

By E-Mail

June 20, 2014

TO: Human Resources Directors  
Labor Designees

FROM: Raymond F. O'Brien *SFO*

SUBJECT: Annual Leave and Unscheduled Holidays for Staff in the Executive Compensation Plan and Non-Teaching Instructional Staff

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I write to remind you that the annual leave year for non-teaching instructional staff covered by the PSC/CUNY agreement, for instructional staff excluded from representation by the PSC, and for members of the Executive Compensation Plan is September 1 – August 31.

Supervisory personnel should be requested to review annual leave accruals for employees under their supervision in order to ensure compliance with University policy regarding the use and accumulation of annual leave. As discussed below, accumulated annual leave in excess of the maximum should be removed from an employee's record as soon as the final date for using that leave has occurred. It is only in special circumstances and with special permission (outlined below) that an employee may retain accumulated annual leave in excess of the maximum.

**I. Non-Teaching Instructional Staff covered by the PSC-CUNY Agreement:**

Article 14.9 speaks to the maximum accumulation of annual leave for this group of employees:

"It is the intention of the parties that all employees use their annual leave time within the annual leave year (September 1 through August 31) in which it is earned. In order to realize this objective, the parties mutually agree, as follows:

- a) Effective August 31, 1988, the maximum accrual of annual leave . . . shall not exceed forty-five (45) working days as of August 31 of any year; provided, however, that any staff member who as of August 31, 1987, has accumulated annual leave in excess of forty-five (45) working days shall have a personal accrual maximum equal to the number of days accrued as of August 31, 1987. The annual leave balance in excess of forty-five (45) working days or in excess of the personal accrual maximum as of August 31, 1987, will be deducted from the employee's accrual balance on each August 31, at the close of business, unless the procedure set forth below has been followed:
  - 1) not later than March 1, any employee who will have an annual leave accumulation in excess of forty-five (45) days or in excess of the personal accrual maximum unless sufficient annual leave time is taken prior to August 31, shall submit to the head of the office a written request to use such excess annual leave before the end of the current annual leave year (September 1 through August 31). The office head shall, in writing,

approve the annual leave request or, if the needs of the office so require, offer an alternate annual leave schedule within the current annual leave year.

- 2) if the head of the office has denied the request and has not offered an alternative plan or has not acted by April 1, the employee shall submit a written request to the senior executive(s) designated by the President... who will, in writing within 30 calendar days of receipt of the request, approve the annual leave, provide an alternate plan for use of excess time, and, if there are compelling institutional reasons, approve a carry-over of excess annual leave time."

## **II. Non-Teaching Instructional Staff not covered by the CUNY-PSC Agreement (Excluded Employees) and the Executive Compensation Plan**

The annual leave year is September 1 – August 31.

### **Excluded Employees:**

Non-teaching Instructional staff who are excluded from representation by the Professional Staff Congress (PSC) earn annual leave at the same rate as non-teaching instructional staff in the same titles who are represented by the PSC. However, under a Council of Presidents policy adopted on April 1, 1985, non-teaching instructional staff who are excluded from representation by the PSC may accrue a maximum of 50 days of annual leave, rather than the 45 day maximum for instructional staff represented by the PSC. The same Council of Presidents policy provides that on June 1 of any year, excluded employees may not retain an accrual in excess of 50 days of annual leave, except those employees who established a personal cap in excess of 50 days as of June 1, 1985.

**Effective immediately, non-teaching instructional staff employees who are excluded from representation by the PSC will also use their annual leave time within the annual leave year (September 1 through August 31) in which it is earned. On August 31 of any year (rather than on June 1, as previously required under the Council of Presidents' policy), any accrued annual leave in excess of the applicable cap will be removed from the employee's record and will not be compensated in the event of discontinuance, resignation or retirement; exceptions to the policy will be made only when a senior executive requires an employee to forego all or part of his/her annual leave because of extraordinary circumstances.**

Excluded employees who receive a notice of non-reappointment on May 1 may be allowed to use the excess accrued leave balance by June 30.

### **Members of the Executive Compensation Plan:**

The annual leave year runs from September 1 through August 31.

As per the Terms and Conditions of Employment in the Executive Compensation Plan (ECP), Section 12, staff members in ECP titles earn twenty-five (25) days of annual (vacation) leave per year. Annual leave balances for staff in ECP positions are to be managed as follows:

- Staff appointed to ECP titles on or after January 1, 2009, with no service in the University immediately preceding appointment to the ECP title have an annual leave cap of 50 days.



