



SUNY DOWNSTATE Medical Center

March 2001

Dear Health Science Center at Brooklyn Supervisor:

Welcome to the Downstate Medical Center Department of Human Resources web site. I am pleased to share with you the HSCB Supervisor's Manual, which has been updated by the Office of Labor Relations for 2001.

The on-line Supervisor's Manual offers many useful and user-friendly features. For example, you will find links to related topics within the Manual itself. The Manual may be downloaded in whole or in part, as you may need hard copy of text or forms. We have indicated material changes or new material with a red "NEW" to call your attention to them. We have also enhanced our Manual by linking to the [web site of the New York State Governor's Office of Employee Relations](#). This tie provides access to every collective bargaining agreement posted. Finally, we intend to update the site whenever a new policy, procedure or regulation warrants.

You will find a listing of the staff of the Office of Labor Relations and their respective functions by [clicking here](#). Please use them as a resource; they are there to support you. You will also find a listing of the staff of Personnel Administration by [clicking here](#).

We have taken this opportunity to set out several examples of "Red Flags", i.e., situations that should alert you to the need to

[consult Labor Relations](#). They follow immediately after the Labor Relations Staff listings. Please refer to them. Some of the examples of problems that Labor Relations gets involved in may surprise you. We have also found that early consultation is effective in diminishing conflict and resolving workplace issues.

We welcome your comments and suggestions about the newly revised on-line Supervisor's Manual. Please E-Mail Steve Greenblatt, Director of Labor Relations at laborrelations@downstate.edu with any input.

Sincerely yours,

Stephen Kass
Vice-President for Human Resources

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SUPERVISORY SKILLS GUIDE

Prepared for Supervisors at
SUNY Health Science Center at Brooklyn

by

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N O T E

Where there are words in this Manual
which do not reflect gender-neutral language,
the appropriate pronouns should be construed
to refer to both women and men.

THE CONCEPT OF SUPERVISION
in
BUREAUCRATIC ORGANIZATIONS

Virtually any modern organization containing individuals seeking common goals has numerous elements characteristic of a bureaucracy: the establishment of "offices" and "office holders"; the hierarchical arrangement of these offices and office holders; management based on written documents; and, the identification of qualifications for appointment of officials to particular offices, to name a few important ones. The study of supervision as a unique function in bureaucracies cannot be understood without reference to some of these characteristics.

Specialization

Whether public or private, large or small, old or new, organizations are characterized by a number of similar qualities. For example, there is necessarily a considerable amount of specialization. Jobs are created with a focus upon one or more of the content areas necessary to attain the organization's overall mission: housekeeping, food service, nursing, rehabilitation, personnel. All of these terms represent specialization. Within each area, jobs are broken down even further. Some food service workers prepare food, others serve food and still others clean up the food.

Specialization also extends to another common organizational characteristic: hierarchical authority. If we think of authority as the right to act, then various actors within the organization are given authority depending on their place within the hierarchical structure. Everyone possesses some authority to do something. For example, the person who cleans offices at night possesses the authority to enter the facility, open certain doors, move and remove certain objects. Without the authority to enter the building, requisition supplies and use certain equipment, the cleaner would be seriously hampered in fulfilling his or her responsibility.

But authority is also allocated up and down. That is, the director of an organization is generally given a broader grant of authority than any other person. Less broad grants of authority are generally given the lower one extends in the organization, although there are exceptions. Operationally, authority finds its way down the chain of command through delegation. Someone in a superior position within an organization identifies certain responsibilities that are within the ambit of his or her office and then assigns those responsibilities to someone who reports to that office. As we noted above, the responsibility cannot effectively be delegated without including a grant of authority sufficient to permit completion of the task.

Supervision

Certain people possess authority not only over their behavior, but also over the behavior of others. **That is, they can "order" others to behave in ways that the other persons might not have chosen to behave.** When the line of communication sending that order is directly from person A to person B, then person A is said to be person B's supervisor. Person B may himself or herself have a similar relationship with others in the organization. In that case, person B would be the supervisor of one or more other individuals within the organization. Individuals who do not possess authority over any other person are referred to as "rank-and-file" employees.

The establishment of a class of employees with supervisory responsibility requires an understanding of the constellation of knowledge, skills and abilities unique to those positions which have as the primary responsibility the exercise of authority over others. In other words, a nurse with supervisory responsibility is more than a nurse.

He or she must not only understand the duties of the rank-and-file nurse, but also the art of planning, coordinating, leading and controlling the behavior of others subject to the supervisor's authority.

Implicit in this notion is the possibility that a supervisor of nurses needn't have been the best nurse in order to fulfill his or her supervisory duties. He or she must understand the methods of supervising individuals who possess nursing skills.

If we look at the role of the supervisor from the supervisor's perspective, having authority over others' behavior means that the supervisor is likewise responsible for their behavior. In other words, if a person who reports to a supervisor fails in a task, he or she will be held accountable. In addition, the supervisor can be held accountable. Rank-and-file employees are only responsible for their own behavior.

