



RUTGERS POLICY

Section: 60.1.5

Section Title: Universitywide Human Resources Policies and Procedures

Policy Name: Type 4 Employment

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Responsible Office: University Human Resources

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Policy:

Type 4 Employment. Type 4 employees are individuals hired for casual or temporary work or for a project. They have no benefits except as described herein. The work performed by Type 4 employees may be service/maintenance, clerical, administrative, professional, or academic support services. Type 4 work is predominantly "non-exempt"¹ under the Federal Fair Labor Standards Act; however, in some cases the Type 4 work may be "exempt" under that Act. This policy describes these different categories and how to treat them.

A. "Non-exempt" Type 4 Employment. Non-exempt work includes service and maintenance jobs, clerical and general office work, and jobs involving basic levels of laboratory, technical, administrative and academic support work. If the work being performed corresponds to jobs which have been designated as 35-, 37-1/2 (NE), or 40-hour titles, Type 4's performing these duties are also non-exempt.

(1) Assigning a Job Title for "Non-Exempt" Type 4 Work. Non-exempt Type 4 employees should be assigned job class numbers as follows. If the work of a particular Type 4 changes such that a different job class is more appropriate, a new Payroll Authorization Form (PAF) should be submitted:

04100 - Clerical/Office/Library Assistant

04200 - Laboratory/Technical

04300 - Service/Maintenance

04400 - Non-exempt Administrative/Supervisory

¹An employee performing work which is "non-exempt" is entitled to compensation at time-and-a-half for hours worked beyond 40. (But see A(2) for limits on the number of hours a non-exempt Type 4 may work.) An employee performing work which is "exempt" (NL) is not entitled to any extra compensation even if he/she is required to work beyond 40 hours in a workweek. If there is any question as to whether a particular set of duties is exempt or non-exempt, please call the appropriate Human Resources Office.

- (2) Limitation on Hours of Work and Duration of Employment. Normally a non-exempt Type 4 may work no more than 60 hours in a biweekly period. Exceptions to this limitation may be made for a short period of time such as when the Type 4 is filling in while the department is searching for a regular employee, when the Type 4 is filling in for a regular employee on leave, for summer employment, or for a special short-term project.

Type 4's working in jobs which correspond to positions included in the AFSCME Local 1761 bargaining unit may not normally remain in the job for longer than 16 months. Type 4's working in jobs which correspond to positions included in the AFSCME Local 888 bargaining unit may not remain in the job for longer than nine months.

- (3) Pay. Non-exempt Type 4 employees are paid an hourly rate and are paid only for the actual hours worked; they have no time off benefits. Departments must keep accurate daily records of hours worked. (Employee Time Record Forms may be ordered from Materiel Services for convenience in keeping these records.)

Notwithstanding the limitation on hours of work for non-exempt Type 4 employees, there may be a week in which the employee is required to work beyond 40 hours. In that case, in addition to payment of straight time for hours worked up to 40, compensation at time-and-a-half must be paid for hours worked beyond 40.

- (4) Benefits. Non-exempt Type 4 employees have no time off benefits or any other benefits except that after a year of continuous employment they are enrolled in Public Employees' Retirement System (PERS). University Human Resources will advise the department and the employee in advance of the requirement to enroll. The employing department is required to pay the employer's share of the PERS contributions.

- B. "Exempt" Type 4 Employment. A Type 4 job may be considered exempt only if it corresponds to a regular position which has been designated as "NL," (exempt from the overtime requirements of the Fair Labor Standards Act). If there is any question as to whether a particular Type 4 job is exempt, please call the appropriate Personnel Office.

- (1) Assigning a Job Title for "Exempt" Type 4 Work. Exempt Type 4 employees should be assigned job class numbers as follows:

07100 - Exempt Administrative/Supervisory
07200 - Exempt Professional

- (2) Limitation on Duration of "Exempt" Type 4 Employment. An exempt Type 4 may be hired to work full time for a particular project; however, such employee should not be retained for longer than a year. Any exception to this limitation must have the approval of the appropriate Vice President or Provost.

It is expected that the work for which exempt full-time Type 4 employees are hired will require about 40 hours a week, although some jobs require significantly more effort. (Those hired to work a percentage of full-time are paid and are expected to work accordingly.) If a full-time exempt Type 4 works fewer hours because of employer-dictated workload variations, pay will not be reduced; neither will such employees receive any additional compensation when they are required to work longer hours in a particular week.

