

**Title 4 - Codification of Board Policy Statements**

**Chapter 3**

**PROFESSIONAL STAFF**

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## **Section 1. Basic Policies**

Personnel policies for professional staff of the Nevada System of Higher Education are also contained in the Nevada System of Higher Education Code and in the institutional bylaws and policies.

Policies for the Desert Research Institute Technologist are controlled by the DRI Technologists Manual (approved by the Board of Regents on a pilot basis January 28, 1988, and permanently in April, 1989).  
(B/R 6/08)

## **Section 2. Standards for Defining the Professional Staff**

1. Persons occupying employment positions in the Nevada System of Higher Education meeting one or more of the following criteria shall be in the professional staff of the Nevada System of Higher Education:

a. At the universities only, academic faculty includes the following:

- (1) Instructional faculty, which consists of persons teaching, tutoring, instructing and lecturing in the activity of imparting knowledge;
- (2) Research faculty, which consists of persons with advanced scientific or academic training who are actively engaged in the research field, and are responsible for identifying research problems, developing designs or hypotheses, analyzing results of research investigations, reaching conclusions, publishing the results of research and investigations and obtaining research grants or funding; or
- (3) Library faculty, which consists of persons with a degree of at least Master of Library Science from an accredited institution who are employed in the libraries of the Nevada System of Higher Education and who provide professional library services closely and directly supportive of teaching and research.

b. At the state colleges only, academic faculty includes the following:

- (1) Instructional faculty, which consists of persons teaching, tutoring, instructing, and lecturing in the activity of imparting knowledge;
- (2) Counseling faculty, which consists of persons with at least a Masters degree from an accredited institution who are employed in the student services units of the state college of the Nevada System of Higher Education and who provide professional counseling services closely and directly supportive of teaching and student development; or
- (3) Library faculty, which consists of persons with a degree of at least Master of Library Science from an accredited institution who are employed in the libraries of the Nevada System of Higher Education and who provide professional library services closely and directly supportive of teaching and research.

(B/R 12/02)

- c. At the community colleges only, academic faculty includes the following:
  - (1) Instructional faculty, which consists of persons teaching, tutoring, instructing or lecturing in the activity of imparting knowledge;
  - (2) Counseling faculty, which consists of persons who are employed in the student services units of the community colleges of the Nevada System of Higher Education and who provide professional counseling services closely and directly supportive of teaching and student development; or
  - (3) Library faculty consists of persons who are employed in the libraries of the Nevada System of Higher Education and who provide professional library services closely and directly supportive of teaching.
  
- d. Administrative faculty excludes the above and includes the following:
  - (1) Executive faculty, which consists of the Chancellor, the Secretary to the Board, the Vice-Chancellors and the Presidents and Vice-Presidents of the member institutions of the Nevada System of Higher Education; (B/R 2/05)
  - (2) Supervisory faculty, which consists of persons who perform predominately office or non-manual work of a supervisory nature as head of a college, school, center, division, laboratory or other administrative unit of a member institution or special unit of the Nevada System of Higher Education; or
  - (3) Support faculty, which consists of persons, including but not limited to teaching assistants, laboratory assistants, athletic coaches and assistant athletic coaches, who perform predominately office or non-manual work:
    - (a) Of a confidential nature performed under the direct supervision of a member of the executive faculty; or
    - (b) Of a predominately intellectual, specialized or technical nature requiring training, experience or knowledge in a field of science, learning or occupation customarily acquired by a course of specialized intellectual instruction, studies or experience, which is performed under general supervision only and requires the consistent exercise of discretion and judgment.
  
- 2. Resident physicians and postdoctoral fellows, as defined in Title 4, Chapter 7 of the Board of Regents Handbook, and DRI Research Technologists, are excluded from the provisions of this section.
  
- 3. Each member institution or special unit may establish a committee to assist each institution or special unit in identifying positions, which may be established in either the professional or the classified staff of the Nevada System of Higher Education. This section shall not be deemed to apply to custodial, clerical or maintenance employees of the Nevada System of Higher Education who are in the classified service of the State of Nevada as provided for in *Nevada Revised Statutes* 284.140(6).  
(B/R 10/04)

### **Section 3. Faculty Workload Policy**

1. The Board of Regents of the Nevada System of Higher Education recognizes the distinct and unique missions of its member institutions, each of which serves the needs of the citizens of the State of Nevada through a combination of quality teaching, scholarly research or creative activity, and service. The way in which these activities are combined to set the individual faculty member's workload depends primarily on the mission of the institution and the constituencies it serves.
2. The NSHE Code defines the primary areas of faculty responsibility for all higher education institutions in Nevada, and these areas are reinforced throughout the Code in standards for tenure and annual evaluation.
3. With the exception of faculty members at the Desert Research Institute, all NSHE instructional faculty members are expected to teach; develop curriculum; conduct other instructional activities including advising, grading, and preparing for classes; maintain currency in their academic discipline; and perform public and professional service, service to the institution, and similar academic activities. In addition, at the universities, state college and Desert Research Institute, academic faculty members are expected to conduct scholarly research or creative activity.
4. Consistent with the principles identified herein, and consistent with their mission, the NSHE institutions shall have substantial autonomy to select and determine the relative importance of faculty activities in the areas of teaching, scholarly research or creative activity, and service. The distribution of responsibilities should take maximum advantage of the talents of individual faculty members and may reflect differences among academic disciplines.
5. The Board of Regents affirms that the duties in each of these areas are essential elements of the work of the faculty and must be viewed as a whole whenever faculty workload and productivity are measured and reported. Faculty workload cannot and should not be measured solely by the time spent by the faculty member in the classroom.
6. In recognition of its commitment to accountability and productivity, the Board of Regents will regularly compile information regarding faculty workloads. To aid in this process, the following expected teaching workloads at NSHE institutions shall be established:
  - a. At the universities, an expectation of 18 instructional units per academic year, or 9 units each semester. For individual faculty heavily involved in doctoral-level education, the expected load would be an average of 12 instructional units per academic year, or 6 units per semester.
  - b. At the state college, an expectation of 24 instructional units per academic year, or 12 units each semester.
  - c. At the community colleges, an expectation of 30 instructional units per academic year, or 15 units per semester.
  - d. As it applies to a, b, and c, reassignments from the expected teaching load as well as course overloads must be approved in advance by the appropriate vice, president, president, or at an alternative level to be determined by the institution.

- e. The aforementioned expectations do not apply to the instructional faculty of the University of Nevada School of Medicine, the UNLV School of Dental Medicine, and the William S. Boyd School of Law.
7. It shall be the responsibility of the president of each NSHE institution to establish justifiable, equitable instructional workload standards through a process of shared governance with the faculty. It is expected that the institutional policies will provide detailed guidelines for equivalent teaching load credit as well as adjustments of workloads that reflect different kinds of instruction – including, but not limited to, distance education, rural education, internet instruction, vocational education, and clinical education. The policies should also take into account non-instructional activities that may be essential to the work of faculty in particular disciplines and provide equitable recognition for extra contact hours that faculty spend with students in courses that involve studios, laboratories, clinics, independent study, thesis and dissertation, internships, and similar activities related to instruction.
8. In the fall of every even-numbered year, the Chancellor shall compile a System report on faculty workloads at NSHE institutions.
9. The Board of Regents encourages NSHE institutions to participate in national, benchmarked studies, and their participation shall be facilitated by System staff.  
(B/R 8/04)

#### **Section 4. Evaluations**

1. The NSHE Code, Chapter 5, Section 5.12.1 and 5.12.2, establishes that written performance evaluations of academic faculty and administrative faculty shall be conducted at least once annually by department chairs, supervisors or heads of administrative units. One of the purposes of annual performance evaluations is to provide constructive, developmental feedback to the faculty member. (B/R 9/05)
2. All performance evaluations shall include a rating of (i) “excellent,” (ii) “commendable,” (iii) “satisfactory,” or (iv) “unsatisfactory.” No other rating terminology shall be used. The areas of evaluation and procedures for evaluation of academic faculty and administrative faculty are established in institutional bylaws. Evaluations of instructional faculty shall include an assessment of teaching evaluations completed by their students. The performance evaluations of executive and supervisory faculty shall include consultation with the professional and classified staff of the appropriate administrative unit. The evaluation of the presidents and the chancellor shall follow guidelines approved by the Board of Regents.
3. The annual performance evaluation of tenured faculty is addressed in NSHE Code, Chapter 5, Section 5.12.
4. Academic and administrative faculty shall, upon request, have access to materials used by the supervisor in writing the evaluation, including the results of, but not the originals of, student evaluations and comments, and in the case of administrative faculty whose evaluations include surveys, the results of, but not the originals or copies of, such surveys. In responding to such a request, the supervisor must ensure the anonymity of the students and the survey respondents. With the exception of the results of such student evaluations and comments and such surveys, anonymous materials shall not be considered by the supervisor.

