

BOARD OF HIGHER EDUCATION
REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Fiscal Affairs and Administrative Policy **NO.:** FAAP 16-32

COMMITTEE DATE: June 7, 2016

BOARD DATE: June 14, 2016

AMENDED LEAVE POLICIES FOR NON-UNIT PROFESSIONALS AT COMMUNITY COLLEGES AND STATE UNIVERSITIES

MOVED: As identified in the background document, the Board of Higher Education (BHE) hereby adopts the proposed changes for the leave policies for non-unit professionals at community colleges and state universities and authorizes the Department to effectuate said changes in the respective employee handbooks;

The Board further directs the Department to implement the proposed oversight and accountability measures, as specified in the background document, in order to better inform any future compensation or benefit changes for personnel.

The BHE directs the Commissioner to report back to the BHE in the Fall of 2016 on the Department's progress in implementing the proposed changes and other recommendations set forth herein.

Authority: M.G.L. c. 15A, § 6 and 9

Contacts: Nate Mackinnon, Assistant Commissioner & Chief of Staff;
Sean Nelson, Deputy Commissioner for Administration and Finance

Amending Leave Policies for Non-Unit Professionals

Background Information

In March of this year, Department of Higher Education (Department) Commissioner Carlos E. Santiago commissioned an expedited review of the leave policies currently in place for certain higher education staff and administrators at community colleges and state universities. The Board of Higher Education (Board) and the Department are committed to an approach to State University and Community College compensation and benefit packages that attracts, motivates and retains the most highly qualified individuals possible, while being sensitive to the fact that we are stewards of public funds and public trust.

Employees across the state universities and community colleges are either in a collectively bargained unit, of which there are several, or are considered Non-Unit Professionals (NUP). The changes being proposed through this motion would only apply to NUP employees at the State Universities and Community Colleges. Any changes made to employees in Collective Bargaining Units would need to be addressed when their contracts are renegotiated.

At the Fiscal Affairs and Administrative Policy (FAAP) Committee meeting on April 26, 2016, Department staff provided a presentation summarizing the findings of the review along with recommended changes to existing leave policies for NUP employees that would be considered for a vote at the upcoming June 7th meeting. See FAAP PowerPoint Presentation, Non-Unit Professionals Proposed Changes. April 26, 2016. The Department's initial review found that, while there is certainly a need for institutions to remain competitive as employers of higher education professionals, there were several current leave benefits for NUP employees that proved to be significantly more generous than those offered by other public systems of higher education around New England. The amendments proposed by the Department would better align the leave benefits for NUP employees of State Universities and Community Colleges with those of other public higher education institutions, both within Massachusetts as well as across the New England region.

Current Leave Benefits

The current leave benefits for State University and Community College NUP employees are summarized below. These leave benefits directly mirror the current collectively bargained agreements at the segmental level..

| | Community College NUPs | State University NUPs |
|---|---|--|
| Conversion of Excess Vacation to Sick Time | Yes – Over 64 days (converted once per year) | Yes – Over 64 days (converted twice per year) |
| Max. Vacation Balance | 64 days | 64 days |

| | | |
|-------------------------------|--|---|
| Vacation Time (Annual) | <ul style="list-style-type: none"> • 22 days for less than 6 years • 23 days for 6yrs – 16yrs • 25 days for 16yrs – 25 yrs • 30 days for 25yrs + | <ul style="list-style-type: none"> • 22 days for less than 8 years • 23 days for 8yrs – 16 yrs • 25 days for 16yrs – 25 yrs • 30 days for 25yrs + |
| Personal Time (Annual) | <ul style="list-style-type: none"> • 3 days if hired after 7/1/12 • 5 days if hired before 7/1/12 | <ul style="list-style-type: none"> • 3 days if hired after 7/1/10 • 5 days if hired before 7/1/10 |

New England Area Current Leave Benefits

| | MA (SU/CC) | CT | ME | NH | RI | VT |
|---|-----------------------|-----------|--------------|--------------|-------------------|-------------------|
| Conversion of Excess Vacation to Sick Time | Yes – Over 64 days | No | No | No | No | No |
| Maximum Vacation Balance | 64 days | 60 days | 40 days | 45 days | 2x Annual Accrual | 1x Annual Accrual |
| Vacation Time (Annual) | 22 – 30 days | 22 days | 20 – 25 days | 18 – 24 days | 22 – 27 days | 12 – 24 days |
| Personal Time (Annual) | 3 or 5 days | 3 days | 2 days | None | 4 days | 4 days |

