

Policy Number (if applicable):

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Position Responsible for Developing and Maintaining the Policy: Assistant Vice-President, Human Resources Services

Contact Department: Human Resources Services

1. CONTEXT

Many departments within the University hire casual, temporary staff or students into part time positions throughout the three academic terms, Fall, Winter, Spring/Summer. In doing so, at any one time individuals may hold multiple part time appointments at the University. This creates a risk that hiring managers may not be aware of these additional appointments, leading to the possibility that an extra hour in one of the positions could result in the individual working beyond the overtime threshold of the applicable collective agreement or the *Employment Standards Act, 2000* ("the ESA").

The University is one employer. Therefore, all hours worked by individuals who hold more than one University appointment must be counted for purposes of calculating overtime entitlement under the ESA, regardless of whether these hours are worked in different Faculties/Departments/or bargaining units.

Should a circumstance arise where a multiple-appointed employee works beyond the established overtime threshold in any workday or seven consecutive days (or established workday or workweek period), he/she will be eligible for overtime payment.

This guideline has been created to:

- Minimize the situations in which unintended overtime obligations arise;
- Provide guidance for managing these situations when they occur;
- Maintain adherence to the ESA and any applicable collective agreement;
- Control wage costs; and
- In the case of students, address the dual objectives of maximizing the number of earnings opportunities and avoiding the risk of work interfering with a student's studies.

2. EMPLOYMENT STANDARDS ACT

The ESA requires Employers to pay overtime pay at time and one-half (1½) for each hour worked in excess of 44 per week. The 44hour does not attract overtime.

Employers may agree to a different overtime threshold that provides a greater benefit to the employees (for example: 35, 37.5 or 40 hrs per week as in Article 15.08 of the CAW Local 555 Collective Agreement), and that threshold will apply for all purposes of the ESA.

The basic statutory maximums for permitted hours of work in the ESA are:

- 8 hours per day, or
- the number of hours in a "regular work day", if the employer establishes a regular work day greater than 8 hours;
- 48 hours per week (with the 45– 48hours being overtime); and
- employers must provide employees with at least 11 hours free from performing work each day.

In accordance with the ESA, or the greater benefit threshold as established in the applicable employment contract, the University must pay overtime to employees for work beyond the overtime threshold. As a single employer, the University cannot require a person to work hours in excess of the overtime threshold without providing overtime pay, even if the person is working in more than one position. Similarly, as a single employer, the University cannot require a person to work hours in excess of the statutory maximums without the employee's (or union's) consent, even if the person is working in more than one position.

Existing employees cannot be given a secondary part-time., temporary, casual or any other appointment for 'extra work' performed by them, in order to avoid the overtime requirements.

3. STATEMENT OF POLICY

The University will not knowingly employ individuals or students in multiple appointments in which the aggregate hours worked each day or week in all positions exceed the overtime threshold as established by the ESA or collective agreement provisions.

Section 6 of this guideline addresses those situations in which this scenario already exists.

MULTIPLE APPOINTMENT GUIDELINE

Temporary, casual and part-time employees can be employed in other temporary, casual or part time positions if the aggregate regular hours of all position doesn't exceed the established overtime threshold hours per workday or workweek and if both hiring managers are aware of both positions and, where the Ontario Council of Graduate Studies (OCGS) regulations apply, the aggregate work does not exceed 10 hours per week.

Employment offers are not to be made in circumstances where an employee will be employed in multiple appointments that will result in the total aggregate regular hours to be worked per day or week exceeding the overtime threshold.

This guideline is to be interpreted in accordance with the ESA and applicable collective agreements at McMaster University.

4. APPLICATION

This guideline applies to salaried staff, members of a bargaining unit and temporary or casual employees of McMaster University. This guideline also applies to prospective employees as well as to current employees.

The teaching of a course is deliverables-based rather than hours-based employment. Accordingly, teaching assignments are not considered positions for the purposes of this guideline.