Given the authority and responsibility inherent in supervision, it is not surprising that supervisors have a keen need to understand how to evaluate and influence the performance of the persons whose performance will in large part determine the supervisor's fate in an organization.

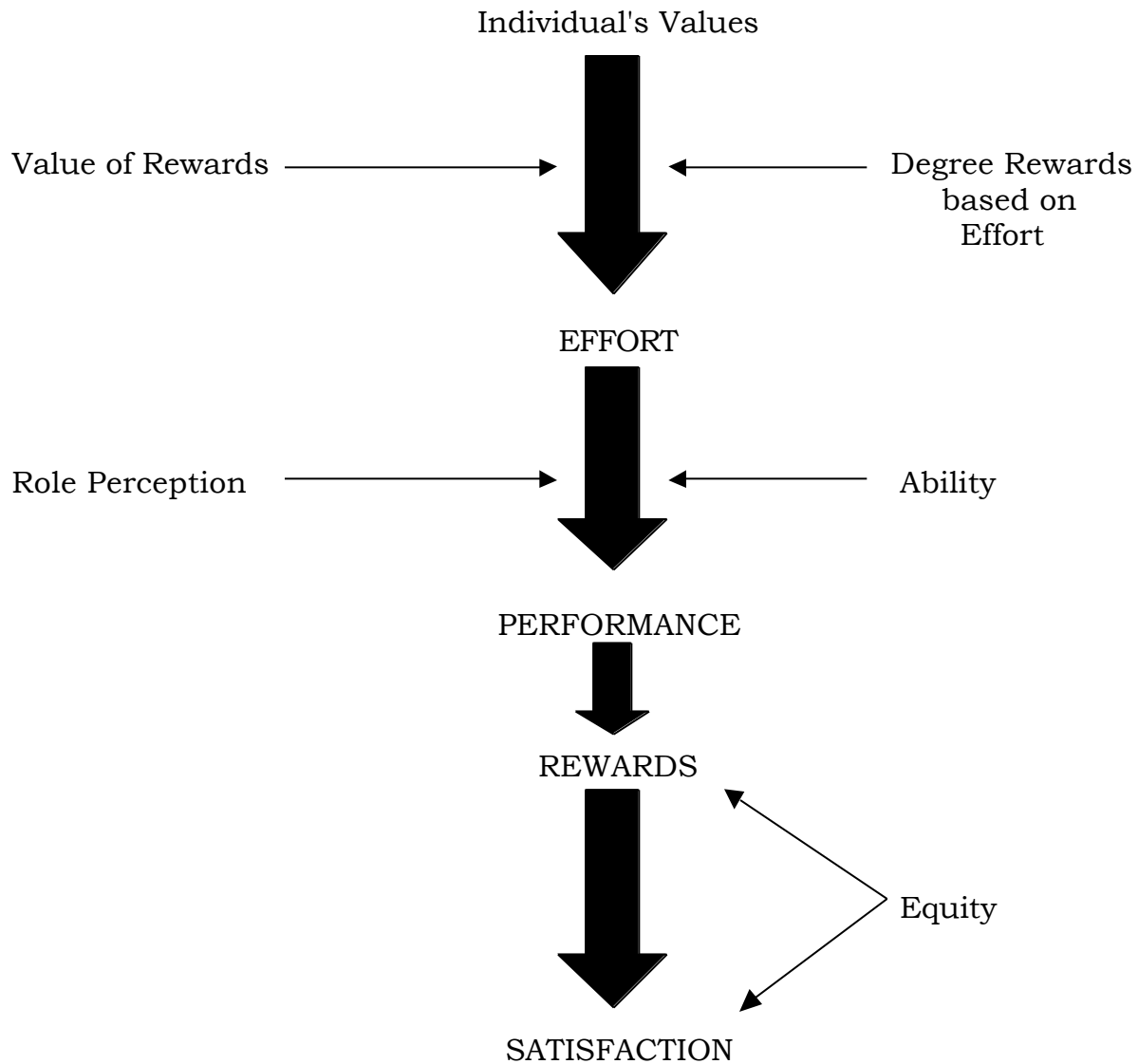
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**THE RELATIONSHIP OF SUPERVISION
TO
MOTIVATION, PERFORMANCE, SATISFACTION, REWARDS AND LEADERSHIP**

Among people who study organizations and individuals' behavior at the workplace, there are a number of concepts which are critical to their endeavor. In this section we will discuss the concepts of motivation, performance, rewards, satisfaction and leadership.

The model on the following page depicts the relationship between effort, performance and satisfaction, which will serve as a theoretical framework for defining and explaining the role of the supervisor in exercising supervisory responsibilities. The model itself supposes that employees are susceptible to influence both in terms of the effort they exert in their work and the actual performance they achieve. In the context of most organizations, the model has so many limits that it is unlikely that most supervisors can successfully influence an employee's level of effort. As a consequence, supervisors will be best served if they concentrate on improving an individual's performance, given the level of effort he or she brings to the workplace.

