

# BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES

## Personnel

**POLICY:** Terms and Conditions of Employment for Non-Union Faculty

**NUMBER:** 5102

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### PURPOSE

To specify the terms and conditions of employment for full-time faculty employees (at least .75 FTE) who are excluded from the SCEA collective bargaining unit.

### ABANDONMENT

Employees may be considered to have abandoned the job if absent from work for longer than two (2) consecutive scheduled work days without being on approved leave. Abandonment shall be considered as a voluntary resignation not in good standing.

### APPOINTMENTS

Full-time (at least .75 FTE) faculty special appointments will be limited to three (3) academic years.

### BACKGROUND CHECKS

Offers of employment are contingent on the applicant/employee successfully passing a background check.

### BENEFITS

The Board shall make group medical, dental, vision, life, and long-term disability insurance coverages available to employees who are employed full-time on a continuing basis in a budgeted position (at least .75 FTE). Employees employed less than .75 FTE are not eligible for group medical, dental, vision, life or long-term disability coverages, unless coverage is required under the Affordable Care Act.

For medical and dental insurance, the Board will contribute a fixed dollar amount equivalent to eighty-five percent (85%) of the aggregate costs of the individual plan, with the employee responsible for the remaining amount of the cost of coverage. For those employees who opt for coverage under a family plan, the Board will contribute toward either family plan, employee/children or employee/spouse a fixed dollar amount equivalent to seventy-five percent (75%) of the aggregate costs of the family plan, with the employee responsible for the remaining amount of the cost of coverage. When both members of a married couple are employed by the Board and request family coverage, each individual will be required to contribute an amount equal to the contribution an employee makes toward single coverage. Employees who elect insurance must enroll in both the medical and dental plans.

The Board will contribute fifty percent (50%) toward the cost of single vision coverage for any plan option selected by the employee.

A life insurance plan offering group term life insurance coverage at a minimum amount of thirty thousand dollars (\$30,000) will be provided at the Board's expense with the employee permitted to supplement the basic coverage at the employee's expense. Employees may also purchase a dependent life policy on a spouse and a child(ren) at the employee's expense. Eligible coverage for children begins at six (6) months of age. In accordance with current policy provisions, employees' life insurance benefits are reduced to 50% at seventy (70) years of age.

A group long-term disability plan will be provided which will pay sixty-six and two-thirds percent (66 2/3%) of salary after ninety (90) days of continuous disability as defined by the insurance carrier. The Board will provide seventy-five percent (75%) of the aggregate costs of this coverage.

The Board shall provide an opportunity for employees (employed at least .75 FTE full-time) to voluntarily participate in a flexible spending account, subject to provisions of IRS Code Section 125. Employees may choose to set aside an amount from their paychecks, which is not taxed, in a medical or dependent care account for payment of eligible expenses.

The Board shall make an Employee Assistance Program available for employees (employed at least .75 FTE full-time). The Board shall pay the annual flat rate as established by the program. Any other costs shall be borne by the employee. Records concerning an employee's treatment for alcoholism, drug or stress related problems shall remain separate from other personnel materials. All employee assistance records shall remain confidential.

### **DISCIPLINARY ACTION**

Employees may be terminated from employment prior to the expiration of the current employment appointment for adequate cause. The exercise of academic freedom or constitutionally guaranteed civil rights will not be used as a basis for termination of employment. The College shall adopt and promulgate rules of conduct for distribution to employees in the form of an employee handbook, including but not limited to grounds for disciplinary action.

A decision to terminate an employee for cause will be made by the President, after the employee has had an opportunity for a hearing before a committee established by the President. When considering a termination for cause, the President or designee shall prepare a formal statement of charges, framed with reasonable particularity, and setting forth the grounds for termination. Said statement of charges shall be provided to the employee.

Within ten (10) business days of the receipt of the charges, the employee may submit a written response to the President and shall indicate whether they desire a hearing before the committee. If no written response is received, or if a hearing is not requested within the specified time, such failure constitutes the waiver of the right to a hearing.

If the employee requests a hearing, the President shall set the date and time for that hearing as soon as possible in order to permit the parties to reasonably prepare for the hearing.

During the hearing, the employee may bring an advisor and/or counsel at their own expense to the proceedings. A complete recording of the hearing will be made, and upon request, a copy will be made available to the employee at their own cost. The employee will be afforded an opportunity to obtain and present necessary witnesses and documentary or other evidence. The employee and the College will have the right to confront and cross-examine all adverse witnesses.

