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Affordable Care Act Update

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Employer Notice of State Insurance Exchanges and Premium Tax Credits

- ▶ New hires must receive the notice at the time of hire.
- ▶ The notice must be sent to employees regardless of full time, part time, benefited or non-benefited status.
- ▶ A uniform sample Notice and the accompanying Cover Sheet was provided by the State Department of Education to the school systems.
- ▶ See also the September 2013 PEEHIP Advisor for information about the Exchanges.

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Employer Shared Responsibility Penalties :

4980H(a) Penalty (referred to as "Play or Pay" or "A Penalty")

- ▶ Applies to large employers who fail to offer minimum essential coverage (MEC) to its full time employees* and their dependents.
- ▶ Penalty calculated using the total number of full time employees employed during the year (minus 30) multiplied by \$2,000.
 - ▶ To avoid this penalty, an employer must offer MEC to at least 95% of its full time employees* (and their dependents).
 - ▶ MEC is met if a plan contributes minimum value (MV) of at least 60% of the total allowed costs of benefits.
 - ▶ PEEHIP offers MEC which meets the MV rule.
- ▶ *ACA full time – employee averages 30 or more service hours a week, but some may not be eligible for PEEHIP.

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Employer Shared Responsibility Penalties :

Example:

- ▶ A school system has 1800 PEEHIP-covered full time employees and
- ▶ 100 full time substitutes that average of 30 or more hours of service a week

$$\frac{100}{1800 + 100} = 5.26\%$$

In this example, the "A Penalty" **WOULD** apply because coverage is not offered to at least 95% of the FTEs: $100\% - 5.26\% = 94.74\%$.

The penalty would be: \$3,740,000.00
(1900 - 30 = 1870 X \$2,000)

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Employer Shared Responsibility Penalties :

1. 4980H(a) Penalty (referred to as "Play or Pay" or "A Penalty")

This penalty has the potential of having the most significant financial impact on employers if less than 95% of its total full time employees are not offered PEEHIP coverage.

- ▶ Examples of employees not eligible for PEEHIP can be:
 - ▶ substitutes,
 - ▶ after school workers,
 - ▶ temporary contract employees.

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Employer Shared Responsibility Penalties :

1. 4980H(a) Penalty (referred to as "Play or Pay" or "A Penalty")

- ▶ Under the ACA Definition of Full Time Employee:
 - ▶ What other types of employees does your school system employ that are not considered eligible for PEEHIP coverage?
 - ▶ Common-law employees are generally individuals directed and controlled by an employer for whom an employer would be required to report and pay employment taxes.
 - ▶ But leased employees, sole proprietors, partners in a partnership and 2% S corporation shareholders are not considered employees.

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Employer Shared Responsibility Penalties :

2. 4980H(b) Penalty (referred to as “Play and Pay” or “B Penalty”)

- ▶ Penalty calculated as the number of full time employees* who enroll in Exchange coverage and receive a premium tax credit multiplied by \$3,000 (indexed annually).
- ▶ This penalty may be unavoidable in certain situations:

❖ **SO EVEN IF YOU HAVE LESS THAN 5% OF FULL TIME EMPLOYEES* NOT ELIGIBLE FOR PEEHIP YOU COULD STILL HAVE A PENALTY.**

*ACA full time – employee averages 30 or more service hours a week, but some may not be eligible for PEEHIP.

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Employer Shared Responsibility Penalties :

How can employers avoid the “A Penalty”?

- ▶ Make sure your full time employees* not eligible for PEEHIP coverage represent less than 5% of your total full time employees*.

How can you determine the %?

- ▶ Use the equation:

$$\frac{\# \text{ full time employees* not eligible for PEEHIP}}{\# \text{ full time employees * (eligible and not eligible for PEEHIP)}}$$

This penalty is avoidable but employers MUST take appropriate steps NOW to ensure that at least 95% of full time employees* are offered PEEHIP coverage.

- ▶ Some employees eligible for PEEHIP coverage (such as bus drivers) may not meet the ACA definition of full time employee.

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Employer Shared Responsibility Penalties :

- ▶ PEEHIP will not be changing its eligibility policies. Full time employees and permanent part time employees are eligible for coverage with PEEHIP.