Chart 2.1: A Model Showing the Relationship of Values, Effort, Performance, Rewards and Satisfaction



Note: This model is adapted from the writings of theorists expounding what have become known as Expectancy and Equity theories of motivation. For an excellent discussion on the origins and research concerning these theories, see James L. Gibson, et. al., ORGANIZATIONS: Behavior, Structure, Processes, fifth edition (Business Publications, Inc., Plano, Texas, 1985), Chapter 5.

Effort and Performance

The model shows a direct relationship between effort--or motivation--and performance, which is influenced by an employee's ability and role perception. Effort is defined as the amount of energy an individual is willing to expend to complete a task. Performance is the amount of the task the individual actually accomplishes. The level of effort is determined by three variables:

- the individual employee's values which have a direct relationship to effort and also an indirect relationship to the extent the person's values determine the type of rewards one desires;
- the degree to which the individual values rewards which the institution offers; and,
- the degree to which the individual believes that the distribution of organizational rewards is based on measurements of effort, and ultimately, of course, performance.

In this view, an individual's likelihood to put forth effort is at least a combination of the value he or she places on the rewards available in the organization coupled with the degree to which he or she believes the rewards are given as a function of effort. If the organization does not offer rewards which are of value to the employee, there is little inclination to increase effort to gain these rewards, even if the employee knows that the rewards are given only for effort resulting in good performance.

In addition, an individual who values the rewards an organization can offer will not necessarily work hard, or harder, for those rewards if he or she believes that those rewards--for example, promotions--are given for reasons unrelated to the level of effort one puts into one's job duties. For example, whether or not true, a supervisor who has the reputation of recommending "friends" for promotion regardless of demonstrated effort resulting in excellent performance is likely to encourage those seeking rewards to expend energy trying to become his or her friend.

The model also suggests that regardless of the type of rewards and the way in which they are dispensed, some individuals possess value systems which will either promote more or less effort independent of rewards. The "workaholic" is an example of someone who will put forth effort regardless of the reward system. As we note below, it is possible that this factor in most organizations similar to the Health Science Center at Brooklyn is predominant in determining the degree to which an individual is willing to expend effort to perform a task.

Satisfaction and Rewards

The model also suggests that satisfaction is not the cause of increased effort, but the result of someone's belief that he or she has received fair rewards for performance. In other words, someone who has been judged a high performer, who is then rewarded--for example, with a promotion--is more likely to express job satisfaction than someone who does not receive rewards. Even in this view, however, the level of satisfaction can vary depending on the degree to which the person believes the reward system is equitable. For example, if he or she believes that other persons at work or in his or her social setting have done better or as well with the same level of performance or less, respectively, then he or she is less likely to experience satisfaction.

Rewards are what employers provide to employees in consideration for the employees' agreement to put forth effort to accomplish certain tasks. Some of these rewards are made explicit in employment and labor contracts, or in public employment, sometimes by statute. Wages, health insurance and pensions are examples. Other rewards are less explicitly a product of the employer/employee agreement: the labor relations atmosphere at work; the condition of the physical plant; the location of the workplace with respect to employees' homes; and, other similar issues.

Rewards have been studied by behavioral scientists for decades. Frederick Winslow Taylor, a pioneer in the creation of "scientific management", held that high wages is what most workers want in return for their labor. The Hawthorne Studies, conducted during the 1920's and 30's at Western Electric, concluded that wages were not the only form of compensation craved by employees. Personal attention from management and supervision were found to be important elements in promoting increased productivity.

More recently, researchers have described a distinction between extrinsic and intrinsic--"motivators", described by Frederick Herzberg as rewards.

- extrinsic rewards: salary, relationship with supervision, working conditions, policies relating to fringe benefits.
- intrinsic rewards: the nature of the work itself, recognition, advancement, responsibility.

Recent wisdom on the subject of rewards suggests that intrinsic rewards have a more lasting effect on an employee's productivity than extrinsic rewards, and therefore are preferred as "motivators".

Inasmuch as research in this area is quite uneven, it is probably enough to claim that not every person is equally attracted to a similar set of rewards, regardless of how behavioral scientists categorize them. From a supervisor's point of view, the most important fact is that he or she has little control over most types of rewards. For example, in New York State government most aspects of wages, fringe benefits, the nature of work as reflected in job descriptions, many avenues of advancement and most other rewards are governed by the collective bargaining agreement and state statutes, rules and regulations. Even the nature of supervision--the degree to which someone supervises "closely" or a supervisor's decision-making style, as examples--is not easily provided as an explicit reward to individuals in return for work. These examples characterize the way a supervisor treats all employees, regardless of the level of each employee's efforts.

Relationship to Supervision

It is clear that much of the model we have described is merely an ideal with respect to the management of most public institutions. We have noted the lack of control supervisors have over rewards. We can also note the difficulty supervisors have in measuring with sufficient precision job performance in a way which would permit rewards to be distributed fairly, which in this case means that in addition to an objective standard of fairness, the rewards are viewed as fairly distributed by all employees. Only a piece rate system or some variation of a piece rate system approximates this level of certainty.