- (3) Benefits. Exempt Type 4 employees have no benefits except as follows:
- (a) An employee who is given an exception to work longer than a year will be enrolled in PERS after having worked continuously for more than a year. University Human Resources will advise the department and the employee in advance of the requirement to enroll. The employing department is required to pay the employer's share of the PERS contributions.

- (b) Exempt Type 4 employees are permitted time off without loss of pay for jury duty. In addition, they accrue one day for each full month of employment to use for personal reasons or illness; departments must keep track of days accrued and used. Part-time exempt Type 4 employees will accrue days on a pro-rata basis. There is no cash value for these accrued days upon termination of employment.
- (4) Pay. In order to be "exempt" under the Fair Labor Standards Act, exempt Type 4 employees may not be paid by the hour.² They are paid on either a "salary basis" or a "fee basis," both of which mean that the amount of pay is predetermined. This predetermined amount may be quoted as a weekly or a biweekly amount ("salary basis"), or a flat amount for a particular project ("fee basis"). (Physicians, as exceptions to this requirement, may be quoted and paid a per diem amount if they are hired by the day.)

The quoted amount of pay cannot be reduced merely because of employer-dictated variations in the hours worked within the agreed upon payment period.³ However, the pay must be reduced when the employee is absent from work and when the accrued leave (B(3)b above) is not used because:

- (a) permission for use of accrued leave has not been sought or has been denied;
- (b) accrued leave has been exhausted;
- (c) the employee chooses to use leave without pay;
- (d) of a lay off for lack of funds. (However, if the lay off is for a partial week the exemption is lost for that week. That is, if the Type 4 works beyond 40 hours in the same week as the partial layoff, the Type 4 is entitled to compensation at time-and-a-half for the hours beyond 40.)

When the salary is reduced, the department must maintain a record of the reason why it was reduced.

C. How to Pay Type 4 Employees.

- (1) Non-Exempt (Paid for Hours Worked). The Time Report Form (TRF) must include the following:
- (a) Line T-1. Enter Social Security Number, Name (last name, first name), Number of Meals (for Dining Service employees who may be included in the meal plan), Type (enter "4"), Location Code, Campus, College/Division and Department. Continue to enter the hourly rate of pay in the "Job Class" box. Preprinted TRFs can be requested; these will provide all information except Number of Meals and the hourly rate of pay.
 - (b) Line T-2. Enter the period ending date (always a Friday), account(s) charged, regular hours, overtime hours (for hours worked beyond 40 in a one workweek period) and total hours (the sum of regular and overtime hours.) Two period ending dates may be paid on the same TRF; the last day to be paid may not be later than the Friday preceding the payday.

²Be aware that if an exempt Type 4 employee is paid by the hour, the exemption is lost and time-and-one-half must be paid for hours worked beyond 40 in the workweek.

³For example, the pay of an exempt Type 4 who is working full time may not be reduced if he/she is advised not to work on a university holiday or another university closed day.

- (c) Signature. The signature area must include the printed name of the preparer, telephone extension, and be signed by the individual authorized to sign TRFs. Accounts requiring effort certification must also include the signature of the individual authorized to sign this certification.

- (2) Exempt (Flat Rate Payments). The Time Report Form should not show hourly rates or hours worked. (See footnote 2 above.) It must include the following:
 - (a) Line T-1. Enter the Social Security Number, Name (last name, first name), Number of Meals (for Dining Service staff who may be included in the meal plan), Type (enter "4"), Location Code, Campus, College/Division and Department. See "T-3" below for entering amount of pay. Preprinted TRFs can be requested; these will provide all information except Number of Meals and amount to be paid.

 - (b) Line T-2. Do not enter anything in the "hours worked" area. The "Comments" area must include the following:

The period of time worked. The last date to be paid must not be later than the Friday preceding the payday.

The work being performed.

The method of remuneration. That is, either "salary basis," "fee basis" or, as is permitted for physicians only, "per diem."

 - (c) Line T-3. The total amount of pay for the period must be entered under Other Pay. A maximum of three accounts may be charged. For each entry in the Account Charged section, an Amount Charged must be included.

 - (d) Signature. In both cases the signature area must include the printed name of the preparer, telephone extension, and be signed by the individual authorized to sign TRFs. Accounts requiring effort certification must also include the signature of the individual authorized to sign this certification.