Under current PEEHIP policy, the following employees are not eligible to participate in PEEHIP:

- ▶ A seasonal, transient, intermittent or adjunct employee who is hired on an occasional or as needed basis.
- ▶ An adjunct instructor who is hired on a quarter-to-quarter or semester-to-semester basis and/or only teaches when a given class is in demand.
- ▶ Board attorneys and local school board members if they are not permanent employees of the institution.
- ▶ Contracted employees who may be on the payroll but are not actively employed by the school system.
- ▶ Extended day workers hired on an hourly or as needed basis.

Test of Full-time Employees for Compliance with Penalty Provisions of the Affordable Care Act
 Results of Monthly Monitoring for the ACA Compliance

Test for the Two Month Period: January and February, 2014

The formula for this test:

non-PEEHIP employees working 30 or more (average) hours a week: A
 Full-time with PEEHIP B minus bus drivers/aides C plus non-PEEHIP working 30 or more (average) hours a week A

B minus C plus A equals ____ %

A Step 1: Enter the number of non-PEEHIP employees working an average of 30 or more hours per week for the 2 months.
 B Step 2: Enter the number of full-time employees covered (or offered) PEEHIP coverage.
 C Step 3: Enter the number of employees from Step 2 that do not work 30 or more hours per week. (bus drivers, etc.)

The test for the two month period of January and February, 2014 reveals that the percentage of full-time employees (as defined by the Affordable Care Act) that are not eligible for PEEHIP coverage is ____ %.

Begin Date: January 5, 2014
 End Date: March 1, 2014
 Payroll Officer:
 CSFO:

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- ▶ Bus drivers and aides that are full-time for PEEHIP coverage but work less than 30 hours per week are NOT treated as a full-time employee for the calculation of the ACA penalty.
- ▶ Retirees with PEEHIP coverage working for the LEA are treated by ACA regulations as employees with NO PEEHIP coverage.
 - ▶ The LEA (Employer) does not provide them PEEHIP coverage. Retiree PEEHIP is provided by RSA.

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- ▶ **Look-back Measurement Period:** A period of time to determine if an employee is full-time (paid for service that averages 30 hours or more per week of 130 hours per month.) i.e., calendar year. For an ongoing employee this is the Standard Measurement Period and for a new employee this is the Initial Measurement Period.
- ▶ Alabama school boards should use a calendar year as the Standard Measurement Period for ongoing employees and a 12 month period for new employees.
- ▶ **Ongoing Employee:** An employee who has been employed for at least one complete standard measurement period.
- ▶ **New Employees:** An employee who has been employed for less than one complete standard measurement period.

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- ▶ **Stability period:** The period of time following the measurement period during which the employer must treat an employee as full-time if the employee was determined to be full-time during the measurement period. Even if the employee is working less than full-time during the stability period, the employee is treated as working full-time until the end of the stability period, if still employed.
- ▶ If an ongoing employee (start date before January 2, 2014 for this first standard measurement period) averages 30 hours or more per week from January 1, 2014 through December 31, 2014 and is still employed in 2015, then the employee is treated as a full-time employee for the entire 2015 calendar year. If the employee averages less than 30 hours per week in 2015, the employee is treated as not full time for the entire 2016 calendar year, if still employed.

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Variable Hour Employees

- ▶ If a **new** employee with a start date after January 1, 2014 for this first standard measurement period, averages 30 hours or more per week from January 1, 2014 through December 31, 2014 and is still employed in 2015, then the employee is **not** treated as a full-time employee for the 2015 calendar year. At least not until the new employee's 12 month employment anniversary ends, because:
- ▶ If the **new** employee averages 30 hours or more per week during the 12 month initial measurement period after the employee's start date (or the first day of the first month after the start date), then the employee is treated as a full-time employee for the following 12 months. (Even if the new employee does not average 30 hours or more per week during that stability period.) After the end of the 12 months following the initial measurement period for the **new** employee ends, then the employee is treated as an ongoing employee and the average weekly hours are measured on the calendar year standard measurement period.

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- ▶ Employee begins August 12, 2014:
 - ▶ Initial Measurement Period - September 1, 2014 to August 31, 2015.
 - ▶ Standard Measurement Period - January 1, 2015 to December 31, 2015.