5. Academic and administrative faculty who disagree with the supervisor's evaluation may submit a written rejoinder, and where authorized by the institution bylaws as provided for in Section 5.16 of the NSHE Code, request a peer evaluation. The supervisor's official evaluation and the faculty member's rejoinder and/or peer evaluation will be retained in the faculty member's personnel file along with other recommendations from a review process. If a peer evaluation, or any other review process result in a recommendation that the initial evaluation be changed, that recommendation shall be forwarded to the President or designee of the institution, who, at his or her discretion, may change the faculty member's evaluation by means of an addendum attached to the front of the evaluation stating how the evaluation is being changed and the reasons for the change. If the President or designee does not change the evaluation, the reasons shall also be stated by means of an addendum attached to the front of the evaluation. The President or designee shall sign the addendum and provide a copy to the faculty member. (B/R 12/06)
6. Academic or administrative faculty members receiving an overall rating of "unsatisfactory" on their evaluation shall be provided with constructive feedback in the written evaluation for improving their performance. This constructive feedback must include a written plan for improvement, which must be specific and must be provided at the time of the first "unsatisfactory" rating.
7. Academic faculty in tenure-track positions shall, in addition to the annual written evaluation, be entitled to a written mid-tenure review of their progress toward tenure. The procedures for the review shall be described in each institution's bylaws. Notwithstanding a positive mid-tenure review, the award of tenure remains a discretionary act as provided in the Nevada System of Higher Education Code.  
(B/R 1/04)

## **Section 5. Credentials for Community College Faculty**

A minimum of a master's degree is required for instruction in baccalaureate-level courses or an appropriate combination of education and experience. A bachelor's degree, or appropriate experience in lieu of a post-secondary education, is required for instruction in occupational courses. (B/R 12/89)

## **Section 6. Advanced Degrees**

A faculty member may be permitted to become a candidate for an advanced degree outside his/her own department if the request to do so is approved by the appropriate graduate school committee, the graduate dean, and the president. (B/R 5/79)

## **Section 7. Nepotism**

1. It is the policy of the Nevada System of Higher Education that none of its employees or officers shall engage in any activities that place them in a conflict of interest between their official activities and any other interest or obligation. Conflict of interest requires all employees and officers to disqualify themselves from participating in a decision when a financial or personal interest is present.

2. The *Nevada Revised Statutes* 281.210 and the *Nevada Administrative Code* 284.375 and 284.377 prohibit the employment of relatives under certain circumstances. Except for relationships allowed pursuant to those documents, no employing authority of the NSHE may appoint a person to an employment position if, upon the appointment, the person will be the immediate supervisor or will be in the direct line of authority of any relative of a NSHE employee within the third degree of consanguinity or affinity.

Exceptions to this policy must have the prior written approval of the employing authority (defined as the President or Chancellor, as the case may be), along with a written agreement detailing the manner in which conflicts of interest will be ameliorated. The source of funding to pay a newly hired employee may not serve as a basis to waive the restrictions of this policy. A contractual relationship between a Regent and a NSHE institution is subject to the limitations contained in NRS 396.122.

3. Consanguinity is a blood relationship within a family of the same descent. Affinity is a marriage or other legal relationship (such as adoption) formally recognized by the State of Nevada. Relationships within the third degree of consanguinity or affinity are defined as:
  - (a) The employee's spouse, child, parent, sibling, half-sibling, or step-relatives in the same relationship;
  - (b) The spouse of the employee's child, parent, sibling, half-sibling, or step-relative;
  - (c) The employee's in-laws, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin.
4. Members of the Board of Regents must report on an annual disclosure form when a relative within the third degree of consanguinity or affinity is hired by a NSHE institution. (B/R 1/03)
5. Except for relationships allowed pursuant to *Nevada Revised Statutes* 281.210 and *Nevada Administrative Code* 284.375 and 284.277, if a supervisor and an employee who is in the direct line of authority of the supervisor become related after the supervisor and employee have been appointed to their respective positions, the appointing authority shall ensure that, as soon as practicable, the employees do not continue to hold positions in which one of the employees is in the direct line of authority of the other employee.
6. A supervisor who becomes related to an employee in the direct line of authority of the supervisor shall notify the appointing authority within 10 working days after the supervisor and employee become related.
7. Upon receiving notification of a relationship from a supervisor pursuant to paragraph 4, the appointing authority may request a recommendation from each of the employees for appropriate action to be taken to alter the line of authority. In determining the manner in which to comply with this policy, the appointing authority is not required to accept a recommendation from the employees involved.
8. A person serving in a supervisory position may not participate in decisions regarding hiring, reappointment, placement, evaluation, rate of pay, salary increases, promotion, tenure, monetary awards, or other personal interest for a relative employed by the NSHE, as defined in paragraph 3, even when the supervisor is not in the direct line of authority.

9. In enforcing this policy, each NSHE institution should avoid any appearance of impropriety as well as any potential conflict of interest.
10. NSHE institutions may establish additional nepotism policies and procedures as long as they do not conflict with the NSHE nepotism policy or with state laws and regulations.
11. Violators of this policy may be subject to NSHE disciplinary action as well as sanctions stipulated in the Nevada Revised Statutes and Nevada Administrative Code.  
(B/R 10/02)

**Section 8. Compensated Outside Professional Services**

(For DRI Faculty Members, See Title 4, Chapter 11, Sec. 12)

1. Outside professional or scholarly service by faculty members within their subject matter field and for compensation is recognized as a legitimate activity unless specifically prohibited by the employee's contract with the institution.
2. Outside professional or scholarly service as contemplated by this section shall not interfere with the performance of the duties of any faculty member. Such service shall occupy no more than one day's equivalent time per work week (20%). Faculty members on 12-month contracts must take annual leave if providing outside professional or scholarly service during the standard work week.
3. No faculty member may undertake outside professional or scholarly service that would result in a conflict of interest with his or her assigned duties. Conflict of interest means any outside activity or interest that may adversely affect, compromise, or be incompatible with the obligations of an employee to the institution.
4. Faculty members performing compensated outside professional or scholarly service are subject to the code of ethical standards of the State of Nevada (NRS 281A.400-281A.660), which governs the conduct of public officers and employees.
5. A faculty member may not perform an official act on behalf of the institution that directly benefits a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative, agent, director, or officer. This prohibition is not intended to limit a faculty member's ability to enter into a contract between a governmental entity, the institution, and a private entity to the extent authorized by and in conformity with NRS 396.255, NRS 281.221(3), NRS 281.230(3), NRS 281A.430(3), the Board of Regents Intellectual Property Policy (Title 4, Chapter 12, Sections 1-8), and the Board of Regents Conflict of Interest Policy (Title 4, Chapter 10, Section 1.7).
6. For the purpose of this section, potential conflicts of interest include a faculty member's involvement in transactions or decisions on behalf of an institution, in which the faculty member knows that benefits accrue to individuals in the faculty member's household, persons to whom the faculty member is related by blood, adoption or marriage within the third degree of consanguinity, or persons with whom the faculty member has substantial and continuing outside business relationships.

Relationships within the third degree of consanguinity or affinity are defined as:

- (a) The faculty member's spouse, child, parent, sibling, half-sibling, or step-relatives in the same relationship; (b) The spouse of the faculty member's child, parent, sibling, half-sibling, or step-relative; or (c) The faculty member's in-laws, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin.
7. Faculty members engaged in providing compensated outside professional or scholarly service shall provide advance notification in writing to their immediate supervisor about the nature of the work to be performed, the company/organization for which the work will be performed, and the estimated time involved. The request must be approved in advance by the supervisor within 10 working days. Individual requests to perform outside professional or scholarly service shall be considered confidential personnel documents pursuant to Title 2, Chapter 5, Section 5.6.2.
  8. When a supervisor believes that a conflict exists with obligations currently incurred or assumed by the institution regarding a faculty member's consulting activities, the supervisor shall inform the faculty member of these concerns and negotiate a mutually acceptable course of action. If a mutually acceptable course of action cannot be negotiated, the appropriate vice president or vice chancellor, as the case may be, will hear and evaluate the evidence and render a decision, or appoint a review committee if necessary. The vice president or vice chancellor may require the faculty member to cease performance of existing obligations while the faculty member remains a NSHE employee.
  9. Faculty members performing compensated outside professional or scholarly service shall inform those who engage them that they are not acting in the name of the institution and that the institution is not a party to the contract nor liable for any actions of such faculty member.
  10. In negotiating for a contract for outside compensated professional or scholarly services, faculty members shall not use institutional stationery or forms in any manner.
  11. Faculty members may make a general announcement of their availability as consultants but may not solicit consulting assignments.
  12. Faculty members working independently on their own time may obtain patents or copyrights on the results of their work.
  13. Faculty members performing compensated outside professional or scholarly service are subject to the Board policy on personal use of System property or resources (Title 4, Chapter 1, Section 25). A faculty member working independently on an outside-compensated contract shall not use NSHE facilities, equipment or personnel unless such use is authorized in advance by the supervisor. Reimbursement of any costs to the institution shall be in accordance with Title 4, Chapter 1, Section 25.
  14. It is the responsibility of each faculty member to timely report outside compensated services and to certify the accuracy of the disclosures. Failure to accurately and timely disclose outside compensated services constitutes a basis for disciplinary action under Title 2, Chapter 6. Records are to be kept annually by the dean or appropriate vice president, or vice chancellor as the case may be, of all approved consulting activities in each department or division.

15. Each NSHE institution shall publish an annual report regarding compensated outside professional or scholarly service completed by its faculty (aggregate data) and approved by the institution in accordance with the provisions of this section. This report will verify that all potential conflicts of interest have been reviewed and approved in accordance with the provisions of this section. A summary of these reports will be sent to the Board of Regents annually.

(B/R 6/08)

## **Section 9. Death Benefits**

1. Pursuant to *Nevada Revised Statutes* 281.155, if a faculty member has filed a signed, written designation of beneficiary, the final payment of compensation due a deceased faculty member, as provided in this section, shall be released to the designated beneficiary. If the deceased faculty member has not filed such a signed, written designation of beneficiary, the final payment is a part of the faculty member's estate and shall be paid to the estate.

"Final payment" means the net amount due the employee after the deduction of all withheld sums from the faculty member's gross compensation.

2. In addition to any benefits which may be paid to a beneficiary, or to an estate if there is no beneficiary, of a deceased faculty member from insurance, a retirement program or any other source, the Nevada System of Higher Education shall pay to the beneficiary or the estate of the deceased, as the case may be, the following:
- a. Faculty members on a 12 month appointment who are on the payroll at the time of death shall receive salary through the day of death plus any earned but unused annual leave, plus one-twelfth of the current annual contract salary.
  - b. Faculty members on a 10-month appointment who are on the payroll at the time of death shall receive salary through the day of death plus one-twelfth of the current annual contract salary.

