



Regular Benefits for Regular Work: An “Explainer” About Contingent Work Policies from the Harvard Union of Clerical and Technical Workers (HUCTW)

November 19, 2018

The new three-year Agreement between HUCTW and Harvard, being finalized this month, includes significant changes in policies governing the employment of contingent workers at the University. When the new contingent work policies take effect in March 2019, the use of temporary and less-than-half-time staff will be much more closely monitored and strictly limited. This “Explainer” document from HUCTW is meant to provide background information that will help Union members, managers, and friends in the community understand the issues under discussion, the scope of the problem, and the goals of the new policy framework that will be coming into effect in a few months. HUCTW leaders also want to express willingness to work with Union members and managers in any part of the University in planning for contingent work policy changes.

For HUCTW members and leaders, the development of clear, strong policies limiting the use of contingent workers in order to encourage the creation of benefited jobs is a question of fundamental fairness. Our Harvard community should have effective, enforceable rules in place to ensure that everyone who fulfills an ongoing staff role has access to the full range of benefits, advantages, and protections enjoyed by all regular Harvard employees.

Definitions of Contingent Work at Harvard

In the Harvard workforce, there are several categories of employment in which workers perform duties similar to those of regular staff, but they do not have the benefits of regular employment status:

- **Less-Than-Half-Time Employees (“LHTs”):** Under the current Harvard-HUCTW contract, LHTs should be hired for assignments that require fewer than 17.5 hours of work per week.
- **Directly Employed Temporary Workers (“Temps”):** These are Temps that are hired directly by Harvard (not through an agency). Temps are permitted to work in Harvard units for no longer than three months.
- **Temporary Agency Employees (or “Agency Temps”):** Agency Temps are permitted to work in Harvard units for no more than three months, and they are employed by their agencies rather than by the University.
- **Independent Contractors:** Independent (“1099”) Contractors are not considered employees, and they receive a 1099 tax form rather than a W-2. These arrangements are permissible under state and federal laws, as long as they meet strict guidelines established by those statutes.
- **Outsourcing:** In some job functions, Harvard units have entered into “outsourcing” contracts, under which outside companies perform work that had previously been carried out by regular Harvard staff.

Current Policies Set Broad Limits

Policy language included in the HUCTW-Harvard Agreement for many years states that *“although ... Temp or LHT staffing is a necessary employment vehicle at Harvard, the use of Temp and LHT workers should be exceptional and strictly limited, and never at the expense of regular benefited employment. In other words, everyone who does regular Harvard work on a regular basis deserves the benefits of regular employment status.”*

The HUCTW Agreement makes exceptions to the contract rules on LHTs and Temps for:

- Harvard students
- Harvard retirees
- Temps filling in for a regular staff member on a medical or personal leave of absence who is expected to return.

In addition, under longstanding contract language, Agency Temps “should not work in the same Harvard department or role for more than three months.”

What the Numbers Show

HUCTW analysis of data provided by the University in our recent negotiations shows that reliance on contingent workers across Harvard schools and departments has increased greatly in recent years. Among the categories defined above, the most significant growth has been in the use of LHTs and Temps, and to a somewhat lesser extent, Agency Temps.

Thorough analysis of a comprehensive set of data on LHTs and Temps who performed support staff work in Fiscal Year 2017 showed the following:

- LHT and Temp employees worked 923,764 hours at Harvard in FY17 – the equivalent of more than 500 full-time regular employees.
- The number of LHT and Temp employees has increased by nearly 11% in the last three years.
- In terms of weekly hours worked, there were 291 LHT and Temp employees who were neither temporary nor less-than-half-time in FY17. In other words, 291 employees on the LHT-Temp payroll worked for more than three months and averaged more than 17.5 hours per week worked for the year.
- Most of the LHT and Temp employees who worked excessive hours last year fall into two different types of loopholes or policy work-arounds that have become increasingly common:
 - “Cycling,” or shifting a contingent employee back and forth between Temp and LHT status – for example, employing a worker for three months full-time as a Temp, cycling her into LHT status at 16 or 17 hours per week for two months, and then back to full-time hours as a Temp for another three months, and so on; or
 - Employing a LHT worker for many months or even years working just below 17.5 hours per week (17.25-hour schedules have become common), or working sometimes below 17.5 hours per week and sometimes above.