The committee shall prepare a written statement of findings of fact and recommendation, which shall be delivered to the employee, the President, and the Chancellor, within ten (10) business days following conclusion of the hearing. The findings of fact shall be based on a preponderance of the evidence in the record considered as a whole, as determined by a majority of the committee. The President shall review and consider the committee's recommendations prior to making a decision regarding the termination of employment. The President's decision shall be rendered within ten (10) business days.

If the employee is not satisfied with the decision of the President the employee may make a written request to the Chancellor within ten (10) business days of the receipt of the President's decision. The Chancellor shall render a written decision regarding the dismissal within twenty (20) business days. The decision of the Chancellor, on behalf of the Employer, shall be final. The dismissed employee may only seek additional recourse under available state and federal law.

An employee who is under investigation for misconduct or who has been recommended for dismissal for cause may, at the discretion of the President, be suspended with pay and full benefits until such time as it is possible to determine if misconduct occurred and/or if the employee should be dismissed from employment. Such investigatory suspensions are not grievable.

An employee shall continue to be an employee until the dismissal appeal procedure, up to and including the Chancellor, has been exhausted or until the employee has failed to advance their appeal in a timely fashion. The President may, at their discretion, suspend or reassign the employee to other professional duties with pay during the dismissal process.

### **DRUG AND ALCOHOL TESTING**

In the interest of maintaining a safe, healthy, and efficient workplace for all employees, and to protect the Board's property, information, equipment, and reputation, the Board has established a program to test for drug and alcohol use in the workplace. Testing will be required when reasonable cause exists in the workplace to conduct such a test. The Board shall be responsible to pay for the costs of any such tests. Employees, who may be required under federal law or regulations to submit to random drug and alcohol testing, will be notified of the general testing requirements in writing in advance.

### **GRIEVANCE PROCEDURE**

The grievance procedure as set forth herein is designed to provide a prompt and efficient method for the resolution of grievances. The grievance procedure hereinafter set forth shall be the exclusive method for resolving grievances. Time limits provided herein shall be adhered to unless modifications are agreed to in writing by the parties to the grievance.

A grievance is defined to be a dispute filed by an employee concerning a violation of policies or other terms and conditions of employment, and filed in accordance with the terms of this policy. Employees who have been recommended for dismissal from employment for cause under the provisions of this policy, may not file grievances while the dismissal process is pending.

**Informal Grievance.** Prior to the filing of a formal grievance hereunder, an employee shall discuss their dispute with the appropriate Dean or the administrator who made the decision at issue in an attempt to resolve the dispute.

**Formal Grievance.** In reducing a grievance to writing, the following information must be stated with reasonable clarity: the exact nature of the grievance; the act or acts of commission or omission; the dates of the act or acts; the identity of the party or parties alleged to have caused the grievance and any known witnesses; the specific policies that are alleged to have been violated; and the remedy that is sought.

**Procedure.** A formal grievance shall be processed in the following manner:

**a) Step 1.** A formal grievance shall be filed in writing with the Vice President for Academic Affairs within twenty (20) business days following the act or omission giving rise thereto, or the date on which the grievant knew, or reasonably should have known, of such act or omission if the date is later.

The Academic Vice President has ten (10) business days after receipt of the grievance, or any extension provided for herein, to review the grievance. The Academic Vice President shall issue a determination in writing to the grievant within the ten (10) business day period. If the written determination refers to documents, copies of such documents shall be attached.

Upon the written request of either party to the other, an additional ten (10) business days extension shall be granted during which period efforts to resolve the grievance shall be made.

**b) Step 2.** The grievant shall have five (5) business days from receipt of the Academic Vice President's determination to appeal by filing the grievance and all prior responses with the President.

Within ten (10) business days of receipt of the grievance appeal, the President shall submit the grievance to a "Grievance Advisory Committee" established by the President. The Grievance Advisory Committee shall hold a hearing within ten (10) business days after receipt of the grievance and shall admit and consider evidence submitted by the parties in the form of documents or the testimony of witnesses. The grievant shall have the right to attend all evidentiary proceedings of the committee, to present evidence, to examine documents, to question witnesses, and to otherwise present any relevant argument or evidence. The grievant shall also have the right to assistance by counsel at the grievant's expense. The

committee following its own procedures shall submit a complete recording of the hearing, copies of all exhibits, and the committee's findings and recommendations to the President and grievant within ten (10) business days following the hearing. Any party who wishes to use a court reporter to take a verbatim transcript may do so at their own expense.