What role, then, can supervisors play in influencing employee performance? Consistent with this model, supervisors can have extensive influence by virtue of their authority over processes affecting the variables labeled ability and role perception. More specifically, supervisors have extensive authority over or involvement in the following processes:

- Communicating standards and expectations to employees;
- Positive reinforcement;
- [Counseling/Counseling memos](#);
- Performance appraisal;
- Training; and,
- Discipline.

Having noted these areas of authority, we do not want to suggest that a supervisor's authority is unfettered. There are many ways in which supervisors, and the Center in general, are limited in the exercise of discretion: the federal Constitution, federal statutes and regulations, the State Constitution, State statutes and regulations, University policy, Health Science Center at Brooklyn policy and collective bargaining agreements.

In addition, the list of processes available to the supervisor in improving performance ought not suggest that the supervisor is little more than a rule enforcer. We view the function as much more dynamic, one in which the supervisor becomes a positive force helping an employee to become as productive as possible given the limits on the supervisor's use of rewards. Interestingly, a supervisor who sees his or her role in this way can affect rewards indirectly. For example, the supervisor who helps an employee achieve to his or her potential can provide that employee with an opportunity to successfully compete for a promotion, even though the supervisor does not make the decision independently. In addition, the supervisor's recommendations, whether positive or negative concerning an individual's promotion, will be more respected by those who do make decisions.

What is Leadership?

Leadership is a conclusion we draw from the observations we make about people's behavior at work. A person who apparently influences others to behave consistently with legitimate organizational goals is ordinarily considered a leader. Someone who does not apparently influence others in this respect is not viewed with the same admiration. Obviously, given the need for supervisors to influence others to achieve objectives, it is important that each supervisor exhibit such leadership qualities.

We should add that not all leaders achieve appropriate ends with appropriate means. In our concept, the most impressive leader is one who is able to gain voluntary consent of others to achieve legitimate organizational purposes. The use of deception and fear, two common tactics that some individuals believe appropriate in gaining others' assent to policy objectives and operations leading to those objectives, are not associated with our concept of leadership. A real leader is one who can fashion a consensus resulting in others' commitment to the appropriate policy and/or operation necessary to fulfill an organization's mission.

We ought not ask too much of any person, even supervisors, when suggesting that they must also be leaders. In some cases, organizational theorists have prescribed a set of behaviors associated with successful leadership that could only be attained by a few people. We particularly single out situational leadership theories with this failing. According to such reasoning, supervisors must adapt their behavior to each employee's abilities and needs, a difficult task where employees have varying ability levels and a variety of needs.

We prefer to offer a prescription which suggests that in a supervisor's relationship with each employee there are **CRITICAL MOMENTS**, times where what the supervisor does and how the supervisor does it will be particularly important in influencing the employee's behavior.

In this view, the supervisor need not dwell on every aspect of his or her relationship with the employee, for much of what does transpire at work is truly social. People, whether supervisors or rank-and-file employees, will be guided by customs which all endorse. Many of those customs tolerate a variety of behaviors from all participants, even some behaviors--like bantering and horseplay--in which supervisors will engage as social equals.

However, at **CRITICAL MOMENTS**, supervisors are not social equals, because the interaction is not primarily social, but instead administrative in nature. A counseling session is not an opportunity to exchange stories, but a discussion about an apparent performance problem. At these moments, employees place supervisors under intense scrutiny. Similarly, a supervisor's role in the performance appraisal system or in processing a grievance or in recommending discipline are all examples of **CRITICAL MOMENTS**. Sometimes a **CRITICAL MOMENT** may be the manner in which the supervisor praises an employee, or the very first meeting with a new employee or new group of employees. But supervisors should not discount the countless everyday decisions they make or actions they take that impact their employees' lives in and outside the workplace. For example, granting or denying a request for annual leave, or deciding who receives a coveted or abhorred assignment, may be less intense experiences, but they should be regarded as critical moments nonetheless. Most conclusions about a supervisor's leadership qualities are a result of behaviors associated with these events, because these are the events that provide supervisors with the greatest opportunity to influence their employees.

The balance of this Manual will identify in detail a number of areas which provide supervisors with authority, identifying the nature of that authority and the common ways in which it is used. Other sections will outline the limits on supervisors' right to act, including limits which exist as a result of the collective bargaining agreements in force at the Health Science Center at Brooklyn.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

PUBLIC POLICY AFFECTING SUPERVISION

A supervisor's relationship with employees does not exist in a vacuum. We've noted that the existence of an organization, in this case SUNY Health Science Center at Brooklyn, which is bureaucratic in nature, exhibits a number of characteristics which shape the way in which the supervisor interacts with subordinates. Likewise, our society has adopted a variety of public policy initiatives which affect that same relationship. The major policy initiatives to consider are:

- **THE NEW YORK STATE CIVIL SERVICE LAW:** a law regulating the way in which public employers hire, promote and retain employees;
- **THE TAYLOR LAW:** a law regulating collective bargaining and setting forth the manner in which employers, unions and employees must interact;
- **HUMAN RIGHTS POLICIES:** various federal and State statutes and executive orders which prohibit discrimination of various types in employment;
- **AMERICANS WITH DISABILITIES ACT:** a law requiring management to make reasonable accommodations for disabled employees at the worksite under certain conditions;
- **FAIR LABOR STANDARDS ACT:** a law requiring overtime compensation for employees covered, for hours worked in excess of 40 hours per week.;
- **FAMILY MEDICAL LEAVE ACT:** a law requiring management to grant time off, with official notification to the employee, for certain family-related illnesses.