(B/R 4/82)

## **Section 10. Leave of Absence Without Salary**

1. Leave of absence without salary, for periods up to and including twelve months, may be granted by the president, in accordance with the provisions of this policy, to faculty members who wish to absent themselves from their institutional duties. Reasons for a leave of absence without salary would include: a.) to undertake work that benefits the Nevada System of Higher Education; such as, research work, advanced study, related consultation, teacher exchange and governmental service; or b.) other situations deemed appropriate by the president. Where approved the conditions under which the leave is authorized shall be in writing, and shall specify who will pay for the employee's group health insurance, with a copy given to the applicant and to the institution's Human Resources office.

2. Faculty members who are authorized to take leave of absence without salary which will benefit the NSHE and who are otherwise eligible to participate in the State of Nevada's group insurance program shall have their premiums paid by the Nevada System of Higher Education as authorized by *Nevada Revised Statutes* 287.044. Otherwise, faculty must pay the premiums themselves. Absent the payment of premiums, there will be no insurance coverage from NSHE during the term of the leave of absence and upon return, re-enrollment will occur subject to rules of the State of Nevada group insurance program.
3. Request for an extension of a leave of absence without salary resulting in a leave of absence for periods extending beyond twelve months is subject to approval of the Board of Regents.
4. Request for leave without salary shall be made to the President or designee through the Department Chair and Dean of the College or immediate supervisor and appropriate vice President. A requirement of the approval process is that the leave can be arranged without seriously impairing the work of the department.
5. Institutions may further define the reasons for granting a leave under this policy as long as the criteria establish under this policy are met. Leave without salary shall be granted only to a faculty member who has been employed by the Nevada System of Higher Education for at least one year. No leave of absence shall be granted for a longer period than two years except for the purpose of pursuing activities, which will tend to further the education of such a person in his/her special field. The furtherance of education will include only advance study and governmental service. The faculty member is expected to return to the employer for a period of time at least equal to that of his/her last contract. For good cause, the President may approve exceptions to the above criteria.

(B/R 4/02)

## **Section 11. Sabbatical Leave**

1. In conformity with *Nevada Revised Statutes* (NRS) 284.345, interpretations of that statute by the Attorney General, and previous Board rulings, the number of sabbatical leaves granted for each succeeding academic year shall not exceed a number equal to two percent of the academic faculty in the current year. When applied to professional staff within the Desert Research Institute, the term "research faculty" shall replace the term "academic faculty." Those whose primary responsibility is administrative in nature are not eligible for sabbatical leave.
2. Sabbatical leave allocations shall be prorated to the institutions, or other administrative units not a part of an institution, based upon the FTE "academic faculty" in that unit.
3. Any academic faculty member, whose position is funded in whole from state sources, and who has served full-time on either a ten-month or twelve-month contract for six or more years, is eligible for sabbatical leave. Such faculty shall serve at least six additional years prior to eligibility for subsequent sabbatical leaves. Faculty holding the designation of Lecturer may be eligible for sabbatical leave, at the discretion of each institution. (The term "full-time" means an appointment at 1.0 FTE for the contract year.) Full-time faculty whose positions are funded in whole or in part from non-state sources may be eligible for sabbatical leave according to the terms of this policy only if the funds to support a sabbatical leave can be derived from the appropriate non-state funding source. The use of non-state

funds for sabbatical leave must also be approved by the appointing authority. Part-time academic faculty (i.e. those having an FTE of at least .50 but less than 1.0 for the contract year) may be eligible for sabbatical leave at the discretion of the institution. In such cases, the leave and payment provided shall be at a time and amount pro-rated to reflect part-time status. (B/R 6/09)

4. Eligibility for sabbatical leave commences at the end of the sixth year of full time service in the same position. Any period of time spent on an unpaid status is not considered a part of the six-year service requirement under this policy. Applications for a sabbatical leave must be submitted while a faculty member is in a paid status.
5. Eligible applicants for sabbatical leave shall have two alternatives: one year's leave at two-thirds of annual salary or one-half year's leave at full base salary. For part-time faculty, FTE will be used to calculate pro-rated salary continuation while on leave.
6. The taking of sabbatical leave will not interfere with the continuing employment of an individual by the NSHE, or any other rights or privileges normally associated with appointment to the NSHE faculty. Retirement contributions for Retirement Plan Alternative (RPA) members will be made based on compensation. Service credit for PERS members will be earned in the proportion that the faculty member's actual compensation bears to his or her previous compensation. (B/R 3/07)
7. Implementation/Process
  - a. The procedures for sabbatical leave shall be approved by the President or designee.
  - b. The appropriate Faculty Senate shall select the Sabbatical Leave Committee to review and rank all applications.
  - c. If an institution or other administrative unit is not entitled to at least one sabbatical leave, as explained in paragraph 2 above, the Chancellor shall group two or more institutions or other administrative units to secure one allocation and the appropriate faculty senates shall select the Sabbatical Leave Committee to review the applications.
  - d. NSHE institutions may adopt such supplemental procedures concerning sabbatical leaves as the faculty senates and presidents deem appropriate, provided that such procedures are in harmony with Board of Regents policy.
8. Obligations Upon Taking Sabbatical Leave
  - a. In conformity with *Nevada Revised Statutes* 284.345, ". . .no sabbatical leave with pay shall be granted unless the person requesting such leave agrees in writing with the employer to return to the employer after such leave for a period not less than that required by his/her most recent contract of employment with the employer, if the employer desires his/her continued service." The employee will agree to return to the employer in a paid status immediately upon the end of the sabbatical leave.
  - b. Additional income--for example, grants-in-aid or fellowships--may be accepted during the leave provided the activity for which the income is received contributes to the individual's professional development or his/her future usefulness to the NSHE.

- c. Acknowledgment of sabbatical assistance shall be given in any publications resulting from work accomplished during the sabbatical leave.
- d. A written report concerning sabbatical leave activities shall be submitted to the President, in accordance with procedures established by the President, and to the faculty member's dean or other appropriate supervisor within three months of return from leave. (B/R 10/04)

(B/R 4/02)

## **Section 12. Administrative Leave**

### 1. Introduction

- a. Higher Education administrators should continually participate in professional development activities that ensure the employment of the most effective administrative knowledge and managerial skills to their current assignments. Some of these exposures may be available within the parent institution or university system, but more often they reside at institutions not easily accessible due to the constraints of time availability and distance.
- b. University of Nevada campuses should initiate a program of administrative leaves for administrators assigned responsibilities in areas of dynamic growth and changing responsibilities or in areas in need of updated administrative or managerial skills.
- c. Administrative leaves would not be for the purpose of improving academic or disciplinary research capabilities, nor for obtaining advance degrees. Leaves would be granted on the demonstrated need for administrators to acquire explicit training necessary for improving performance in their current assignment.

### 2. Eligibility for Administrative Leaves

- a. Administrative officers, such as president, vice-president, assistant or associate vice-president, deans and assistant and associate deans, who are on continuing full-time administrative appointments would be eligible (no more than 1 FTE per calendar year per campus). Permanent full-time administrators or directors of programs may be eligible if designated as eligible by the institutional President and the Chancellor.
- b. Eligible administrators could apply for an administrative leave after serving at least three years as a full-time administrator in the Nevada System of Higher Education. An administrator would be eligible to reapply for additional administrative leaves at three-year intervals.

- 3. Duration and Timing of an Administrative Leave - An administrative leave would not exceed three calendar months. Unless specified and approved in advance, the three-month administrative leave should be taken during the summer months and not require employment of a replacement.

#### 4. Administrative Leave Compensation

- a. An administrator will receive full campus compensation unless receiving salary contributions from extramural sources. If the recipient of the administrative leave obtains a foundation grant or other compensation from non-Nevada System of Higher Education sources for the period of the leave, the campus shall not be obligated to pay more than that amount of administrative compensation which, when added to the non-University compensation, will equal 110 percent of the individual's annual base salary for the period of leave. If an allowance for transportation and/or cost-of-living differential is included in the outside compensation, the amount of this allowance will be disregarded in computing the administrative leave compensation to be paid by the campus.
- b. Individuals who are on administrative leaves of absence, whether in residence or away from the campus, may not, as employees, provide any services to the Nevada System of Higher Education for which compensation is paid in excess of the approved administrative leave.

5. Fringe Benefits During Leave - To the extent permitted by law, administrators on leave will be regarded as in active Nevada System of Higher Education employment status for purposes of benefits and will continue to receive and accrue benefits under applicable University policies as if they were in active service. Payments for Nevada System of Higher Education insurance premiums and retirement contributions will be based upon actual Nevada System of Higher Education compensation made to the individual. Subject to legal restrictions, the individual may make arrangements with the personnel office for personal payment of additional amounts, if necessary, to maintain full insurance and retirement benefits during the period of the leave.

#### 6. Obligations of Personnel on Administrative Leaves

- a. The recipient of a leave must agree to return to the service of the Nevada System of Higher Education after the termination of the leave for a period of time at least equal to the length of the leave. If he/she does not so return, or returns for a shorter period of service than required under this regulation, the Nevada System of Higher Education will be entitled to a proportionate refund of the compensation paid by the Nevada System of Higher Education during the leave. Upon a determination that the enforcement of this obligation will create an extreme hardship or would be seriously inequitable, the Chancellor and/or President may waive the refund in whole or in part.
- b. Within 90 days of the completion of the leave, a written report on the activities undertaken during the leave must be submitted by the recipient of the leave to the institutional President or the Chancellor, as the case may be.