The President shall issue a written decision to the grievant within five (5) business days following receipt of the recommendation of the Grievance Advisory Committee.

- c) **Step 3.** The grievant shall have ten (10) business days from receipt of the President's decision to appeal that decision to the Chancellor. A copy of the grievance and all prior written recommendations and responses is to be provided. The Chancellor shall review and notify the grievant of their final decision within fifteen (15) business days.

If the Chancellor's decision under this Step fails to satisfy the grievant, the grievant wishing to continue may seek relief under one of the following two (2) options:

- 1) applicable State or Federal laws; or
- 2) by mutual agreement of the parties, pursue mediation.

There shall be no reprisals taken against an employee for the filing of a grievance or participating as a witness in a grievance hearing.

## **LAYOFFS**

The President or Chancellor, as appropriate, decides when a layoff is necessary, and which employees and positions will be affected. Layoffs may be determined necessary because of budget adjustments or reallocations, a modification of position workloads, or elimination of or change in scope of institutional services, or as the result of any other job-related management decision. Employees shall receive written layoff notices at least ninety (90) calendar days in advance.

## **LEAVE**

### **Bereavement Leave**

Employees shall be granted paid bereavement leave for up to six (6) days during each academic year. Generally, bereavement leave is taken immediately following the death, however, there may be circumstances when more flexibility is needed, for example, if a memorial service is scheduled at a time in the future. Such leave must be approved through the usual leave practices or procedures.

### **Civil Duty Leave**

An absence with pay will be granted an employee for jury service or election service during the actual period of service, and the employee will retain fees paid as a juror or election worker; provided that the employee calls their supervisor to determine whether they should report for work upon being released from jury duty or election service on any day prior to the end of their regular shift.

Absence with pay may be granted for an employee who is subpoenaed as a witness during the actual period of such service; provided that the absence is limited to that period the employee is actually compelled to be present at court, having made reasonable efforts to arrange with the subpoenaing party that the attendance would be so limited. Copies of summons and subpoenas should be provided to the Human Resource Office in advance of the absence and the Dean should be notified in advance of the absence.

If an employee is appointed as a clerk, election inspector, or judge on an election or counting board, the employee shall be granted an absence with pay during the time when the employee's physical presence is required by the court or the board. The employee shall retain all fees paid for their civil service.

### **Crisis Leave Sharing Program**

(a) Employees may contribute accrued sick leave to benefit another employee at the same College who is suffering from a catastrophic illness, who is unable to report to work due to pandemic quarantine measures or who is a new parent. Sick leave shall be donated in no less than a one (1) day increment. Hours donated, but not used, will be maintained in a shared leave pool and distributed on an as needed basis to eligible employees by a Shared Leave Committee designated by the College.

The Committee will determine the amount of donated leave an employee may receive and may only authorize an employee to use up to a maximum of ninety (90) days in a twelve (12) month period. To be eligible to receive donated leave, an employee must have exhausted all paid leave. The crisis leave-sharing program will permit salary and health insurance continuation for those employees receiving shared leave.

The crisis leave pool at each College may not exceed 7,500 hours.

Details of the Crisis Leave Sharing Program are available at the College Human Resource Office.

(b) New Parents. Within the first twelve (12) months following the birth or adoption of a child, an employee may Request up to thirty (30) workdays of crisis leave donations. For employees eligible for FMLA, crisis leave, donations shall count against the 12 weeks FMLA leave. Donations are not for intermittent use; donations may be used for up to thirty (30) consecutive workdays.

### **Family and Medical Leave**

Employees with one (1) year of service and who have worked at least one thousand two hundred fifty (1,250) hours during the previous twelve (12) month period shall be entitled, in accordance with federal regulations under the Family and Medical Leave Act (FMLA), to take up to twelve (12) work weeks of unpaid family and medical leave during any twelve (12) month period for reasons related to family and medical needs. Eligible employees, may use FMLA leave:

- a) for the birth of a child, or the placement of a child for adoption or for foster care;
- b) to care for a spouse, children, parents, or persons bearing the same relationship to the employee's spouse with a serious health condition;
- c) for the employee's own serious health condition; or,
- d) for any qualifying exigency arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty (or has been notified of any impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Note: "Children" shall mean a biological, adopted or foster child, a step-child or legal ward.