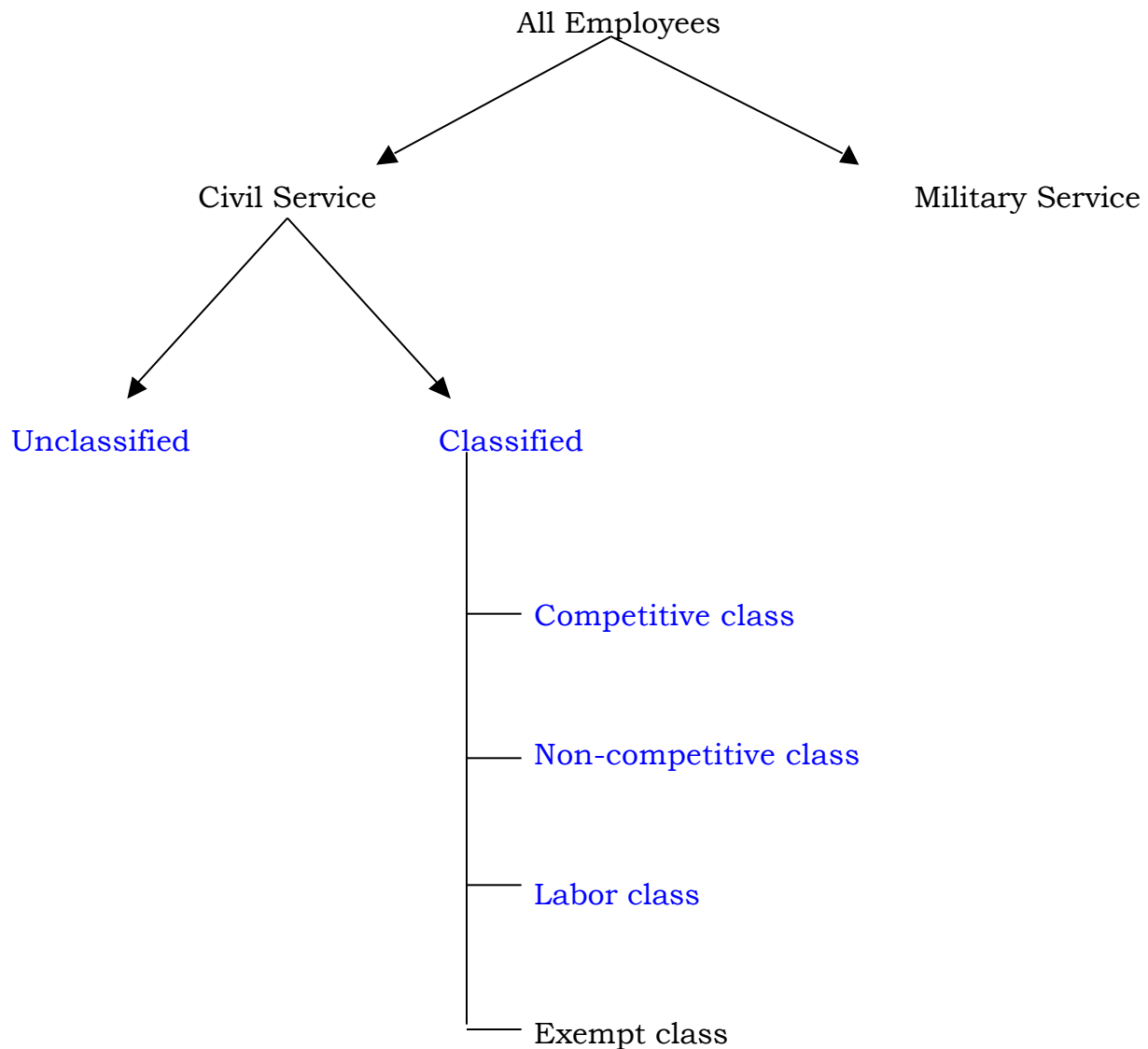
When discussing these statutes we will be particularly mindful of their impact on supervisors.

Civil Service Law

New York was the first state which passed a statute regulating the way in which public employers could hire, promote, deploy and fire employees. That law was effective May 12, 1883. This first attempt at legislation applied only to employees in municipalities with a population in excess of 1,000,000 persons, clearly an attempt by a Republican state government to wrest control of the Democratic grip on New York City. By the turn of the century, the amended versions of the law regulated virtually all public employers in the state, including State government itself.