7. These provisions shall not supersede other administrative leave, or leave without pay, as approved by the appointing authority. (B/R 10/04)

### **Section 13. Presidential Leaves**

NSHE presidents are expected to take periodic leaves consistent with the following provisions:

1. Leaves may be either a full semester or three months in duration.

2. Presidents are eligible for full semester leaves, at full pay, after their first six years of service. They may opt, alternatively, for a three-month leave at such time. Following the initial leave, presidents are eligible for three-month leaves after three years of service or for full semester leaves after each six-year period of service.
3. In applying for leaves, which are subject to approval by the Board of Regents, presidents shall specify the objectives of the proposed leave and provide a plan for assignment of presidential responsibilities during the leave period.
4. A report on the leave shall be provided to the board after the president's return.
5. Presidents will be expected to serve their institutions for at least one-year after returning from leave, irrespective of the leave's duration.
6. The word "president" in this section is intended to apply as well to the NSHE Chancellor.  
(B/R 6/91)

#### **Section 14. Sick Leave**

1. Full-time professional staff members on an "A" or "B" contract shall be granted sick leave as required, up to 30 working days at full salary, available at any time during the initial 12 months of service. Part-time professional staff members on an "A" or "B" contract shall be granted a pro rata amount as required.
2. Beginning one year after the starting date of his or her initial contract, each full-time staff member will begin to accrue additional sick leave at the rate of two days for each full month of paid service, to be added to any remaining balance of unused sick leave from the first 12 months of service. Sick leave may be accrued from year to year not to exceed 96 working days. Part-time staff members will earn a pro rata amount of sick leave for each calendar month worked. Paid sick leave shall not be granted in excess of sick leave earned except as provided in the paragraph 7. The employee shall not be paid for any unused sick leave upon termination of employment.
3. A professional staff member is entitled to use accumulated sick leave for personal illness; disability; medical, optometry, or dental service or examinations; child bearing or temporary disability, upon approval of the appointing authority. The appointing authority may require a staff member to provide medical certification from a medical practitioner for absences of more than five consecutive days or if abuse is suspected.

If an eligible employee is using leave, with or without pay, in a manner which would qualify under the Family Medical Leave Act (FMLA), the appointing authority shall designate the leave as FMLA and shall provide written notice to the employee which details the obligations of the employee and the effects of using the leave. While in FMLA status, all available paid leave must be used before leave without pay.

4. Up to fifteen days of earned sick leave per contract year may be used by the professional staff member to care for or assist family members, in laws, or step relatives within the third degree of consanguinity or relationship, or members of the professional staff member's household for the following events: illness; injury, or medical, optometry or dental service or examination. Requests for use of additional earned sick leave days beyond the fifteen-day

limitation may be made in writing to the appropriate appointing authority. Approval is at the discretion of the appropriate appointing authority. The fifteen-day limitation does not apply if the leave is approved under the Family and Medical Leave Act.

5. A professional staff member may take up to ten working days of employee's earned sick leave, in the event of the death of a person listed in Paragraph 4 above. Requests for use of additional earned sick leave days beyond the ten-day limitation may be made in writing to the appropriate authority. Approval is at the discretion of the appropriate appointing authority.
6. A professional staff member who qualifies under The Family and Medical Leave Act of 1993 (FMLA) is entitled to a total of 12 work weeks of leave during a "rolling" 12-month period. The period is measured backward from the date an employee uses a qualifying Family and Medical Leave. To qualify, a staff member must have been employed by the NSHE for at least 12 months and have been in a paid status or a minimum of 60% FTE averaged over the 12-month period preceding the leave. While in FMLA status, all available paid leave must be used before leave without pay. A staff member may use FMLA leave for the birth of a child, and to care for a newborn child; for placement of a child with the staff member for adoption or foster care; to care for the staff member's spouse, parent or child with a serious health condition; or because the staff member is unable to perform one or more of the essential functions of his/her job due to a serious health condition. If a staff member must take unpaid leave under FMLA, the employer is required to maintain the staff member's health insurance coverage for the timeframe represented by the FMLA leave.

Additional unpaid leave directly related to the birth, the placement of a child with the staff member for adoption or foster care, or child rearing of a child who is a member of the professional employee's household shall be granted to either parent, upon request, up to a maximum of one year. During any unpaid leave the employer will not maintain the staff member health insurance coverage, unless the unpaid leave is approved under the FMLA. The NSHE guarantees that the professional staff member will return to his or her original position, or if the original position no longer exists, to a comparable position, without loss of seniority or other benefits.

7. After 12 continuous months employment, where a physician certifies that a professional staff member is unable to resume duties after exhausting all accumulated sick and annual leave, the professional staff member may petition for, and may be granted, with the approval of the President extended salaried sick leave. Approval may be given only if the funding source permits payment of extended salaried sick leave. An additional three calendar months may be granted to employees continuously employed for more than twelve months and up to twenty-four months; an additional six calendar months may be granted to employees continuously employed for more than twenty-four months and up to thirty six months; and an additional twelve calendar months plus one calendar month for each full year of employment with the NSHE may be granted to employees continuously employed for more than thirty-six months. An eligible employee may initially request less extended salaried sick leave than authorized under this policy, or may be granted less than the maximum amount of time authorized. The lifetime maximum, which may be granted to an employee, is twelve calendar months plus one calendar month for each full year of employment with the NSHE. During extended salaried sick leave, no annual or sick leave shall be earned. If at the end of the extension period a physician certifies that the professional staff member is still unable to resume duties, the appointment shall be terminated. Where employment shall be terminated under these circumstances, the provision of Title 2 of the Board of Regent's handbook shall not apply.

8. If an employee has been employed for less than 12 consecutive months, the president may approve an employee request for unpaid sick leave not to exceed three months duration. If the employee is unable to return to employment after the expiration of this unpaid leave of absence, the appointment shall be terminated. Where employment shall be terminated under these circumstances, the provisions of Title 2, Chapter 6, of the Board of Regents' handbook shall not apply.
9. Cases of injury or accident or illness in connection with the work of professional staff members are covered by workers compensation regulations. In order to assure this protection for out-of-state travel, requests should always be submitted in advance by staff members conducting NSHE business, attending meetings, etc., even if work is undertaken outside of work hours and at the professional staff member's own expense.

(B/R 4/02)

### **Section 15. Annual Leave**

1. All professional staff members on a full-time 12-month appointment ("A" contract) earn annual leave at the rate of two working days for each full calendar month of service. Prorated credit shall be earned for partial months of service. Professional staff members on a part-time 12-month appointment earn pro rata annual leave credit.
2. Professional staff members on an academic year ("B" contract) appointment do not earn annual leave.
3. Annual leave may be cumulative from year to year, not to exceed 48 days as of the first day of each fiscal year, and any annual leave in excess of 48 days is forfeited on that date. No compensation will be authorized for unused or excess leave at the end of each fiscal year. Earned annual leave shall be taken at a time approved or directed by the supervisor or other appropriate administrative officer. Insofar as possible, approval to use annual leave must be secured in advance, in accordance with the provisions contained in Title 4, Chapter 3, Section 19.2.
  - a. Employees shall be given an opportunity to use accumulated annual leave in excess of 48 working days prior to the last day of the fiscal year provided a request for leave is given by the employee no later than April 1 to the supervisor or other appropriate administrative officer.
4. Annual leave for full-time professional staff at all NSHE institutions is used in increments of a half-day or a full-day as prescribed by the appropriate Human Resource office. (See also Chapter 3, Section 19).
5. Professional staff on an "A" contract appointment who resign or retire shall be entitled to be paid for unused accumulated annual leave up to the maximum of 48 days, unless the supervisor or other appropriate administrative officer directs the employee, in writing, to use all or a portion of the accumulated leave prior to the final date of employment.
6. Professional staff whose contract is being changed from a 12-month ("A" contract) appointment to an academic year ("B" contract) appointment shall be entitled to be paid for unused accumulated annual leave up to the maximum of 48 days, unless the supervisor or other appropriate administrative officer directs the employee, in writing, to use all or a portion of the accumulated leave prior to the final date of the "A" contract term.

7. Professional staff on a 12-month "A" contract appointment who take an approved leave of absence without pay shall be entitled to use accumulated annual leave, with prior approval of the supervisor or other appropriate administrative officer, before going into unpaid status; however, the professional staff member shall not be paid for any unused accumulated annual leave before going into unpaid status. Annual leave cannot be earned while on leave without pay.

(B/R 8/02)

#### **Section 16. Family and/or Medical Leave/Fair Labor Standards Act**

1. Professional staff are entitled to take leave in accordance with the Federal Family and Medical Leave Act of 1993, its implementing regulations (Part 825 of Title 29 of the Code of Federal Regulations) and institutional policies promulgated in accordance therewith. See, for example, 29 C.F.R. 825.301.
2. The provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, et. seq.), shall be adhered to by all NSHE institutions. (B/R 10/04)
3. For additional information, see the Appendix at the end of this chapter.

(B/R 10/93)

#### **Section 17. Military Leave**

1. Professional staffs who are members of Federal Reserve forces or the Nevada National Guard are entitled to serve under orders without loss of regular compensation for a period not to exceed fifteen working days in any one calendar year. Such military leave of absence shall be in addition to any vacation or sick leave to which such staff member might otherwise be entitled. Authorized military leave of absence without salary (except for the differential compensation provided in Section 17.5 below) shall be granted for periods in excess of fifteen working days. (B/R 8/07)
2. In accordance with federal law, 38 U.S.C. Sec. 2021 et seq. professional staff members who serve under orders on training duty in the Armed Forces of the United States, including the federal reserve forces or the National Guard, shall be entitled to such rights and privileges regarding reinstatement to employment, seniority, status and pay, as is provided for in federal and Nevada statutory law.
3. In time of war or national emergency, leave without pay may be granted to a professional staff member who is called or volunteers to serve in federally sponsored scientific research and development projects, provided no such leave may be granted to any staff member who would not have been continued in employment in the NSHE at the termination of the period of employment current at the time of the staff member's entry into such defense work and further provided that no such leaves are ordinarily granted to persons performing such work under a government contract with the NSHE. Such leave terminates ninety days following the end of the war or national emergency, or the date of the professional staff member's termination of such work, whichever is earlier. Upon application for reinstatement to employment within such ninety-day period, the professional staff member shall be restored to the staff member's previous employment position or to a position of like seniority, status or pay, unless circumstances in the employing institution have so changed as to make such reemployment impossible or unreasonable.

