate this policy, including supervisors who allow wage employees to work more than 1,500 hours in the 12-month period, or to exceed an average of 29 hours worked per week during the Standard Measurement Period, are subject to discipline commensurate with the severity and/or frequency of the offense, and sanctions may include termination of employment.

Failure to adhere to Affordable Care Act regulations may result in penalties for the employee and the university.

## **9. EXCLUSIONS**

This policy does not apply to classified employees, instructional faculty members, administrative & professional faculty members, student employees, graduate assistants or adjunct faculty. See Policy [1334](#) - Student Employment.

Section 6.4 of this policy does not apply to foreign language interpreters, part-time special event public safety officers, or on-call PRN Health Center employees due to the necessity to retain their services on an as-needed basis; however, any non-working employee who has not worked for a year must be terminated, and onboarded if re-hired.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the president, and is generally delegated to the director of human resources.

**Previous Version:** February 2020

**Approved by the president:** March 1999