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Employee begins August 12, 2014:

- ▶ **Initial Measurement Period** - September 1, 2014 to August 31, 2015.
 - If full time during this measurement period then treated as full time until August 31, 2016. If not full time during this Initial Measurement Period then look at the hours worked during the
- ▶ **Standard Measurement Period** – January 1, 2015 to December 31, 2015.

The new employee's hours are measured on both measurement periods.

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- ▶ Since an *employment break period* for educational employees is a period of at least four consecutive weeks (summer break for substitutes), we can include the weeks of the other break periods in calculating the average weekly hours. We only have to exclude the weeks of summer break in calculating the average working hours for substitutes during the measurement period.
- ▶ If an employee is not paid (such as termination, resignation or unpaid leave) for at least **26 consecutive weeks** (excluding summer break) when the employee returns to work the employee is treated as a new employee.

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Form 1094-B	Transmittal of Health Coverage Information Returns
Form 1095-B	Health Coverage
Inst 1094-B and 1095-B	Instructions for Forms 1094-B and 1095-B
LEA's	
Form 1094-C	Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
Form 1095-C	Employer-Provided Health Insurance Offer and Coverage
Inst 1094-C and 1095-C	Instructions for Forms 1094-C and 1095-C

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- ▶ **1094-C** – Reports to the IRS summary information for employer & to transmit Forms 1095-C to IRS
- ▶ **1095-C** – Reports information about each employee. Used to determine eligibility of employees for premium tax credits. Copy furnished to employee.
 - ▶ These forms are used in determining whether an employer owes payment under the employer shared responsibility provision.
- ▶ Filing in 2016, for 2015

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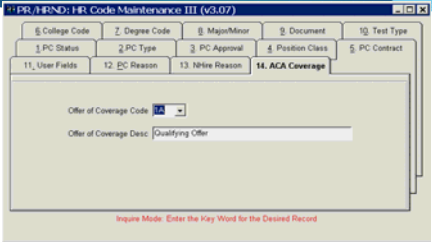
1095-C

- ▶ Part I – Employee & Employer Information
 - ▶ Similar to information on the W-2 (Name & Address)
- ▶ Part II – Employee Offer & Coverage
- ▶ Part III – Covered Individuals (N/A)
 - ▶ Complete ONLY if the employer offers employer-sponsored self-insured health coverage and
 - ▶ PEEHIP is NOT an employer-sponsored self-insured plan

SDE, Harris, & PEEHIP are coordinating the information to be included in Part II

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NextGen Code Setup

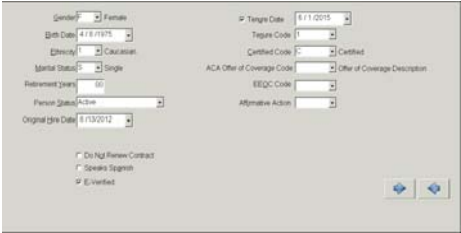


A validation table has been added to the system so that the various codes for "Offer of Coverage" can be defined.

Only codes 1A and 1H will be used for 2015 Reporting for Alabama School Boards.

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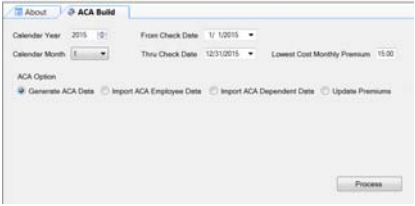
NextGen Personnel Data



The Offer of Coverage code has been added to the employee's Personnel Data screen. This will be used when producing the 1095-C form.

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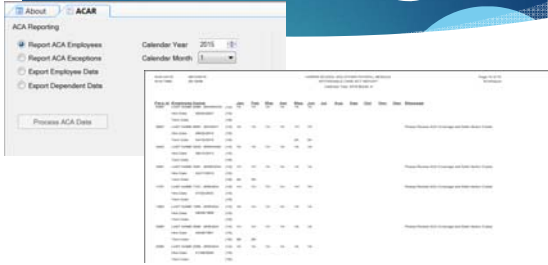
NextGen ACA Procedures



A new transaction will be added in the Application Center which will allow the district to build the ACA work file month-by-month for 2015.