The review identified a few key differences between current NUP leave policies at Massachusetts State Universities and Community Colleges and those at other public higher education systems. Those key differences are:

- The ability to convert excess vacation time to sick time;
- Higher balances of vacation time allowed to be carried over from year-to-year;
- Annual vacation leave of up to 30 days for longest serving employees;
- Inconsistent personal days (based on hire date), and inconsistent number of holidays with the UMass System.

Proposed Changes

To address policy concerns raised by the review, Department staff recommends amending the existing Non-Unit Professional Employee leave policies for all to reflect the following changes:

- 1) Eliminate the conversion of any excess vacation time to sick time. Effective July 1, 2016, any vacation balance over the maximum allowed balance will be forfeited if not used.
 - a. Employees must be provided with written notice of any time they may lose.

- b. Excess vacation time over the allotted balance, as established in paragraph 2 below, shall be forfeited at least once per calendar year.
- 2) Lower the maximum allowed vacation day balance over the next 2.5 years to fifty (50) days. Effective January 1, 2019, NUP employees will forfeit any days in their balance above the newly-established limit of 50 vacation days.
 - 3) Establish the following new schedule for vacation accrual rates, effective January 1, 2017.

| Years of Service | Annual Vacation Days |
|-------------------------|-----------------------------|
| 0 – 4.99 Years | 20 Days |
| 5 – 9.99 Years | 22 Days |
| 10 – 14.99 Years | 23 Days |
| 15 – 19.99 Years | 24 Days |
| 20+ Years | 25 Days |

- a. Provided, that no individual NUP employee hired prior to January 1, 2017 shall have their vacation accrual rate reduced below their current accrual rate as a result of this new schedule. This schedule shall however determine future accrual rates for all newly hired employees and for all current NUP employees as they move up in years of service.
 - b. Provided, that any individual NUP employee who will have reached 25 years of service by December 31, 2017 shall still be entitled to begin earning 30 days of vacation on said anniversary date if still employed as a NUP.
 - c. Add discretionary language allowing relevant years of experience to count towards annual vacation accrual rate bracket.
- 4) Standardize the number of personal days allowed throughout the system of public higher education, such that all NUP employees will receive five (5) personal days annually, effective January 1, 2017.
 - 5) Effective January 1, 2017, implement a sick leave bank for all Community College and State University employees not currently covered by an existing program granting access to additional sick leave in the event of an emergency.

The proposed changes seek to strike an appropriate balance and will:

- Better align the Commonwealth's leave balances for NUP employees with those at other public higher education systems, both within Massachusetts as well as across New England
- Ensure that as employers in a market with many public and private institutions, our Community Colleges and State Universities remain competitive and are able to attract top talent.
- Reinforce our obligation to be good stewards of public dollars while still providing a high-quality educational experience for the Commonwealth.

In addition to implementing the policy changes proposed above, Department staff will continue to work with institutional leadership to enhance oversight and accountability practices. To that end, the Department will:

- Continue offering voluntary training to new trustees and Board chairs on trustee oversight and accountability.
- Explore mandating, either through statute, regulation or the like, required minimum levels of training for Boards of Trustees
- Circulate training materials and "Best Practice" guidelines on overseeing presidential leave time.
 - Said guidelines will include options for required notification and/or approval by Board Chair on a regular basis.
- Require presidents to annually report their leave time to the Board of Trustees and BHE through presidential evaluation process.
- Ensure adherence to periodically updated institutional internal control plans.

The Department further recommends that the BHE authorize the Department to:

- Update the 2005 Report on Presidential Compensation through a new study to be conducted in FY17, subject to available funding.
- Explore requiring all NUP payouts at retirement to be paid over three fiscal years (does not apply to terminated employees).
- Explore creating IRS-approved plans for deferred compensation of accumulated leave time.
- Update both NUP manuals to reflect current state and federal law and explore issuing one consolidated, statewide NUPs manual which will apply to both the State University and Community College segments.
- Review all collective bargaining agreements for consistency and alignment with NUPs and other state bargaining units.