ACA and Contingent Faculty Members: 

Seven steps to take now

We know some employers have cut the working hours of contingent faculty members and blamed the Affordable Care Act for their actions. Unfortunately, these employers often are misinterpreting the ACA or acting out of malice. This fact sheet lays out seven steps employees should immediately undertake:

1) **Make sure employers know the facts.**
   
   **Here are a few:**
   
   *The ACA does not require employers to provide coverage.* The fact is there could be a financial penalty on large employers that don’t offer coverage, but there are situations in which failure to offer coverage will not lead to a penalty. *The ACA’s full-time threshold of an average of 30 hours a week during a month is for penalty purposes only.* Don’t let employers think the 30-hour penalty threshold is the threshold for other things, like eligibility for health benefits. *Employers are not required to offer coverage to employees’ spouses.* *Regulations require employers to use a “reasonable method” for determining contingent faculty members’ total hours of service.* Any across-the-board assumptions are unreasonable.

2) **Take the lead in establishing methods for counting contingent faculty members’ total hours.**
   
   The employer should respond to you, not the other way around. Propose a metric that makes sense for your members.

3) **Do not let employers confuse the possibility of penalties with actual penalties.**
   
   Regulators have created multiple ways for employers to avoid penalties. These include a buffer for employers to not offer coverage to up to 5 percent of full-time employees (and dependents) and safe harbors for when coverage is unaffordable.

4) **Use the law’s penalty provisions to push for coverage.**
   
   This may seem like a reach, but don’t rule out options for expanded benefits. And don’t forget that potential penalties might serve as leverage for obtaining coverage for contingent faculty members.

5) **Force employers to be transparent.**
   
   Push them to provide specific information and data on how they count hours for different types of employees.

6) **Gather and publicize information about employer abuses.**
   
   NEA has sent—and will continue to send—information about abusive practices to the Department of Treasury and the IRS. By collecting employer memos, media reports, and other documentation, you can push for federal action to curb abuses. Work with state affiliate staff and leaders to get that information to NEA.

7) **Organize contingent faculty members!**
   
   Cutting contingent employees’ hours leads to fewer class offerings or classes taught by less experienced faculty members, putting students’ education at risk. Consider your options for organizing around this issue—protesting publicly and enlisting students to support you. You can have a stronger voice on this issue and help strengthen your Association!