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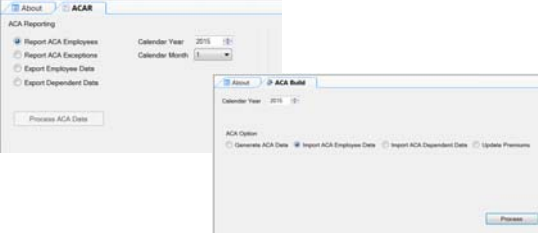
NextGen ACA Procedures



After generating the ACA data for a month or for a series of months, the information can be reviewed in report form and can be exported to Excel. The Excel file can be edited and the data imported back into the work file.

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NextGen ACA Procedures



After exporting the ACA data to Excel and making the necessary modifications, import the data back into the 2015 work file.

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Form 1095-C Boxes 14, 15, and 16

Employee is full-time under ACA during entire calendar year of 2015

Line	Months												
	All	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
14	1A												
15	NO ENTRY												
16	NO ENTRY												

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Form 1095-C Boxes 14, 15, and 16

Employee hired 3/16/2015 and is FT under ACA

Line	Months											
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
14	1H	1H	1H	1A	1A	1A	1A	1A	1A	1A	1A	1A
15	NO ENTRY											
16	2A	2A	2D									

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Form 1095-C Boxes 14, 15, and 16

Employee is deemed FT under ACA for entire calendar year 2015, but is not covered for insurance (substitute, for example).

Line	Months												
	All 12	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
14	1H												
15	NO ENTRY												
16	NO ENTRY												

Assumption- Employee is not eligible for PEEHIP and is not entered in the PEEHIP employer portal.

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Form 1095-C Boxes 14, 15, and 16

Employee is part-time until June 2015, then is FT under ACA

Line	Months												
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	
14	1H	1H	1H	1H	1H	1A	1A	1A	1A	1A	1A	1A	1A
15	NO ENTRY												
16	2B	2B	2B	2B	2B								

Assumption - Employee is eligible for PEEHIP and is entered in the PEEHIP employer portal.

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Form 1095-C Boxes 14, 15, and 16

Employee is FT under ACA rules and terminates or retires on September 20, 2015

Line	Months											
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
14	1A	1A	1A	1A	1A	1A	1A	1A	1A	1H	1H	1H
15	NO ENTRY											
16										2A	2A	2A

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Form 1095-C Boxes 14, 15, and 16

- ▶ Using 1H in line 14 with nothing in line 16
 - Use of 1H in line 14 indicates the employee was deemed FT by ACA Rule
 - If line 16 is blank when line 14 carries 1H, that indicates:
 - That health coverage should have been extended to the employee, but was not AND
 - The employer has no remedy or transitional relief

Make sure to check carefully in situations such as this!

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Form 1095-C Example

The screenshot shows a Form 1095-C for an employee named John Doe. It includes fields for the employer's name, address, and EIN. The 'Employee Information' section contains details about the employee's status, including whether they are a full-time employee (FT) or part-time (PT), and their date of birth. The 'Coverage Information' section shows the employee's coverage status for various months, with a grid for 'Covered Individuals'.

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Form 1094-C Example

The screenshot shows a Form 1094-C for the transmission of Form 1095-C information. It includes fields for the employer's name, address, and EIN. The 'Transmission Information' section contains details about the transmission, including the date and time. The 'Official Use Only' section contains a barcode and a unique identifier.

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Form 1094-C Example

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Filing Requirements

- ▶ March 31 if filing electronically
- ▶ Form 1095-C must be furnished to the individual by January 31st.

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Other Considerations

- ▶ Employers with ≥ 250 forms required to file electronically
- ▶ AIR system: Affordable Care Act Information Returns system
- ▶ Review draft [Publication 5165](#), Guide for Electronically filing ACA Information Returns
- ▶ For returns required to be filed after December 31, 2015, the penalty for failure to file an information return generally is increased from \$100 to \$250 for each return for which such failure occurs. The total penalty imposed for all failures during a calendar year after December 15, 2015 cannot exceed \$3,000,000.
- ▶ The penalty for failure to provide a correct payee statement is increased from \$100 to \$250 for each statement for which the failure occurs, with the total penalty for a calendar year not to exceed \$3,000,000. The increased penalty amount applies to statements required to be provided after December 31, 2015.
- ▶ Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to furnish a payee statement.

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Questions?

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