In the event of a conflict between these procedures and a collective agreement, the collective agreement requirements will govern.

5. RESPONSIBILITIES

The intent of this procedure is to protect the University and individual employees;

1. Each employee has a responsibility to keep his/her hiring manager informed of multiple appointments, including successfully gaining employment in another department on campus;
2. Each hiring manager has a responsibility to observe and implement this guideline in a fair and consistent manner. Each hiring manager must consult with each prospective employee and MacVIP records to find out whether the individual is employed elsewhere in the University and, if so, to decline the additional appointment if the aggregate hours of both appointments will exceed the overtime threshold, or, if the aggregate hours will not exceed the overtime threshold to ensure the other department is made aware of the appointment and that both department managers coordinate their scheduling to ensure that the individual does not work beyond the overtime threshold as established by the ESA, unless such overtime hours are intended and authorized. The rules governing if and when the overtime threshold has been met or exceeded will be governed by the employee's position where the additional hours are actually worked.
3. If the individual is a bargaining unit employee, the threshold of hours per workday or workweek depends on the terms of the agreement and overtime is paid for any total hours worked above this amount. If the individual is a bargaining unit employee and receives a secondary appointment in a nonbargaining unit position or in a different bargaining unit, the terms of the position where the additional hours were actually worked will determine the overtime threshold.
4. In very limited circumstances, if a staff member and hiring manager agree to any additional appointment where the hours for both jobs will exceed the overtime threshold in a workday or workweek, it is with the understanding that the hourly rate for the additional appointment will govern the overtime rate to be paid for total hours in excess of the applicable threshold. A representative of Human Resources must be consulted before any such arrangement is offered to an employee.

6. REVIEW PROCEDURE FOR THOSE ALREADY EMPLOYED

In the situation of an individual who is already employed in multiple appointments the following review procedure shall apply:

1. Both hiring managers will review the situation, in consultation with a representative of Human Resources, to determine whether the guideline is being contravened and, if so, to what extent.
2. If the guideline is being contravened, both hiring managers and the Human Resources representative will meet with the individual concerned so that they can discuss and agree upon a go-forward arrangement which addresses the situation and adheres to the guideline such that the regular aggregate hours worked during the workday or workweek are equal to or below the applicable overtime threshold. The agreement will be written, signed and dated by all parties.
3. Where no other arrangement is reasonably possible, termination of one appointment will be required.

7. HOW ARE ADDITIONAL HOURS REPORTED IN *MACVIP*?

To report additional hours in MacVIP, please refer to the MacVIP Time Capture Procedures available at the following link:

<http://www.workingatmcmaster.ca/link.php?link=hris%3Ahris-time-capturers>

8. WHICH DEPARTMENT PAYS FOR THE COST OF THE OVERTIME?

In the exceptional situation where an individual has more than one appointment and where the regular hours for both jobs exceed the overtime threshold in a workday or workweek, all hours worked must be added together to calculate overtime. In this case, the job with the later start date will be deemed to be the job in which the overtime occurred. The wage rate for this second job will be used to calculate overtime, incurred by the department in which the second job is located.

MULTIPLE APPOINTMENT GUIDELINE

An employee with multiple appointments that do not normally exceed the applicable overtime threshold may incur overtime because of extra hours worked in one of the appointments. In those weeks when an employee works overtime, the rules for which area pays for the overtime are shown in the following table (two appointments shown for simplicity).

Appointment A	Appointment B	Overtime Paid By
Regular PT schedule + extra hours worked	Regular PT schedule	Area where employee worked the extra hours (in this case, Appointment A)
Regular PT schedule + extra hours worked	Regular PT schedule + extra hours worked	Area where employee worked the extra hours that exceeded the overtime threshold.
Regular PT schedule	Casual hours	Area where employee worked the casual hours (in this case, Appointment B)
Casual hours	Casual hours	Area where employee worked the 45th hour and any subsequent hours.

9. FURTHER INFORMATION

For assistance in applying this guideline, contact a representative of Human Resources Services.