4. Professional staff members applying for military leave must present a copy of their military orders or other substantial evidence pertaining to their active or training duty requirements or employment in defense work. Certified copies of discharge papers or other evidence pertaining to discharge or termination must be submitted to the appropriate Business Center Personnel Office for reinstatement.

(B/R 1/91)

5. Professional staff who officially receive orders to serve as members of federal reserve forces or the Nevada National Guard will be compensated for the difference in their NSHE pay and their military pay through the end of their employment contract. The differential compensation will commence immediately following the 15 working days of regular compensation provided for in Title 4, Chapter 3, Section 17, Subsection 1.

The institution at which the professional staff member is employed will continue making retirement contributions for eligible employees in accordance with the RPA plan document. At the request of the employee, other employment benefits – including but not limited to health insurance – will be continued through the contract year at the same cost that the employee is currently paying.

(B/R 8/07)

#### **Section 18. Judicial Leave**

1. Appearance in connection with one's official capacity as a university employee at a trial or other court proceeding, to include an arbitration or mediation hearing, whether it be as a party to the action, or as a witness for any party to the proceeding, is considered a short-term leave and may be authorized by the appointing authority concerned for periods up to 30 calendar days without loss of salary. In special cases, salaried leave for longer periods may be authorized by the president. Judicial leave also will be granted to serve on a jury or when summoned to be a witness. Judicial leave is not available for court appearances in connection with personal legal matters.
2. Any remuneration received in connection with jury duty or as a witness may be retained by the faculty member.

(B/R 4/02)

#### **Section 19. Leave Records**

1. Each appointing authority shall keep accurate and complete records of earned and used leave for each NSHE employee. Such records shall be kept as prescribed by the appropriate Human Resource office, and reports shall be made to the Human Resource office as it may require. Leave records are subject to examination by those persons in the employee's chain of command, by Human Resource officials, and by internal or external auditors. For regulatory reporting purposes, leave balances may be reported to appropriate institutional financial officers.
2. Insofar as possible, all leave shall be requested and approved in advance by the supervisor or other appropriate administrative officer according to the policies for each type of leave as contained in this chapter of the Handbook. The approval and recording of unanticipated leave shall occur immediately after use of the leave.

3. Annual leave and sick leave for full-time employees must be used as prescribed by the appropriate Human Resource office in either half-day or full-day increments.  
(B/R 8/02)

**Section 20. Professional Salary Schedule**

1. Section 5.5 of the Nevada System of Higher Education Code contains provisions for professional salary schedules.
2. The institutional president or the Chancellor, as the case may be, shall establish the initial placement of professional employees on the salary schedule at the time of appointment. The President or Chancellor shall also establish any subsequent adjustment in salary or contract conditions, except that individuals whose initial appointments require Board approval shall also require such approval for salary adjustments and changes in contract conditions, exclusive of COLA, as stipulated in Section 21 of this chapter.
3. The universities and state college shall be permitted to adopt the salary step pattern of their choice between the lowest and the highest base point salary figures adopted within each rank, range, or other category. A single Community College Faculty Salary Plan shall be adopted by the Board of Regents for the community colleges. The initial placement and movement of professional employees on the community college salary schedule is established in Section 30 of this chapter.

(B/R 12/02)

4. NSHE professional employees shall be eligible to be considered for merit awards during fiscal years when a merit pool appropriation is provided. Each NSHE institution shall develop written policies and criteria by institution and/or unit for the recommendation of merit awards for both academic faculty and administrative faculty. Merit awards are subject to the approval of the institutional President, or the Chancellor as the case may be, except as provided in Chapter 3, Section 21.

(B/R 12/03)

5. Performance bonuses or commissions are generally not permitted for NSHE professional staff, regardless of the source of funding.
  - a. On a case-by-case basis, limited exceptions based on prevailing labor market practices may be requested in writing by the institution President. In such limited cases, if approved by the Chancellor, the employment contracts that specify a bonus or commission must meet the following conditions:
    1. The terms of the bonus or commission must be approved in advance by the President and reported to the Chancellor. This authority may not be delegated to any other institutional officer.
    2. The bonus or commission must be in conformity with state and federal laws and regulations.
    3. The bonus or commission must be tied to specific measurable standards that are documented in writing as part of the employment contract.

4. The financial terms and measurable standards for the bonus or commission must be reviewed by NSHE Counsel and approved by the president prior to the preparation of the employment contract. In the case of employment contracts that must be forwarded to the Board of Regents per System policy, the bonus or commission must be approved by the Chancellor and the Board of Regents.
  5. The bonus or commission cannot be paid with state-appropriated funds.
  6. The bonus or commission shall not become part of the employee's base salary.
- b. A bonus or commission is not to be confused with a special, one-time monetary award that may be presented to professional staff in recognition of length of service or as part of a competitive award program to recognize superior accomplishments in teaching, research, creative activity, service, or advising.

(B/R 12/03)

### **Section 21. Executive Salary Schedule**

1. Development and Review of Salary Schedules. Executive salary models for all executive positions shall be reviewed every four years, in an odd-numbered year. The Chancellor, in consultation with the presidents, is charged with reviewing the schedules and presenting them to the Board for approval. Executive salary schedules are to be reviewed in accordance with the following principles.
  - a. Use of Peer Group Comparisons: Peer institution groups shall be developed and adopted for executive salaries for the Chancellor's Office, DRI, universities, state college, and community colleges, with the peer groups based primarily on similarity of mission and on other characteristics such as size, administrative complexity, and budget where appropriate. Where appropriate, the same group of peer institutions may also be used for faculty and middle management compensation comparisons, ensuring a link between faculty and executive compensation.
  - b. Compilation and Review of Comparative Salary Data: Data concerning salaries paid to executives in the peer institutions shall be collected every four years in odd-numbered years. Using these data, salary ranges shall be reviewed for each executive category. The peer institution group salaries occurring at the seventy-fifth percentile shall be used to establish the mid-point of each proposed NSHE salary range. The ranges shall be compared for internal consistency among institutions and System units and for proportional relationships between faculty and executive salaries, with adjustments proposed as necessary.

(B/R 12/04)

2. Initial Placement on Executive Salary Schedules. Initial placement for executive positions will be made within the range for that position as reflected in the Board approved salary schedule. Placement should be based on factors such as prior experience, appropriate credentials, length of service, and quality of performance. Initial placement must generally fall between the minimum salary and Q2, except for those initial hires with substantial experience and/or credentials relative to the position. Recommendations for initial placement at a level higher than Q2, but within the range, must be accompanied by written justification and evidence of substantial experience and/or credentials relative to the

position, and approved by the President or Chancellor, as the case may be. Initial placement for institutional executive positions above the salary range may be approved by the Chancellor if the institution President provides written justification which established that the candidate is unlikely to accept employment without an exception to the salary schedule in consideration of relevant criteria such as the candidate's extraordinary qualifications and experience, the competitive nature of the field or discipline, and the candidate's salary history. This exception is intended to be construed narrowly and should be limited to only a few exceptions per institution each year. Before approving any exceptions, the Chancellor must obtain the concurrence of the Board Chair, and the Chancellor must make an annual report to the Board of any exceptions. (B/R 12/05)

- a. Chancellor: The initial salary for the Chancellor shall be set by the Board of Regents.
- b. System Executive Staff: The initial salary for the Vice Chancellors and the Director of the University of Nevada Press shall be recommended by the Chancellor and approved by the Board of Regents. (B/R 2/05)
- c. Board Officer: The initial salary for the Secretary to the Board shall be set by the Board. (B/R 10/03)  
(B/R 12/02)

## **Section 22. Ongoing Review and Approval of Executive Salaries**

After initial placement on the appropriate executive salary schedule, executive salaries shall be reviewed and approved as follows:

- a. Deans: Any proposed salary adjustments for deans (executive directors at DRI) at the member institutions, exclusive of COLA, shall be recommended by the appropriate Vice President, approved by the President, and forwarded for information to the Chancellor annually. If any recommended salary falls outside the Board-approved salary range for that position, it must be approved by the Chancellor.
- b. Vice Presidents: Any proposed salary adjustments for vice presidents at the member institutions, exclusive of COLA, shall be recommended by the president and approved by the Chancellor annually.
- c. Presidents: Any proposed annual salary adjustments for presidents, exclusive of COLA, shall be approved by the Chancellor in consultation with the Board Chair and based on performance criteria assessed in an annual evaluation. The Chancellor's recommendation must conform to guidelines set by the Board of Regents and be reported to the Board. The report shall provide the Chancellor's rationale for the salary adjustment, including information on the manner in which the president's performance exceeded his or her performance program and goals.
  - (1) Periodic salary adjustments for presidents may be recommended by the Board Chair, based on performance criteria assessed in a periodic evaluation, and approved by the Board of Regents as part of its deliberations to renew contract terms and conditions.

- d. System Executive Staff: Any proposed annual salary adjustments for Vice Chancellors exclusive of COLA, shall be approved by the Chancellor based on performance criteria assessed in an annual evaluation. The Chancellor's recommendation must conform to guidelines set by the Board of Regents and be reported to the Board. The report shall provide the Chancellor's rationale for the salary adjustment, including information on the manner in which the individual's performance exceeded his or her performance program and goals. (B/R 2/05)
- e. Board Officer: Any proposed annual salary adjustments for the Secretary to the Board, exclusive of COLA, shall be recommended by the Board Chair, based on performance criteria assessed in an annual evaluation, and approved by the Board of Regents. The Board Chair's recommendation must conform to guidelines set by the Board of Regents.
- f. Chancellor: Any proposed annual salary adjustments for the Chancellor, exclusive of COLA, shall be recommended by the Board Chair, based on performance criteria assessed in an annual evaluation, and approved by the Board of Regents. The Board Chair's recommendation must conform to guidelines set by the Board of Regents.

