RESIDENT ASSISTANTS & THE AFFORDABLE CARE ACT

BACKGROUND
In January 2015 ACUHO-I members Steve Waller, executive director of Residential Life at Louisiana State University, and Kathy Bush Hobgood, the director of Residential Life at Clemson University, travelled to Washington D.C. to meet with representative from the United States Treasury Department. They and others with experience with student workers were there to discuss the unintended consequences of the Affordable Care Act on student workers and attempt to achieve more clearly defined guidelines on how to count working hours.

Of particular concern for campus housing departments was how resident assistants (RAs) would be handled under the ACA. To illustrate to the Treasury the issues at hand, ACUHO-I representatives created the following resource providing background on RAs and the work they do.

ABOUT RESIDENT ASSISTANTS
Undergraduate students employed by the vast majority of colleges and universities with residence halls, RAs are usually sophomore, junior, or senior students. RA selection is generally a competitive process, resulting in RAs who are highly motivated, interested and invested in the job. Some students are introduced to student/higher education affairs through their work as RAs, and go on to make it a career. Having the resident assistant title on a resume is useful in many fields, given the responsibility and organization necessary for the role. RAs are compensated a bit differently at every institution, but common elements include: A stipend of a fixed amount and a free or deeply discounted room and board package.

RAs duties usually begin with intensive training of 1-2 weeks immediately before the academic year begins on student development, young adult development, conflict resolution, crisis management, safety and emergency procedures and how to make referrals to campus resources (i.e.: for mental health issues, physiological healthcare, academic assistance, etc.) RAs perform facilities management tasks and help students move in to the halls and adjust to their new home. This is usually one of RAs’ busiest times. During the year, RAs periodically hold events for the students in their area to build community, educate on issues such as wellness or relationships, and introduce campus resources. They are available to their residents for scheduled and unscheduled interaction, to offer advice, encouragement, and referrals. RAs in a given hall or area rotate being on-call over night and on weekends, generally about twice a month each. They are not actively on duty all that time, but must remain in or near the hall. They usually have a cell phone during that time that will be used to let them know if they’re needed. At the end of the academic year, RAs assist with move-out and related administrative duties, such as room inspections. This is RAs’ other busy time of the year.

HOW MANY RAS ARE THERE IN THE U.S.?
There are approximately 68,137 RAs in the United States. The overall ratio, among Association of College and University Housing Officers-International (ACUHO-I) members, is 37 students to each RA. There are 2,521,090 students living in residence halls in the United States, at the 2,171 institutions with housing. For most institutions, the single largest portion of their campus housing staff is the RAs.
**RAAs AND THE AFFORDABLE CARE ACT**

We value our RAAs and the important work they do, and we want to compensate them fairly. However, the unique nature of their jobs and how they are compensated makes it difficult to interpret these regulations as related to ACA.

**STIPENDS & ROOM GRANTS**

Because RAAs are paid with stipends, they are not hourly employees, and it is difficult to parse their work that way and track it. One campus member explains the RA stipend in this way:

- The annual budgeting process includes projections on the total number of hours expected during an annual year
- RAAs work more than 50 hours per week when we are closing/training/opening each semester — weeks when students are not in classes
- RAAs work a smaller weekly “normal” number of hours, between 13 and 20, depending upon the position
- That total number is then reverse engineered into the payroll system and averaged out over the year.
- This had been allowable from an HR perspective due to the provisions of the Department of Labor’s Fair Labor Standards Act (FLSA)/Field Operations Handbook Section 10b24 which states that student employees that are part of a larger educational program can be exempt and not considered employees.
- RAAs are specifically named as an example of the type of group covered by that exemption

**WHAT IS “WORK”?**

It seems like a simple question, but RAAs live at and with their jobs, which it harder to draw this line with confidence:

- Much of RAAs jobs, as mentioned above, involve casual interaction. (A student approaches his/her RA in the lobby/in the grocery/on the campus green to ask a question: Should the RA’s time be counted? Should RAAs count each interaction like this throughout a month?
- RAAs are, of course, allowed to sleep, study, spend time with friends and do other activities while on duty overnight or on the weekend, as long as they are able to respond if needed. Does this count as working time?
- Section 4980H exempts hours of service for work study programs, but why would residence assistants not be exempt as they too are student workers limited by financial aid regulations.

**UNINTENDED CONSEQUENCES OF CURRENT ACA INTERPRETATIONS**

- We remain significantly concerned about strict weekly counting restrictions, per force, changing the nature of these positions that are essential mentors, coaches and counselors to our on-campus students. Residential life staff members live where they work and are drawn to these positions because they are natural helpers and problem solvers. They work in scheduled time blocks on some days, but also work “as needed” when issues and student interactions occur — both in the positive celebration of student success and crisis response mode. As residential staff they also can’t “just lock up and go home” when they are “out of hours for the week”.

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• As our members have endeavored to comply with the law, they have taken different approaches, depending on their attorneys’ interpretations:
  o Some have deeply limited the hours a student can take in any institutional employment, even summer jobs that traditionally were 30-40 hour-a-week positions, in order to be cautious.
  o Some have barred students from taking more than one job at any point in a year, in case those hours would combine to exceed the hourly limit.
  o Both of these result in campuses’ trying to manage the employment of their students across multiple jobs, which is logistically difficult.
  o There are no sound rules to define what is counted as work and the equivalency standards of 4980H and associated cautions intimidate members in their use.
• Some of our students have used campus jobs for necessary work experience and spending money, educational expenses, and if these jobs are limited or eliminated, they will have fewer options to earn experience and money. This is particularly true for campuses located in areas where local jobs for students are scarce.
• Lost opportunities for RAs to engage in campus organizations because of the concern that time would be considered work/service hours.
• We fear that there will be increased costs and increased administrative duties because of any or all of these issues:
  o Increased administration duties in support of student employees
  o Decreased student employment (what was once done by a student employee will now be done by a staff member)
  o Increased student employment, but each student fewer hours than they might have before, which increases administrative issues
  o All of these things may lead to increased costs and fees for the institution, and by extension, all students.

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