CSU **The California State University**
SYSTEMWIDE HUMAN RESOURCES

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Date:	May 17, 2013	**Code:**	HR 2013-07
To:	CSU Presidents	**Supersedes:**	HR 2005-29
From:	Gail E. Brooks		
	Vice Chancellor		
	Human Resources		

Subject: <u>**Graduate Assistant Employment Policy**</u>

<u>Overview</u>

Audience: Human Resources Officers, AVPs/Deans of Faculty Affairs, Payroll Managers and campus designees responsible for classifying positions and/or entering data into PeopleSoft.

Action Item: Ensure employment records (Oracle PeopleSoft-Job Data) for employees classified in Graduate Assistant classifications (Class Codes 2355, 2325, and 2326) reflect the FLSA status of non-exempt.

Affected Employee Group(s)/Unit(s): Graduate Assistants (Unit 11)

<u>Summary</u>

This memorandum supersedes HR Letter 2005-29 and is written to clarify that the FLSA status of all graduate students classified in the Graduate Assistant classifications is non-exempt regardless of whether or not they perform research related to their course of study as stated in HR 2005-29. Employment records of those classified in all Graduate Assistant classifications must reflect the FLSA code of "non-exempt".

The Graduate Assistant employment policy has been updated to include a revised interpretation of current Fair Labor Standards Act (FLSA) exemption status information. HR Letter 2005-29 stated that Graduate Assistants may be considered "students" rather than "employees" and therefore, not subject to the FLSA provisions (e.g., recordkeeping requirements, overtime, minimum wage) if their work involves research related to their course of study. HR 2005-29 also stated that campuses were required to make this determination, including the FLSA status determination, for each Graduate Assistant position.

Upon further review, it has been determined that any graduate student classified in a Graduate Assistant classification is, in fact, an "employee" and therefore subject to FLSA provisions. This determination was made based on the following:

➢ Graduate Assistants are compensated with salary rather than tuition, admission fees, books and materials, and/or a stipend.
➢ Graduate Assistants are represented by a bargaining unit.
➢ The work that Graduate Assistants perform is not required to obtain their advanced degree.

Distribution:

CSU Chancellor	Human Resources Officers
All Campus Vice Presidents	Payroll Managers
AVPs/Deans of Faculty Affairs	Human Resources Professionals

It has also been determined that the FLSA status of all Graduate Assistant classifications is "non-exempt". **Campuses are no longer required to make FLSA status determinations of Graduate Assistant positions on an individualized basis**.

As a result, campuses are required to audit the employment records of individuals appointed in Graduate Assistant classifications to ensure that they reflect the FLSA code of non-exempt. Audit information will be provided to campuses in a forthcoming employment history database technical letter. *Note: The CSU Salary Schedule depicts these classifications as being non-exempt. In Oracle PeopleSoft, however, the FLSA status can be employee specific and campuses may have set the FLSA status to exempt based on the employee's duties. The audit is required to ensure that the FLSA designation is consistent in both systems.*

The policy regarding appointment of Graduate Assistants is as follows:

➢ Three Graduate Assistant classifications are available in Unit 11: Academic Year (Class Code 2355), Monthly (Class Code 2325), and On-Campus Work-Study (Class Code 2326). The Academic Year classification is used for those appointed on an academic year schedule. The Monthly classification is available to accommodate appointments that begin and end throughout the academic term, depending on the particular assignment and campus need. The On-Campus Work-Study classification is used for Work-Study graduate students funded by the Federal Work-Study Program.

➢ Incumbents in a Graduate Assistant classification must be registered in a CSU graduate degree program and enrolled in courses toward the completion of a graduate degree during the Graduate Assistant appointment period. This includes students enrolled in CSU courses through CSU extension, if the courses are taken for credit toward completion of the CSU graduate degree. The Graduate Assistant classifications also are available for graduate students enrolled in courses during the summer and for graduate students who will be continuing their enrollment in the fall term. Students enrolled in credential programs and students enrolled in graduate programs outside the CSU are not eligible for this classification.

➢ The Unit 11 Collective Bargaining Agreement states that Graduate Assistants may be appointed at any timebase. Pursuant to a side agreement between CSU and UAW, effective August 2, 2005, Graduate Assistants who are appointed to positions that work 20 hours per week will be appointed with a half-time timebase (0.5 FTE). CSU continues to exercise its prerogative that Graduate Assistant appointments be made in any fraction up to and including half time while the student is enrolled in classes. Timebase is proportionate to hours per week (e.g., halftime equals 20 hours per week and quarter-time equals 10 hours per week). Graduate assistants may work more than half time during academic breaks. Overtime may be required for hours in excess of 40 hours in a workweek (see below).

➢ It is allowable for a Graduate Assistant to be appointed in another student classification, up to a combined total of approximately 20 hours per week while enrolled in classes.

➢ Graduate Assistants may be exempt from FICA (Social Security and Medicare) while enrolled in classes, provided the student meets the student FICA exemption addressed in Internal Revenue Code 3121(b)(10). When the Graduate Assistant qualifies for the student FICA exemption, the Retirement Account Code (PIMS Item 505) is set at "N." Continuing Graduate Assistants who qualify for a Graduate Assistant appointment during academic breaks, but who no longer qualify for the student FICA exemption, are enrolled in the Department of Personnel Administration (DPA) PST Retirement Plan in lieu of Social Security. Medicare withholding is required also. For these Graduate Assistants, the Retirement Account Code is changed from "N" to "TM." Please refer to the current Student Employment and the Student FICA Exemption policy memorandum, [HR Letter 2005-28](), for additional information on the student FICA exemption as it applies to Graduate Assistants under various circumstances.

➢ Graduate Assistants are "non-exempt" under the FLSA (Fair Labor Standards Act). Work hours must be tracked in accordance with the FLSA and Graduate Assistants must be paid for all hours worked. In the unusual event a Graduate Assistant works over forty (40) hours in a workweek, the Graduate Assistant must be paid for all hours worked plus overtime. For more information, refer to Human Resources' FLSA Web site at: https://www.calstate.edu/HRAdm/Policies/flsa.shtml.

➢ For information on benefits and leave programs refer to the CBA and the technical letters on these subjects.

If there is a conflict between the provisions of this Technical Letter and the CBA, then the terms of the CBA will prevail.

This document is available on the Human Resources Management's Web site at: https://www.calstate.edu/HRAdm/memos.shtml

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