- Staff members appointed to ECP titles before January 1, 2009, or appointed to ECP titles on or after January 1, 2009, with service in the University prior to January 1, 2009, immediately preceding appointment to the ECP title are governed by the following rules:
  - Members with 50 days of accrued annual leave or fewer as of August 31, 2010, have an annual leave cap of 50 days.
  - Members of the ECP with more than 50 days of accrued annual leave as of August 31, 2010, shall have as the maximum number of days that can be carried forward to the next annual leave year the balance as of that date (the "personal cap"). The personal cap can never increase, it can only diminish down to a cap of 50 days. Thus, if on any subsequent August 31, the staff member has a balance lower than the balance as of August 31, 2010, that lower number becomes the personal cap, subject to further reduction, if the staff member's balance as of any subsequent August 31 is lower than the balance on the previous August 31.

No ECP member may be authorized to carryover annual leave in excess of the caps established. Any annual leave in excess of the cap will be removed from the record at the end of the annual leave year (August 31) and thereafter may not be used. There will be no compensation for such excess annual leave upon separation from employment.

### **III. ECP Vacation Exchange Program:**

Section 12.2 of the Terms and Conditions of Employment for Staff in the ECP provides ECP staff the opportunity to participate in the Vacation Exchange Provision. The Chancellor approves the implementation of this provision each year. As per this provision, ECP staff members are allowed to exchange up to five (5) days of accrued annual leave for an equivalent amount of cash, payable on December 1, at the employee's rate of pay on the preceding October 1. In order to be eligible to participate in the program, ECP staff must have at least thirty-five (35) days of accrued annual leave, both at the time of election during the election period and as of the opening of business on August 31. ECP staff may elect to exchange 1 – 5 days during the election period May 1 – August 31. The annual leave balance will be reduced by the number of days exchanged before the annual leave balance is reduced to the cap at the close of business on August 31.

### **IV. Unscheduled Holidays**

**For all Non-teaching Instructional Employees (Both Covered by the CUNY-PSC Agreement and Excluded from Representation by the PSC) and ECP staff:**

The Employee Holidays and Annual Leave Periods calendar is published each year by OHRM and lists the Unscheduled Holidays scheduled for the year. Established unscheduled holidays must be taken within the annual leave year in which they are earned, and they may not be carried into the next annual leave year.

There shall be four unscheduled holidays in the period September 1 to August 31 to be taken within the annual leave year, September 1 – August 31. ***This is change for excluded employees who, in prior years, had to use their Unscheduled Holidays between July 1 and June 30.***

A record of unscheduled holidays available to and taken by each employee shall be maintained. The record of unscheduled holiday shall not be merged with annual leave balances or temporary disability leave balances and, in no event, shall unscheduled holidays be converted to annual leave or temporary disability leave.

**The four established unscheduled holidays shall be made available for the use of employees who are in active (in pay) status on September 1.**

A request to take a specific day as an unscheduled holiday should be made in accordance with the usual practices at a college.

An extra unscheduled holiday that is designated to replace a scheduled holiday that falls on a Saturday or a Sunday shall be credited to an employee's unscheduled holiday account on the first working day after the designated holiday and is to be taken following the holiday for which it is substituted but prior to the end of the fiscal year.

#### **Calculating the use of Unscheduled Holidays:**

In the event the employer-employee relationship ends prior to the specific dates listed below, an appropriate adjustment shall be made, on a full-day basis, in the employee's annual leave balance or the final pay check of the employee.

<u>Date</u>	<u>Number of Unscheduled Holidays to which an employee is entitled</u>
July 1	One (1) day
October 1	One (1) day
January 1	One (1) day
April 1	One (1) day

Thus, an employee who uses four unscheduled holidays in July and resigns in December shall owe to the University two days of annual leave or two days' pay.

Employees who join the University or are appointed after July 1, October 1, or January 1, but prior to April 1, shall have a proportional number of unscheduled holidays available in units of one (1) full day. Thus, an employee who is appointed in December shall have two (2) unscheduled holidays available.

If you have any questions, please feel free to contact me at (646) 664 3256.

c: Cabinet  
Vice Chancellor Gloriana B. Waters  
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Chief Administrative Officers  
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