(1) Periodic salary adjustments for the Chancellor may be recommended by the Board Chair, based on performance criteria assessed in a periodic evaluation, and approved by the Board of Regents as part of its deliberations to renew contract terms and conditions. (B/R 10/03)

**Section 23. Policies for Executive Salary Increases.**

The following policies shall govern deliberations by the Chancellor and the Board, as the case may be, in recommending merit increases for the Chancellor, Presidents, Vice Chancellors and the Secretary to the Board. (B/R 2/05)

- 1. Any recommendation for an annual merit increase must be based on meritorious performance, documented in a written annual evaluation, which substantially exceeds the individual's performance program and goals for the year and has dramatically moved and shaped the individual's department and/or institution.
- 2. In years in which a cost-of-living adjustment is made for all NSHE professional employees, the Chancellor and the board may, at their discretion, recommend no more than a 1 percent increase in salary for meritorious performance. In years in which there is no cost-of-living adjustment for NSHE professional employees, the recommendation shall not exceed a 2.5 percent increase in salary for meritorious performance. In either case, the recommendation will take into consideration any budgetary constraints in the fiscal year in which the salary increase will take effect.
- 3. Increases in salary for meritorious performance may not be awarded across the board to the executives governed by this section.
- 4. Salary increases approved by the Chancellor in accordance with the provisions contained in Section 21 of this chapter must be reported to the Board. The report shall provide the Chancellor's rationale for the salary adjustment, including information on the manner in which the individual's performance exceeded his or her performance program and goals.

5. Salary increases recommended by the Board Chair in accordance with the provisions contained in Section 21 of this chapter, must be approved by the Board. The recommendation shall provide the Board Chair's rationale for the salary adjustment, including information on the manner in which the individual's performance exceeded his or her performance program and goals.

(B/R 10/03)

#### **Section 24. Executive Perquisites.**

Executive perquisites are set by the Board of Regents as part of the employment contract and shall be provided to the Chancellor, institutional presidents, and other executives as determined by the Board of Regents. The Board may elect to provide an individualized set of perquisites to each executive in negotiation with the Chancellor. Appropriate perquisites may be pro-rated for time served by persons appointed to interim executive positions, the terms of which shall be set in the interim employment contract. Executive perquisites shall include, but not be limited to:

(B/R 10/03)

- a. Car Allowance: Either a car or a car allowance shall be granted to the Chancellor and the institutional presidents. The car allowance shall be set at \$8,000 per year, with this dollar amount to be reviewed every 3 years. Car allowances shall not be provided to other executives; however those executives shall be reimbursed for mileage according to state guidelines for use of personal vehicles on the job.
- b. Housing Allowance: A housing allowance shall be granted to the Chancellor and the institutional presidents. The housing allowance shall be set at \$12,000 per year for the Chancellor, community college Presidents, and DRI President. The housing allowance for the state college President shall be set at \$15,000 per year. The housing allowance for the university Presidents shall be set at \$18,000 per year. The dollar amounts shall be reviewed every 3 years. Dual housing allowances and housing allowances for other executives may be granted at the discretion of the Board of Regents. (B/R 10/03)
- c. Relocation Expenses: Relocation expenses shall be reimbursed within the guidelines and limits set by the State of Nevada and in the manner proscribed by state regulations.
- d. Other Perquisites: The Board of Regents may, at its discretion, grant other perquisites on a case-by-case basis to the Chancellor, institutional Presidents, and other executives as part of the person's employment contract. (B/R 10/03)

(B/R 6/01, 10/04)

#### **Section 25. Other Salary Supplement**

The Board of Regents, at its discretion, may permit the Chancellor and institutional Presidents to receive a salary supplement contributed from, and with prior consent of, private sources in addition to their base, state-funded compensation. All privately funded salary supplements must be approved in advance by the Board of Regents and will be irrevocable for the tenure of the President. The supplement must be made to the employee by and through the institution in accordance with provisions contained in Title 4, Chapter 10, Section 10 (A) (6) (a).

(B/R 10/03)

## **Section 26. Regents Professor and Emeritus Status**

1. Presidents who choose to retire from NSHE after serving as president for a period of at least five years are eligible for emeritus status and shall be provided office space on campus and attendant privileges. Emeritus status must be recommended by the Chancellor and approved by the Board of Regents. (B/R 6/95)
2. Upon the recommendation of the Chancellor and the approval of the Board of Regents presidents who elect to assume or resume a faculty position after serving as President for a period of at least ten years shall be awarded the title of Regents Professor. (B/R 6/95)
3. The Regents Professorship provides an office, a part-time secretary, telephone, personal computer, allowances for supplies and travel, in addition to parking and library privileges as an active faculty member. Regents' Professors shall provide an annual report of their activities to appropriate campus officers, the Chancellor's office and the Board of Regents. (B/R 6/95)
4. A Chancellor who becomes a Regents Professor may choose the campus at which he or she wishes to serve, and may, following appropriate consultation, move to another campus from time to time. Presidents who wish to serve at institutions other than their own may do so if such service is mutually agreeable. (B/R 6/95)
5. To the extent practicable, and where not inconsistent with the individual's assigned teaching duties at the institution, the costs and salary and fringe benefits of Regents' Professorships shall be borne by the NSHE institutions. The costs and salary and fringe benefits for the Chancellor's Regents Professor shall be borne by the Board of Regents. (B/R 6/95)
6. The word "President" in this section is intended to apply as well to the NSHE Chancellor. Emeritus status and a Regents Professorship for the chancellor must be recommended by the Chairman of the Board of Regents and approved by the Board. (B/R 6/95)

## **Section 27. Presidential Transition**

1. When the President of a NSHE institution requests reassignment from the presidential position to an employment position as a full time member of the academic faculty of the institution, the outgoing President's salary shall be no more than that of a leading academic faculty member in the field or discipline to which the outgoing President will be reassigned.
2. At the time of a President's request for reassignment, the Chancellor shall conduct an evaluation of the President's overall professional performance in office and the location of the assignment where the outgoing President might best contribute to an academic unit at the institution. Based upon this evaluation, the Chancellor shall recommend to the Board of Regents for its approval:
  - a. An appropriate rank (where applicable) and term contract in a specific academic unit in the institution; and

- b. An academic year salary up to, but not exceeding, the level of a leading academic faculty member in the field or discipline to which the outgoing President will be reassigned. The Chancellor may be required to estimate, based upon information from other NSHE institutions, what that salary level should be in cases where there are no academic faculty members in the unit to which the outgoing President will be reassigned, whose seniority and career accomplishments match those of the outgoing President.
3. An outgoing President may request a period of professional development leave in which to prepare to return to the duties of a full time academic faculty member. The outgoing President shall submit a proposal for the Chancellor's review and approval describing a plan of activity during the leave, together with a written commitment from the outgoing President agreeing to the performance of academic duties in the academic faculty position for at least one (1) year after the completion of the leave. The Chancellor shall then make a recommendation on the request for leave to the Board of Regents for its approval. The Chancellor's recommendation to the Board shall specify the terms of the leave, including the following:
  - a. Duration: Leave shall be for a period of one semester only (four (4) months for the Desert Research Institute), provided, however, that the Chancellor may recommend a leave up to one (1) academic year (one (1) fiscal year for the Desert Research Institute) in exceptional circumstances as shall be documented in the outgoing President's leave proposal;
  - b. Salary: The outgoing President's salary during the period of professional development leave shall be set up to, but no greater than, the mid-point between the Presidential salary of the outgoing President and the eventual academic faculty salary;
  - c. Expenses: The Chancellor may also recommend special travel and other research expenses for the outgoing President during the professional leave period, provided, however, that the justification for such expenses is documented in the request for leave.

Perquisites associated with the office of President, including, but not limited to, automobile, housing and host allowances, shall not be continued during the period of the leave. The costs, salary and fringe benefits payable to the outgoing President during the period of the leave shall be borne by the outgoing president's institution.

4. In the event of an involuntary reassignment of a President of a NSHE institution to an academic faculty position in the institution, continuation of the salary, fringe benefits and perquisites, if any, during the remainder of the term of the then-current employment contract of the outgoing President shall be determined by the provisions of the then-current employment contract. Upon expiration of the outgoing President's then-current employment contract, the salary and, if still applicable, the leave provisions of this section shall be applied to the former president.

(B/R 6/95)

## **Section 28. Vice-Presidential Transition**

1. When the Vice-President of a NSHE institution requests reassignment from the Vice-Presidential position to an employment position as a full time member of the academic faculty of the institution, the outgoing Vice-President's salary shall be no more than that of a leading academic faculty member in the field or discipline to which the outgoing Vice-President will be reassigned.
2. At the time of a Vice-President's request for reassignment, the President of the NSHE institution shall conduct an evaluation of the Vice-President's overall professional performance in office and the location of the assignment where the outgoing Vice-President might best contribute to an academic unit at the institution. Based upon this evaluation, the President shall determine:
  - a. An appropriate rank (where applicable) and term contract in a specific academic unit in the institution; and
  - b. An academic year salary up to, but not exceeding, the level of a leading academic faculty member in the field or discipline to which the outgoing Vice-President will be reassigned. The President may be required to estimate, based upon information from other NSHE institutions, what that salary level should be in cases where there are no academic faculty members in the unit to which the outgoing Vice-President will be reassigned, whose seniority and career accomplishments match those of the outgoing Vice-President.
3. An outgoing Vice-President may request a period of professional development leave in which to prepare to return to the duties of a full time academic faculty member. The outgoing Vice-President shall submit a proposal for the President's approval describing a plan of activity during the leave, together with a written commitment from the outgoing Vice-President agreeing to the performance of academic duties in the academic faculty position for at least one (1) year after the completion of the leave. The proposal shall specify the terms of leave including the following:
  - a. Duration: Leave shall be for a period of one semester only (four (4) months for the Desert Research Institute), provided, however, that the President may approve a leave up to one (1) academic year (one (1) fiscal year for the Desert Research Institute) in exceptional circumstances as shall be documented in the outgoing Vice-President's leave proposal;
  - b. Salary: The outgoing Vice-President's salary during the period of professional development leave shall be set up to, but no greater than, the mid-point between the Vice-Presidential salary of the outgoing Vice-President and the eventual academic faculty salary;
  - c. Expenses: The President may also approve special travel and other research expenses for the outgoing Vice-President during the professional leave period, provided, however, that the justification for such expenses is documented in the request for leave.

