

Definitions for the Personnel and Policies Committee

SPA Employees

Employees holding positions that are subject to the State Personnel Act. The State Personnel Manual governs the policies and procedures applicable to these positions. Many SPA employees hold positions that are subject to the Fair Labor Standards Act (“FLSA”) governing overtime compensation, but not all. Some SPA employees hold positions that are exempt from the FLSA and do not qualify for compensation or leave for hours in excess of 40 hours worked in a workweek. Just because a position is subject to the State Personnel Act does not make it subject to the FLSA overtime provisions.

- **SPA employees subject to FLSA**
- **SPA employees exempt from FLSA**

Time Limited

A time-limited permanent appointment is an appointment to an SPA position that has a limited duration to:

- a permanent position that is vacant due to the incumbent’s leave of absence and when the replacement employee’s services will be needed for a period of one year or less,
- a time-limited permanent position. If an employee is retained in a time-limited permanent position beyond three years, the employee shall be designated as having a permanent appointment.

This type of appointment is distinguished from a temporary appointment by the longer length of time, and from a regular permanent appointment by its limited duration. Individuals receiving initial appointments in state government must first serve in a time-limited probationary appointment before being eligible for a time-limited permanent appointment.

Employees with a time-limited permanent appointment receive leave, total state service credit, retirement and health benefits. They are not eligible for severance pay and priority reemployment.

An SPA position that is limited to three years or less due to funding

EPA Employees

Employees holding positions that are not subject to the State Personnel Act, including faculty, senior academic and administrative officers and employees referred to as “instructional & research” who engage in activities such as instruction, research, public service, academic support, student services, student health service physicians, institutional support and library. These positions are authorized and governed by the Code and the regulations in the UNC Policy Manual. Many EPA employees hold

positions that are exempt from the FLSA overtime provisions but not all. An EPA employee may hold a position that is subject to FLSA. The determination of whether or not a position is subject to FLSA is based primarily on the position's duties. Just because a position qualifies as exempt from the State Personnel Act does not make it exempt from the FLSA.

- **EPA employees exempt from FLSA**
- **EPA employees subject to FLSA**

Faculty

Employees appointed to either a regular or special faculty position. All faculty members at NCSA hold the title of Instructor. Faculty members are not subject to the State Personnel Act. Governing regulations are found in the UNC Code and regulations found in the UNC Policy Manual.

Regular Faculty

Employees holding appointments to a regular faculty position at NCSA. NCSA does not offer tenure to faculty. Rather, there is a system of successive contract beginning with an initial appointment for three years. Subsequent appointments are for successively longer terms according to the existing contract system includes a progression as follows: 3 years; 3 years; 5 years; subsequent 10 years thereafter. Faculty members are reviewed a year before the end of a contract term to determine whether or not the faculty member will be reappointed to the subsequent term. Regular faculty may work full-time or part-time.

Visiting Faculty

A person may be employed as a part-time or full-time visiting faculty member for a contract period not to exceed one academic year.

Senior Academic and Administrative Officer (SAAO)

Senior officers are employed in higher level administrative positions that are considered "at will", which means that the continuance of these administrators in office is at all times subject to determination by the chancellor. These positions are subject to regulations contained in UNC Policy Manual: 300.1.1 and are exempt from the State Personnel Act. There are two categories of senior officers:

SAAO I

The highest level of administrative officers include: the chancellor [N.C.G.S. 116-11(4)]; the vice chancellors, provost, and deans, and the directors of major administrative, educational, research and public services activities of the constituent institutions designated by the Board of Governors [N.C.G.S. 116-11(5)]. The appointment and fixing of

compensation for these positions require approval by NCSA's Board of Trustees and The UNC Board of Governors.

SAAO II

This level of administrative officers include: associate and assistant vice chancellors; and other administrative positions that have been designated by the President [N.C.G.S. 116-11(5)], as either generic positions that qualify or positions that have been approved by General Administration's Human Resources Advisory Board as qualifying. The appointment and fixing of compensation for these positions was delegated by the NCSA Board of Trustees to the chancellor at the May 5, 2005 meeting.