Actually, Chart 3.1 shows that not all NYS employees are part of the civil service. A few hundred employees are part of the NYS military service, governed by the NYS Military Law.

CHART 3.1: CATEGORIES OF NEW YORK STATE EMPLOYEES



The Unclassified Service

The Civil Service Law divides the civil service into the classified and the unclassified services. The classified service includes those jobs which when created are subject to supervision by the Civil Service Commission, an agency authorized to administer the Civil Service Law. Jobs in the unclassified service are subject to supervision by the jurisdiction or authority within which the job exists. At SUNY-Health Science Center at Brooklyn, as is true throughout SUNY, a large percentage of the positions are in the unclassified service and therefore subject to regulation by the policies and procedures of the SUNY Board of Trustees. Typical positions in the unclassified service are:

- Instructional Support Assistant
- Financial Aid Assistant
- Staff Assistant
- Teaching Hospital Nursing Administrator
- Purchase Associate

The Classified Service

The Classified Service is subdivided into four additional categories called jurisdictional classes. Positions are ordinarily created as part of the competitive class, although certain jobs are placed in the non-competitive class, labor class and exempt class. There are no positions at SUNY-HSCB in the exempt class. The following are representative positions in the three remaining jurisdictional classes:

Competitive Class

- Calculations Clerk I
- University Police Officer II
- Teaching and Research Center Nurse I, II, III
- Secretary I, II

Non-Competitive Class

- Cleaner
- General Mechanic
- Hospital Attendant I
- Laboratory Animal Caretaker

Labor Class

➤ Laborer

The major differences between the four classes have to do with how persons are hired and promoted and the degree of individual job security afforded incumbents. Positions in the competitive class are filled by examination. Persons may be given any combination of the following types of tests:

- written
- oral
- practical, e.g., typing test
- unassembled, i.e., an evaluation and ranking of education, training and experience

Those persons meeting minimum qualifications for appointment are eligible for examination. The examinations are scored and the appointing authority--in this case, SUNY-HSCB--must choose one of the top three individuals willing to accept appointment.

In the case of non-competitive and labor class positions, the law presumes that there is no realistic way of objectively testing for potential performance, and therefore, the Civil Service Commission is given the authority to remove jobs from the competitive class and place them in either of these two jurisdictional categories. The only difference between the classes is the fact that labor class jobs are positions ordinarily associated with rank-and-file blue collar work. In each case, positions are posted with minimum qualifications for appointment. Any person meeting these minimum qualifications is eligible. The appointing authority may choose any of this group, regardless of how many persons may be eligible.

Exempt class positions--sometimes referred to as "political" appointments--do not even have minimum qualifications for appointment associated with their existence. There are relatively few such jobs in New York State government, and none at SUNY-HSCB.

All members of the classified service must also, by law, pass one additional test for appointment: the probationary period. Such a trial period varies in length from eight weeks to up to three years in the case of some trainee positions. SUNY-HSCB consistently provides probationers with the maximum probationary period allowable, in order to afford supervisors and employees sufficient time to make a more comprehensive evaluation. A failure to satisfactorily complete the probationary period is ordinarily not considered termination for cause, but simply recognition that the

appointment process had not yielded the individual who most merited the job.

Finally, on certain occasions individuals may be appointed on a temporary or provisional basis. A temporary appointment can be to any of the four jurisdictional classes for a limited period. Such appointments are appropriate where the job to which someone will be hired is only to exist for a short time. A provisional appointment is one made to the competitive class where there is no eligible list in existence. If there has been no examination for a position, thus providing no list of ranked scores, or if there are less than three individuals who have passed the exam willing to accept appointment, management can choose any person for the position who meets the minimum qualifications and would therefore be eligible to take the examination when given. Section 65 of the Civil Service Law limits provisional appointments to 9 months. As per Civil Service Law, requests to exceed this limit may be made in extraordinary situations.

Impact on Supervision

Clearly, to the extent supervisors seek to influence the appointment and promotion process, positions in the competitive class, which are the most numerous, are also the most difficult to make since appointment is restricted to so few applicants. Appointments in the unclassified service ordinarily involve the posting of minimum qualifications for appointment, but are not subject to any competitive examination requirement. Many positions are, however, filled after the establishment of a search committee, a procedure designed to share decision-making for the appointment, even though the incumbent is subject to only one person's supervision.

There are different degrees of job security associated with each type of position. Those receiving the most extensive job security are faculty members in the unclassified service who receive tenure or continuing appointment and members of the competitive class of the classified service who can only be disciplined by virtue of the procedures contained in Sections 75 and 76 of the Civil Service Law. Nonetheless, there are other considerations with respect to the classified service. Since most members of the classified service are also represented by unions, even labor and non-competitive class members, who wouldn't receive job security under the Civil Service Law, would be protected under the labor contracts governing their positions.