Perquisites associated with the office of Vice-President, including, but not limited to, automobile, housing and host allowances, shall not be continued during the period of the leave. The costs, salary and fringe benefits payable to the outgoing Vice-President during the period of the leave shall be borne by the outgoing Vice-President's institution.

4. In the event of an involuntary reassignment of a vice-president of a NSHE institution to an academic faculty position in the institution, continuation of the salary, fringe benefits and perquisites, if any, during the remainder of the term of the then-current employment contract of the outgoing Vice-President shall be determined by the provisions of the then-current employment contract. Upon expiration of the outgoing vice-president's then-current employment contract, the salary and, if still applicable, the leave provisions of this section shall be applied to the former Vice-President.
5. The principles stated in this section shall also be applied by each NSHE institutional President to administrators below the level of Vice-President who request reassignment or are involuntarily reassigned from their administrative positions to employment positions as full time members of the academic faculty of the institution. Upon the adoption or amendment of a policy implementing such principles, each President shall provide a copy of each adopted or amended policy to the Chancellor.

(B/R 10/04)

#### **Section 29. Salary Schedules**

Executive, academic, and administrative salary schedules for the universities, state college, and community colleges shall be developed by the Chancellor's Office and approved by the Board of Regents every four years in odd-numbered years. (B/R 10/04)

#### **Section 30. Community College Academic Salary Schedule**

1. All community colleges in the Nevada System of Higher Education will adopt a single academic salary schedule for Community College Instructors and Community College Professors. Placement of faculty on the academic salary schedule and subsequent advancement across columns requires assessment by the appropriate college administrator of the faculty member's work and/or teaching experience, academic qualifications or equivalencies, and, where appropriate, tenure status. All degrees must be awarded by regionally accredited institutions. Where numbers of credit hours are specified, they must be in approved instructional fields as determined by the appropriate college administrator. All credits earned must be equated to semester hour credits. Faculty who contemplate a future course of study to achieve advancement must secure prior written approval by the appropriate administrator.

The Chancellor shall establish procedures concerning the initial placement and movement on the community college academic salary schedule, and other procedures related thereto. (B/R 10/04)

### **Section 31. Community College Salary Plan, Basic Concepts**

1. All community colleges agree with the concept of a single salary plan. Individual differences can be reflected in the implementation of the dollar figures.
2. The salary ratio from highest to lowest in each column should be a minimum of 2:1. That is, the dollar figure at the final step in any column should be at least twice the first step in that column.
3. Consideration must be given to faculty who teach in non-traditional areas including trade and industry. Faculty must be able to move across the columns using occupationally related courses.
4. Any cost of living (COLA) increase approved by the state legislature and governor will advance the academic salary schedule overall.

(B/R 3/02)

### **Section 32. Community College Professional Advancement Program**

#### 1. Eligibility For Professional Advancement

All academic faculty holding a .50 FTE or above and who have been placed on the Academic Faculty Salary Schedule are eligible for this plan.

#### 2. Expense Encumbrance or Reimbursement Disclaimer

- a. The college will not pay nor will a faculty member have caused any liability or encumbrance to accrue to the college for expenses the faculty member entered into during the course of the professional advancement program, except where otherwise allowed by the president, in writing, or by Board of Regent policy.
- b. The professional grant-in-aid, allowed under the provisions of Title 4, Chapter 18, Section 5, may be used to pay for course work taken within the Nevada System of Higher Education (NSHE).

#### 3. Voluntary Program

Participating in the Professional Advancement Program is completely voluntary. No administrator may require any faculty member to participate in the program.

#### 4. Faculty Senate Review Committee for Professional Advancement Appeals

A faculty senate committee will be convened by and report to the faculty senate chair when an appeal for denial of professional advancement is received. It is the responsibility of the applicant to make his/her case for professional advancement in the written application that this committee will review. The committee may call for additional assistance from program area faculty.

(B/R 3/02)

5. The Chancellor shall prescribe in procedures a program outline for professional advancement, program standards, and an appeals process. (B/R 10/04)

**Section 33. Summer Term Salary Schedules**

Salary schedules for summer session faculty at all NSHE institutions shall be developed by the Chancellor's Office and approved annually by the Board of Regents. (B/R 10/04)

**Section 34. Part-Time Salary Schedules**

The salary schedule for temporary part-time faculty shall be developed by the Chancellor's Office and approved by the Board of Regents. (B/R 10/04)

**Section 35. Enhanced 12-Month Contracts for Academic Nursing Faculty (UNLV, NSC and CSN only)**

The following provisions are applicable to the University of Nevada, Las Vegas, Nevada State College, and the College of Southern Nevada only:

1. If the institution adopts a three semester model for its nursing program, the institution may employ full-time academic nursing faculty under a B3 contract.
2. Nursing faculty employed by the institution under a B3 contract must adhere to the faculty workload requirements defined in Title 4, Chapter 3 for each of the three semesters. The institution will report annually to the Chancellor's office the number of academic nursing faculty employed under B3 contracts and the total number of credit hours taught during each semester of contract.
3. Compensation for academic nursing faculty under a B3 contract shall be determined based on the 9-month academic salary schedules approved by the Board times 1.5.  
(B/R 10/07)

**Section 36. Reduced Appointments for Tenured Faculty**

1. A faculty member with a full-time tenured appointment may, by mutual agreement of the faculty member and the president of the faculty member's institution, be given a reduced appointment of less than 1.00 FTE, but no less than 0.50 FTE, under terms and conditions mutually agreed to in writing by the faculty member and the president, and which will be attached to or otherwise included in the faculty member's employment contract. A tenured faculty member agreeing to such a reduced appointment shall retain tenure. Such a reduction shall be issued only at the discretion of the institutional president.
2. A tenured faculty member agreeing to a reduced appointment under this section shall be reinstated to full-time employment either upon mutual agreement of the faculty member and the president or upon the direction of the president, which direction must be given in writing at least one year in advance of such reinstatement.

3. The institution, at the time of implementing this policy, will set a limit on the number of appointment made. (B/R 12/86)

### **Section 37. Emeritus/Emerita Status**

1. Emeritus/Emerita status is an honor, which may be awarded to full-time faculty, and professional staff who retire after distinguished and long-term achievement and service to a NSHE institution or to a NSHE System Administration unit. Recommendations for emeritus/emmerita status will be based upon appropriate review processes established at each institution and shall be approved by the President or the Chancellor, in the case of System Administration recommendations. Normally a minimum of ten year's service is required prior to conferral of the title of emeritus/emmerita. The President or Chancellor must provide 5 working days notice to the institutional or System Faculty Senate prior to approving Emeritus/emmerita status. (B/R 4/01)
2. A person granted the title Emeritus/Emerita is considered to have lifetime status as a NSHE employee.
3. Emeritus faculty and professional staff, their spouses and financially dependent children are eligible for grant-in-aid privileges equivalent to those provided to at Title 4, Chapter 18, Section 5.5. (B/R 4/01)
4. Institutions may adopt such policies concerning additional benefits for emeritus faculty as are considered appropriate. Such policy statements, or a summary thereof, shall be in writing and, as appropriate, included in the administrative manual or faculty handbook of the institution. Additional benefits that may be adopted for System Administration emeritus faculty or staff shall be established in cooperation with a specific NSHE institution on a case-by-case basis. (B/R 4/01)

### **Section 38. The Nevada System of Higher Education Anti-Drug Policy Statement**

1. The Nevada System of Higher Education prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace. Any employee who violates this policy is subject to disciplinary action, which may include termination of employment.
2. During the course of employment, any employee who is convicted of violating a federal or state law prohibiting the sale of a controlled substance must be terminated as required by *Nevada Revised Statutes* 193.105, regardless of where the incident occurred.
3. Any employee who is convicted of unlawfully giving or transferring a controlled substance to another person or who is convicted of unlawfully manufacturing or using a controlled substance while acting within the scope of his/her Nevada System of Higher Education employment will be subject to discipline up to and including termination.
4. The term, "controlled substance" means any drug defined as such under the regulations adopted pursuant to *Nevada Revised Statutes* 453.146. Many of these drugs have a high potential for abuse. Such drugs include, but are not limited to, heroin, marijuana, cocaine, PCP, and "crack." They also include "legal drugs" which are not prescribed by a licensed physician.

5. Each State employee is required to inform his or her appointing authority within five days after he or she is convicted for violation of any federal or state criminal drug statute when such violation occurred while representing the Nevada System of Higher Education or on the premises.
6. Any Government agency with which the Nevada System of Higher Education holds a contract or grant will be notified within ten days after receiving notice that an employee of the agency was convicted within the meaning used in paragraph 4, above.
7. Employees desiring more information concerning substance abuse, or seeking information on counseling may contact the designated Employee Assistance Representative for their institution.  
(B/R 5/92)

### **Section 39. Letters of Appointment and Benefits for Temporary Faculty Members**

#### 1. Definitions

- a. Temporary Part-time Faculty. A temporary part-time faculty member is an employee of an institution or unit within the NSHE who:
  - i. Is issued a "letter of appointment" and is employed for a period of not more than ninety (90) consecutive days; or
  - ii. Is issued a "letter of appointment" and is employed less than half-time for a period of more than ninety (90) consecutive calendar days, but less than twelve months; or
  - iii. Is issued a "letter of appointment with benefits" and is employed half-time or more for a period of more than ninety (90) consecutive calendar days, but less than twelve months.
- b. Temporary Full-time Faculty. A temporary full-time faculty member is an employee of an institution or unit within the NSHE who is issued a temporary full-time contract for a period of up to a year.
- c. Half-time Faculty Assignments. A half time or more assignment for temporary faculty is:
  - i. For teaching faculty at a community college, an assignment equivalent to ten (10) credit hours or more for the semester.
  - ii. For teaching faculty at a state college, an assignment equivalent to nine (9) credit hours or more for the semester.
  - iii. For teaching faculty at a university, an assignment equivalent to eight (8) credit hours or more for the semester.
  - iv. For non-teaching faculty and teaching faculty teaching non-credit courses, an assignment equivalent to twenty (20) hours or more per week.