A serious health condition is defined to include:

- a) an illness, injury, impairment, or physical or mental condition that involves either inpatient care, meaning an overnight stay in a hospital, hospice, or residential care facility, or continuing treatment by a health care provider for more than three (3) consecutive days;
- b) any period of incapacity because of pregnancy or prenatal care (even without treatment by a health care provider and even if the absence is less than three (3) days, e.g., morning sickness);
- c) any period of incapacity because of a chronic serious condition (even without treatment by a health care provider and even if the absence is less than three (3) days, e.g., an asthma attack);
- d) any period of absence to receive multiple treatments by health care providers for reconstructive surgery after an accident or injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days if untreated, e.g., cancer (chemotherapy), kidney disease (dialysis).

Sick leave must be used during family and medical leave before unpaid FMLA leave begins. Leave shall not accrue while on family and medical leave. Requests for family and medical leave must be submitted to the Dean and Human Resources Director for approval. Appropriate medical certification or documentation may be required.

To the extent possible, thirty (30) days' notice will be given by the employee, and where possible, an effort will be made, in the case of an employee, to begin and end the leave to coincide with the beginning of academic semesters.

The Board agrees to continue to pay its portion of insurance premiums during the term of FMLA leave. In the event both parents are eligible under this policy, the couple shall be entitled to a combined total of twelve (12) work weeks of leave for the birth and care of a newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

Family Military Leave Act. According to the terms of the Family Military Leave Act (Neb. Rev. Stat. §§55-501 to 507), an eligible employee who is the spouse or parent of a person called to military service lasting one hundred seventy-nine (179) days or longer with the state or United States pursuant to the orders of the Governor or the President shall receive up to thirty (30) work days of unpaid leave. An eligible employee must have been employed for at least one thousand two hundred fifty (1,250) hours during a twelve (12) month period immediately preceding the commencement of leave.

The employee shall give at least fourteen (14) days' notice of the intended date upon which the family military leave will commence, if leave will consist of five (5) or more consecutive work days. Employees taking family military leave for less than five (5) consecutive days shall give as much advanced notice as is practicable. The employee shall consult with their supervisor to schedule the leave so as not to unduly disrupt College operations. Certification may be requested from the proper military authority to verify the employee's eligibility for the family military leave requested. For benefit purposes, employees taking Family Military Leave will be treated the same as other employees taking unpaid Family and Medical Leave.

National Defense Authorization Act. An employee who is a spouse, child, parent or next of kin (nearest blood relative) to a member of the Armed Forces who is being treated for, recuperating from, or is on the temporary disability retired list due to a serious injury or illness, is entitled to a total of twenty-six (26) work weeks of leave during a twelve (12) month period to provide care for the service member as provided by the Family and Medical Leave Act as amended by the National Defense Authorization Act.

### **Inclement Weather/College Closure Leave**

When inclement weather causes College classes to be canceled, all employees, other than those required to report to work to provide emergency or other essential services, will be entitled to take Inclement Weather Leave. Such leave does not require the prior approval of the employee's supervisor. When the President declares the College closed, absences will not be charged against employee leave balances.

### **Leave of Absence**

Employees who have been employed at the College for three (3) consecutive years shall be eligible to apply for a leave of absence for the purpose of research, education, travel, work at other institutions, or private business organizations, or engaging in other activities which will improve the employee professionally and be of benefit to the College. Such leave of absence is without pay. However, if the leave of absence is at the request of the President, and the employee has been employed at the College for four (4) consecutive years, such leave may be compensated with one-half (1/2) pay for one (1) academic year, full pay for one (1) semester, or a lesser amount by mutual agreement of the employee and the President.

Employees under performance improvement plans are not eligible for a leave of absence.

The recipient of a paid leave of absence may, at the discretion of the President, be required to return to the College for a period of one (1) year or to immediately repay the salary and cost of benefits received while on the leave of absence.

Requests for leave of absence must be submitted according to a deadline established by the Academic Vice President, but no later than December 1 of the year preceding the year for which the leave is requested. Requests for a leave of absence without pay may be requested after the December 1 deadline if there are extenuating circumstances, such as receipt of a Fulbright award. Such leaves are limited to one (1) year but leave without pay may be extended one (1) additional year by mutual agreement. Requests for extension must be received by February 1. Granting leaves of absence is at the discretion of the President and is a non-grievable matter.

Employees on a paid leave of absence will continue to receive the proportionate share of the Board's contribution for applicable insurance and retirement plans. The remaining portion will be paid by the employee. Employees are not required to submit sick leave; bereavement leave or civil leave requests while on the leave of absence.

Employees on an unpaid leave of absence may contribute to the retirement plan and participate in applicable insurance programs at their own expense.