We should also point out that temporary or provisional personnel can be terminated at any time. In the case of persons appointed provisionally, the termination extends only to the provisional position if that person has been permanently appointed to another classified service position from which he or she has an approved leave and which would be covered by Section 75 or the disciplinary procedures of a labor agreement.

The Taylor Law and Collective Bargaining

Collective bargaining began in very isolated cases in this country as much as 150 years ago. The American Federation of Labor was formed in 1886 as the first collection of national unions which was able to survive the scourge of all unions--depressions. By the time the Great Depression arrived during the 1930's, another national federation, the Congress of Industrial Organizations, had emerged. The passage of the National Labor Relations Act in 1935 resulted in a headlong rush by employees in many mass production industries to join unions; and by the middle 1950's when the AFL and CIO merged to create AFL-CIO, approximately 35 per cent of all employees in this country were members of trade unions and covered by collective bargaining agreements.

Nonetheless, at that same time only a handful of public employees and virtually no state employees were members of unions which negotiated labor agreements for their members.

It wasn't until the decade of the sixties, and then with even greater vigor in the seventies, that public employee unions grew to their present size. In fact, during this period, unions like the American Federation of Teachers and AFSCME were the fastest growing unions in the country, while traditional blue-collar unionism was on the wane.

Passage of the Taylor Law

When the National Labor Relations Act (NLRA) was passed in 1935, Section 2 excluded from the definition of "employer", any public employer. Since 1935, Congress has consistently refused to amend the law to include public employers under its provisions. Where legislation exists providing similar rights to public sector workers, such laws have been primarily the creatures of state legislatures, and in some cases, municipal legislatures.

The New York State Legislature passed the Taylor Law in 1967. That law provided that most public employees in the State would be free to join unions and bargain with their employers through those unions over "wages, hours and other terms and conditions of employment." In order to administer the many implementation processes associated with the legislation, the law created the Public Employment Relations Board (PERB).

A basic premise of all collective bargaining legislation in this country is that whether a union will represent employees in a collective bargaining relationship is a function of the desire of the employees. In order to determine whether a majority of employees

desire collective bargaining, PERB is authorized, upon petition by a group of workers or a union, to conduct an election among all employees in a defined bargaining unit: a group of job titles representing a commonality of interests. Once a unit is determined, an election--or other means of determining majority status--is conducted. If a union receives a majority of votes cast, it is certified as the exclusive bargaining agent for that unit. Exclusive bargaining agent means that no other union or organization may represent employees in that unit for purposes relating to "wages, hours and other terms and conditions of employment." Nor can any individual represent himself or herself in order to get a better or accept a worse situation than the one negotiated by the union on behalf of those in the unit unless specifically authorized by the collective bargaining agreement.

Certain public employees are not provided rights under the law: those designated as management/confidential. According to the law, management employees are defined as persons who:

- (i) formulate policy or (ii) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Confidential employees are "...persons who assist and act in a confidential capacity to managerial employees."

There are a total of eight bargaining units represented by the positions at HSCB. Those bargaining units are larger than this facility, extending in most cases across agencies and locations in New York State. The eight units and unions which are the bargaining agents for those units are:

- Professional Services Unit -- [United University Professions, UUP](#)
- Professional, Scientific and Technical Unit -- [Public Employees' Federation, PEF](#)
- Administrative Services Unit -- [Civil Service Employees' Association, CSEA](#)
- [Institutional Services Unit – CSEA](#)
- [Operational Services Unit – CSEA](#)
- [Security Services Unit – New York State Corrections Officers and Police Benevolent Association, NYSCOPBA](#)
- [Security Supervisors Unit -- Council 82, American Federation of State, County](#)

- [and Municipal Employees, Council 82](#)

Graduate Students Unit – [Graduate Students Employee Union, GSEU](#)

Where there is a group of employees who are members of a union, or who are seeking to form a union or where a union has been certified as an exclusive bargaining agent, the law regulates certain behaviors of employers and unions. These behaviors are identified as improper practices under the Taylor Law--known in the NLRA, as amended, as unfair labor practices. Section II of the Taylor Law defines the following improper practices:

IMPROPER EMPLOYER PRACTICES:

- Interfere with, restrain or coerce employees in the exercise of their rights under the Taylor Law;
- Dominate labor organizations;
- Discriminate on the basis of union affiliation; and,
- Refuse to bargain in "good faith".

IMPROPER UNION PRACTICES:

- Interfere with, restrain or coerce employees in the exercise of their rights under the Taylor Law;
- Cause or attempt to cause an employer to do the same; and,
- Refuse to bargain in "good faith".

The Impact of Collective Bargaining

Where management and unions bargain collectively, the result is usually a collective bargaining agreement. Although the agreement must be consistent with state and federal legislation governing employment matters--e.g., it cannot by itself change legislation providing for minimum wages or unemployment insurance coverage or pension benefits--the agreement is free to speak to the dozens of issues which are central to employees' concerns: wage rates, vacations, sick leave, evaluation procedures, training opportunities and grievance procedures, to name a few.