## 2. Benefits of the Temporary Faculty Member

- a. Letter of Appointment. A temporary part-time faculty member employed on a “letter of appointment” is entitled to the following benefits:
  - i. Grant-in-aid as outlined in the Board of Regents' *Handbook* (Title 4, Chapter 18, Section 6), and (B/R 6/02)
  - ii. NSHE voluntary tax-sheltered annuity plan.
- b. Letter of Appointment with Benefits. A temporary part-time faculty member employed on a “letter of appointment with benefits” is entitled to the following benefits:<sup>8</sup>
  - i. Grant-in-aid as outlined in the Board of Regents' *Handbook* (Title 4, Chapter 18, Section 6); (B/R 6/02)
  - ii. NSHE voluntary tax-sheltered annuity plan; and
  - iii. State of Nevada health insurance program under *Nevada Revised Statutes 287.045*. Eligibility for state health insurance is subject to a waiting period.
- c. Temporary Full-time Faculty. A temporary full-time faculty member under contract is entitled to the following benefits:
  - i. All benefits provided to full-time faculty, except consideration for tenure and notice of non-reappointment.

## 3. Temporary Faculty Member Employed by More Than One Institution

- a. A temporary part-time faculty member who is employed concurrently at more than one institution and whose combined assignment is less than half time shall receive letters of appointment from each institution.
- b. If the combined assignment is half time or more, the temporary part-time faculty member shall receive letters of appointment with benefits from each institution.
- c. The institutions employing such temporary part-time faculty members shall share benefit costs in an amount proportionate to the amount of time assigned at the institution as reflected in the percent of salary paid by each institution.
- d. When the combined assignment is full-time, it shall be the responsibility of the institutions to enter into a temporary contract with the faculty member.

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<sup>8</sup> Except as provided herein a temporary part-time faculty member on a “letter of appointment with benefits” is not entitled to participate in the state or NSHE retirement programs. A temporary part-time faculty member on a “letter of appointment with benefits,” who is employed for six consecutive months and who has previously been a Public Employees' Retirement System member, is entitled to Public Employees Retirement System participation, in accordance with NRS 286.297(9) and 286.802(2). In such circumstances, the part-time faculty member employed on a letter of appointment with benefits must be employed at a minimum .51% FTE.

#### 4. Miscellaneous

- a. This subsection (4.31) is not intended to define or in any way dictate the workload assignment for full-time faculty members employed under contract within the NSHE. The intent is limited to defining workload assignments for temporary faculty members, solely for the specific purpose of determining employment benefits.
- b. Temporary faculty shall not be encouraged to sign written waivers of benefits. A written waiver of benefits will only be allowed if requested by the employee for good cause. Good cause includes, but is not limited to, the loss of other benefits already being received by the employee from another source (e.g., retirement benefits from another employer). (B/R 3/02)

#### **Section 40. Leave Without Pay**

1. If an academic or administrative faculty member is absent from work without authorized leave, as defined in this Chapter, the absence must be charged as unauthorized leave without pay.
2. Unauthorized leave may be grounds for disciplinary action; however, placement of a faculty member on leave without pay under this Section shall not constitute a disciplinary action, as defined in Chapter 6 of the Code. If a disciplinary action is brought under Chapter 6 of the Code, any disciplinary measures are in addition to the absences charged as unauthorized leave under section 1 above.

(B/R 6/06)

#### **Section 41. Background Checks of Childcare Workers and Volunteers.**

1. Required Background Check
  - a. Each institution with a childcare facility shall comply with all licensing and background check requirements established in state law. To the extent the Board of Regents policy conflicts with any state law requirements, or if applicable, any local licensing requirements, the provisions of state law or applicable local licensing requirements control.
  - b. An employee who has submitted the necessary application to the state (or where permitted by law, a local licensing authority) may commence work in a childcare facility prior to completion of the background check if the employee is: 1) not left alone with children (meaning another employee is always present); or 2) has successfully completed an initial background check of criminal history by obtaining a current sheriff/police card through the County/City, or by means of an investigation of criminal history by a national criminal background check firm.
  - c. Any individual, whether volunteer or part-time, not requiring a background check under state law must: 1) not be left alone with children (meaning another employee is always present) or 2) complete a criminal background check by obtaining a sheriff/police work card through the County/City, or by means of an investigation of criminal history by a national criminal background check firm.

## 2. Application Requirements

- a. Any prospective volunteer or employee in a childcare facility must complete an application for the consideration of employment or volunteer activities. The applicant must disclose 1) any prior convictions, whether or not expunged or based on a no contest plea, except for minor traffic/parking offenses; 2) current use of illegal drugs; 3) any arrest involving offenses related to child abuse or exploitation, child pornography, sexual assault or rape, sexual misconduct of any type involving a minor, assault, battery, murder, attempted murder or manslaughter; 4) prior employment history for the last ten years (recognizing that some individuals may not have been working for that time period); and 5) references. References and employment history must be verified prior to commencing employment or beginning volunteer activities.
- b. The facility shall evaluate all information received in the application in determining whether employment should be offered or volunteer activities permitted. Incomplete applications for employment or volunteer activities may not be considered. Any employment offer or commencement of volunteer activities is contingent upon successful completion of a criminal background check where required under state law or any applicable local licensing requirements, as well as other restrictions noted in this section.

## 3. Definition of Volunteer

For the purposes of this section, the term "volunteer" does not include a parent or guardian of a child who is enrolled in the childcare facility, nor does it include students participating in an educational program. Parents, guardians and students should, however, be supervised during visits to the childcare facility.

## 4. Applicability to Classified Employees

This policy is not generally applicable to the employment of classified employees, as such employment is governed by state personnel rules, except that classified employees may not commence work at a childcare facility prior to completion of any background check required by state law, or any applicable local licensing requirements, unless 1) the employee has submitted an application to the state (or if permitted by law, a local licensing authority) and 2) the employee is not left alone with children (meaning another employee is always present).

(B/R 3/07)

## **APPENDIX**

### **The Family and Medical Leave Act of 1993**

The Family and Medical Leave Act of 1993 (FMLA) was enacted on February 5, 1993.

The new law is effective on August 5, 1993 for Nevada System of Higher Education employees.

The U. S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces FMLA for all Nevada System of Higher Education employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. An eligible employee's right to FMLA leave begins on August 5, 1993; any leave taken before that date does not count as FMLA leave.

The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protections for employees who request or take FMLA leave. The law also requires employers to keep certain records.

#### **Employer Coverage**

FMLA applies to all Nevada System of Higher Education institutions.

#### **Employee Eligibility**

To be eligible for FMLA benefits, an employee must:

- (1) work for a covered employer;
- (2) have worked for the employer for a total of at least 12 months;
- (3) have worked at least 1,250 hours over the previous 12 months; and
- (4) work at a location where at least 50 employees are employed by the employer within 75 miles.

#### **Leave Entitlement**

A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- for the birth or placement of a child for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

Spouses employed by the same employer are jointly entitled to a combined total of 12 workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

Leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently - which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.
- FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

Also, subject to certain conditions, employees or employers may choose to use accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. The employer is responsible for designating if an employee's use of paid leave counts as FMLA leave, based on information from the employee. In no case can use of paid leave be credited as FMLA leave after the leave has ended.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility;
- any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

"Health care provider" means:

- doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or
- podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or,
- nurse practitioners and nurse-midwives authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

## **Maintenance of Health Benefits**

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave.

In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

## **Job Restoration**

Upon return from FMLA leave, an employee must be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. In order to do so, the employer must:

- notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
- notify the employee as soon as the employer decides it will deny job restoration and explain the reasons for this decision;
- offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and
- make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees within 75 miles of the work site.

## **Notice and Certification**

Employees seeking to use FMLA leave may be required to provide:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- medical certifications supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
- second or third medical opinions and periodic recertifications (at the employer's expense); and

- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

When leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subject to a fine of up to \$100 for each separate offense.

Also, covered employers must inform employees of their rights and responsibilities under FMLA, including giving specific information when an employee gives notice of FMLA leave on what is required of the employee and what might happen in certain circumstances, such as if the employee fails to return to work after FMLA leave.

### **Unlawful Acts**

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

### **Enforcement**

FMLA is enforced, including investigation of complaints, by the U. S. Labor Department's Employment Standards Administration, Wage and Hour Division. If violations cannot be satisfactorily resolved, the Department may bring action in court to compel compliance. An eligible employee may also bring a private civil action against an employer for violations.

### **Other Provisions**

Special rules apply to employees of local education agencies. Generally, these rules provide for FMLA leave to be taken in blocks of time when intermittent leave is needed or the leave is required near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to "eligible" employees' use of leave required by FMLA.

The FMLA does not affect any other federal or state law, which prohibits discrimination, nor supersede any state or local law that provides greater family or medical leave protection. Nor does it affect an employer's obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan. The FMLA also encourages employers to provide more generous leave rights.

**Further Information**

For more information, please contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U. S. Government, Department of Labor, Employment Standards Administration. (B/R 10/93)

(B/R 10/04 – reorganization)