Within ninety (90) days following return from a leave of absence, the employee shall submit to the Academic Vice President a written report summarizing the activities and results of the leave.

### **Personal Leave**

Two (2) days of leave each academic year may be requested by full-time employees (at least .75 FTE) for personal needs or exigencies. The leave is available in whole day increments only. Approval shall be at the discretion of the Dean and is a non-grievable matter. Human Resources will be notified for leave record requirements. Employees denied personal leave from the Dean may ask the Academic Vice President to review the decision. The Vice President's decision will be final.

### **Sick Leave**

Paid sick leave for full-time employees (1.0 FTE) shall accrue at the rate of twelve (12) days per contract year. Sick leave accrual shall be prorated as of the first day of employment, and unused sick leave may be accumulated up to and including one hundred-eighty (180) business days. Supervisors may require documentation to substantiate the legitimate use of sick leave. Sick leave is not intended as any earned time off with pay, and will not be granted as such. Unused sick leave will not be paid out at the end of employment. Employees who have separated from employment and return after a break in service shall not have prior sick leave balances reinstated.

Sick leave hours shall be calculated in the following manner:

- a) If the employee is unable to fulfill all assigned teaching obligations for the day, the employee will be charged eight (8) hours of sick leave for the day.
- b) If the employee is only able to fulfill part of the assigned teaching obligations for the day, the employee will be charged four (4) hours of sick leave for the day.
- c) If the employee is able to perform all assigned teaching obligations but not established office hours and/or required meetings, four (4) hours of sick leave will be charged for that day.

**Reasons to Utilize Sick Leave.** Sick leave may be taken for absences made necessary by reason of illness, injury, medical appointments or disability (including temporary illnesses caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery), by exposure to contagious disease which may endanger the employee or public health, or by reason of the illness of a family member who resides in the employee's household.

Up to ten (10) days of earned but unused sick leave in an academic year may also be taken by reason of the serious illness of a family member who does not reside with the employee. Family member shall be defined to include the spouse, child, stepchild, legal ward, parent, or persons bearing the same relationship to the faculty member's spouse. Serious illness shall mean a disabling physical or mental illness which requires in-patient care in a hospital, nursing home, or hospice, or significant in-home care.

Up to five (5) days of earned but unused sick leave in an academic year may also be taken for the placement of a child with the employee for adoption or for foster care. A reasonable extension may be requested which shall not unreasonably be denied.

### **PERFORMANCE EVALUATION**

The President is responsible for determining how and when the performance of employees will be evaluated at the College.

The purpose of performance evaluations is to promote high levels of achievement; measure, maintain and improve performance; and, provide opportunities for discussion and planning of goals and objectives. Employees will be allowed to participate in the evaluation process and shall be informed of the criteria used to evaluate performance.

### **TUITION PROGRAMS**

Only full-time (at least .75 FTE) employees are eligible for the following programs. These programs are not available to the immediate family members of employees whose anticipated employment period is less than six (6) months, regardless of FTE employment status. To receive the tuition benefit, employees and immediate family (if applicable) must submit and have approved a tuition remission/waiver request form no later than the tuition payment due date for that term. Benefits will not be provided retroactively.

A sixty-seven percent (67%) tuition remission shall be available for the employee's immediate family members (spouse and children who are twenty-four (24) years of age or younger) on a space available basis. The remission does not apply to fees. Although online courses have a single rate, a portion of the rate consists of fees. The remission provided for online courses will be sixty-seven percent (67%) of the equivalent resident tuition rate for an on-campus course. Remissions are subject to the following conditions:

- a. The immediate family member must be admitted as a student of the College and must have met all normal academic requirements for the courses taken.

Employees shall be eligible to enroll in credit courses for one dollar (\$1.00) per course plus applicable course related fees, such as lab, materials, etc., which are normally added above tuition. One dollar (\$1.00) covers the cost of tuition for purposes of this waiver program and the one dollar (\$1.00) charge is non-refundable. Although online courses have a single rate, a portion of the rate consists of fees. The waiver provided for online courses will be based on the equivalent resident tuition rate for an on-campus course beyond one dollar (\$1.00). Tuition waiver under this program will be limited to one (1) course per term on a space available basis and such enrollment will not be counted toward minimums necessary for a course to be offered.

An employee may not enroll in the tuition remission and tuition waiver courses simultaneously the same semester. Tuition remissions and tuition waivers will not apply to already discounted tuition rates for dual enrollment and professional development courses.

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