EPA-NT

EPA-NT refers to all employees who are exempt from the State Personnel Act but are not members of the faculty. This term includes senior academic and administrative officers and instructional and research positions.

Temporary Employees

A temporary employee is hired full-time or part-time to a permanent or temporary position for a period normally not to exceed 12 consecutive months in the same agency. Employees with a temporary appointment do not earn leave, or receive total state service credit, health benefits, retirement credit, severance pay, or priority reemployment consideration for their time in a temporary appointment. Similarly, they do not have access to the policy governing grievance and appeals, with the exception of unlawful workplace harassment and illegal discrimination

Independent Contractor

A general rule is that you, the payer, have the *right to control or direct only the result of the work* done by an independent contractor, and *not the means and methods of accomplishing the result*.

Example: Vera Elm, an electrician, submitted a job estimate to a housing complex for electrical work at \$16 per hour for 400 hours. She is to receive \$1,280 every 2 weeks for the next 10 weeks. This is not considered payment by the hour. Even if she works more or less than 400 hours to complete the work, Vera Elm will receive \$6,400. She also performs additional electrical installations under contracts with other companies, which she obtained through advertisements. Vera is an **independent contractor**.

Caution: If you incorrectly classify an employee as an independent contractor, you can be held liable for employment taxes for that worker, plus a penalty.

State Personnel Manual

The State Personnel Manual contains the policies, regulations and procedures of the Office of State Personnel which apply to employees covered by the State Personnel Act. It is available on the Office of State Personnel website: <http://www.osp.state.nc.us>.

State Personnel Commission

The State Personnel Commission was established in July, 1965, the purpose being to found “for the Government of the State a system of personnel administration under the Governor, based on accepted principles of personnel administration and applying the best methods as evolved in government and industry.” The State Personnel Commission is responsible for establishing policies, subject to the approval of the Governor, for a personnel system that satisfies the Federal Standards based on the Federal statutory and regulatory provisions.

Office of State Human Resources

The Office of State Personnel, under the direction of the State Personnel Director, has sole responsibility for the implementation of the State Personnel Commission’s rules, policies and procedures. The State Personnel Director has the exclusive authority for final approval of all personnel actions under these rules and policies.

Fair Labor Standards Act (FLSA)

A federal law that establishes minimum wage, overtime pay, record keeping and child labor standards. This law is also referred to as “wage and hour”.

Americans with Disabilities Act (ADA)

A federal civil rights law prohibiting discrimination on the basis of disability in (1) employment, (2) programs, services and activities of state and local government agencies and (3) goods, services, facilities, advantages, privileges and accommodation of places of public accommodation. The ADA prohibits employers from discriminating employment against persons with physical or mental disabilities.

Family Medical Leave Act (FMLA)

The Family and Medical Leave Act of 1993 entitles a covered employee to take up to 12 weeks of leave in a 12-month period for the birth or adoption of a child or the serious health condition of the employee or the employee's child, spouse, or parent.

Equal Employment Opportunity/Affirmative Action Policy Statement (EEO/AA)

NCSA emphatically states that it will provide equal employment opportunities for all persons regardless of race, color, creed, religion, gender, age, national origin, or handicapping condition. This is in keeping with the Executive Order 11246 and the regulations there under, at 41 CFR Parts 60-1, 2, 3, 20, and 50; NCGS. 126-16 and the Code of the University of North Carolina, Section 103; Title VII of the Civil Rights Act of 1964, and as may be applicable, Title IX of the Educational Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Vietnam Readjustment Act of 1974, Equal Pay Act and other applicable federal and state laws. In furtherance of this policy, North Carolina School of the Arts prohibits retaliatory action of any kind taken by any employee against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding, or investigation of employment discrimination.

EEO Officer

At NCSA the EEO Officer is currently the Director of Human Resources, James Lucas. It is the job of the EEO Officer to receive and assist with complaints of discrimination; to assist with the recruitment of employees by certifying the pool of applicants as complying with NCSA's EEO/AA plan.