Overall, it is clear from the data that there are many hundreds of contingent workers on our campus doing jobs that continue for more than three months, and on schedules that at least sometimes have them working more than half-time hours.

The Impact of Long-Term Contingent Status

HUCTW members and leaders have expressed deep concerns about problems of basic fairness in situations where employees doing regular Harvard work on a regular basis do not have the benefits of regular employment. In such a situation, these employees:

- Are not provided with health insurance coverage
- Do not have any paid time off (for holidays or vacation)
- Are not assured of having pay rates in line with Harvard community standards

- Do not have access to tuition assistance benefits
- Do not accrue employer contributions to retirement accounts
- Do not have any employment security
- Do not have any of the other benefits of regular employment or coverage under the HUCTW-Harvard Agreement (training, child care assistance, commuter benefits, etc.)

In addition, the workplace experiences of HUCTW members confirm that heavy reliance on contingent workers brings instability, inefficiency, and morale problems into the Harvard workplace in a way that affects everyone in our community – staff, faculty, and students.

Changes Coming in March 2019

Under the terms of the tentative HUCTW-Harvard Agreement, a number of new policies will take effect in March of 2019. The goal of these changes, as agreed upon by Union and University negotiators, is to ensure that LHT-Temp employment and Agency Temp assignments are only utilized where they are appropriate – for staffing needs that are genuinely short-term or for very few hours per week. The new rules will include the following:

- The University will share comprehensive data with the Union on a regular basis, allowing for careful monitoring of the hours worked and duration of employment for all LHTs, Temps, and Agency Temps across the University.
- LHT employees will be permitted to work up to 14 hours per week. Two instances of working more than 14 weekly hours will be allowed in a one-year period – a third instance would represent a violation.
- Temps will be allowed to work for up to three months (13 weeks).
- Repeated cycling between LHT and Temp status will not be permitted – a contingent worker may be switched one time only from LHT to Temp status, or vice versa.
- If a unit employing a LHT or Temp employee exceeds any of the above limits or violates the rules, the unit will not be allowed to continue the LHT or Temp employee as a contingent worker. The department may hire the employee in question into a regular position with benefits. In any case, that LHT or Temp employee may not be employed further as a LHT or Temp anywhere in the University for a period of 8 months.
- A new joint Union-Management committee will meet on a regular basis to monitor compliance and oversee enforcement of the rules concerning LHTs, Temps and Agency Temps.
- Union and University representatives will carry out an in-depth study on the effects of outsourcing HUCTW work, reviewing current trends, analyzing the impacts on HUCTW members and on pay and benefit standards in our community, and examining policy options for ongoing consideration.

How Will the New Policy Framework Work?

HUCTW and Harvard negotiators have agreed to delay implementation of the new contingent work policies until three months after ratification of the new union contract (March 2019) in order to allow time for education around and planning for the changes.

Some Harvard departments, especially those that have relied heavily on LHT and Temp staffing, will need to make changes in their staffing patterns, in order to be in compliance with the new rules. It is possible that there will be confusion or disagreement in some departments about what is the best strategy for meeting operational needs and getting into compliance with the new policies. In many cases, the most appropriate solution for staffing ongoing, regular functions will be to create regular, benefited positions. HUCTW leaders are strongly

committed to working with Union members and managers in Harvard departments in order to develop staffing solutions that fulfill organizational needs, maintain reasonable workloads for HUCTW staff, and treat contingent employees fairly at the same time.

Ideas, Questions, or Concerns

HUCTW members and managers should not hesitate to contact HUCTW (at 617-661-8289 or huctw.info@huctw.org) with ideas, questions, or concerns about the new policies planned for implementation in March.