What are the major impacts on the role of the supervisor? Certainly the prohibitions against interference and discrimination written as improper practices put constraints on supervisors' authority when dealing with employees. Essentially, a supervisor cannot, in the extreme, fire or otherwise discipline an employee because of his or her union activities. But it is the content of the collective bargaining agreements themselves which affect supervisors most directly. Those agreements can influence the amount of resources available for institutions and management to accomplish their mission. For example, an increase in the amount of vacation available to employees reduces the number of man-days available for deployment if there is no commensurate increase in the number of employees available to work. At SUNY-HSCB, the most notable impacts on supervisors are primarily in three areas: the use and application of seniority; the procedures affecting discipline; and provisions regulating the role of union representatives at work and the role of the union in certain decision-making processes. We will explore those issues in greater detail in sections 6 and 8.

Human Rights Policies

In addition to the Civil Service and Taylor Laws, New York State and the federal government have passed a variety of laws outlawing certain types of discrimination.

The most important piece of legislation is Title VII of the Civil Rights Act of 1964. Title VII prohibits discrimination based on race, color, religion, national origin or sex. In 1972, Title VII was amended to apply to state and local governments.

From a supervisor's point of view, the most important stricture associated with human rights legislation is the emphasis on treating individual employees without overt or covert motives relating to their membership in a particular group. Implicit in this stricture is the need to focus on the job-related behavior of all employees, and not allowing ourselves to be influenced in our treatment and evaluation of people by our personal beliefs about the worthiness of the group with which we identify them.

Supervisors must be careful not to permit prejudicial attitudes to be expressed in their decisions and actions in the workplace. The types of discriminatory behavior prohibited by law and SUNY policy go beyond such traditional forms of employment discrimination as denying a job to a woman because she is female. The legal definition of [sexual discrimination has been expanded to prohibit sexual harassment, which is defined by Equal Employment Opportunity guidelines as,](#)

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when (1) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or (2) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

SUNY HSCB is committed to a workplace free from sexual harassment. The SUNY HSCB Office of Opportunity and Diversity (formerly the Affirmative Action Office) has issued a policy statement on sexual harassment, which says in part:

[Sexual Harassment] will not be condoned by the ... Center. Every student and employee is entitled to an environment free from sexual harassment and its deleterious economic, psychological and physical effects. [SUNY HSCB] will consider sexual harassment a form of employee misconduct. Sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue.

Prohibited sexual harassment may take several forms. Any demand for sexual favors in exchange for an employment benefit is clearly prohibited. An example would be the supervisor who tells the employees, "Sleep with me and you'll get a raise," or "Unless you sleep with me, I'll promote someone else."

A more subtle form of sexual harassment, which also must be avoided by SUNY Health Science Center at Brooklyn's supervisors, is the creation of a ***hostile or abusive work environment***. This type of work environment can be created through a wide variety of behaviors, including unsolicited, deliberate or repeated offensive comment, unwanted sexual jokes or innuendoes, gestures or physical contact of a sexual nature, touching, flirtation, display of sexually suggestive objects or pictures, graphic or suggestive comments about an individual's dress or body, unwanted gifts, or the use of sexually degrading words. Where sexual harassment is so severe and pervasive that it alters the conditions of employment and creates an abusive working environment, the supervisor and institution may be liable even if no economic injury has been suffered by the employee.

In instances in which sexual harassment is claimed, the person accused of misconduct may defend himself or herself by saying that the recipient of his or her attentions voluntarily agreed to engage in sexual conduct. However, the Supreme Court found, in the landmark case of Meritor Savings Bank v. Vinson, that voluntary submission to sexual advances did not shield the supervisor from liability. Rather, the Court said that the legal question to be determined is whether the advances were ***welcomed*** by the employee.

In short, supervisors must be careful to avoid and prevent not only sex discrimination, but sexual harassment as well. Employees who wish to file complaints regarding sexual harassment should be directed to the Office of Opportunity and Diversity and to the Office of Labor Relations.

Since Title VII, both New York State and the federal government have created additional policies relating to prohibited discrimination. Under Title VII, states are free to pass legislation which adds to the protection provided by federal legislation. New York State passed its Human Rights Statute prohibiting discrimination based not only on the five categories identified in Title VII, but included age, disability and marital status. (There has since been additional federal legislation concerning age and disability.) In addition, New York State has in effect an Executive Order prohibiting discrimination based on sexual preference. The HSCB is similarly committed to an environment free of all other legally cognizable forms of discrimination including racial discrimination, religious discrimination, national origin discrimination and sexual orientation discrimination. Just as an abusive work environment growing out of sexual harassment is illegal, so, too, a hostile environment based on any of these various types of discrimination is prohibited. A

supervisor is obligated to put a stop to such a practice when he or she has notice of one. [See Sexual Harassment Supervisory Policy. Section 21 \(V\)](#). The supervisor is directed to contact the Office of Opportunity and Diversity in such matters.

It would be impossible and unnecessary at this point to catalog every statute and executive order that deals with discrimination. Nonetheless, from the supervisor's perspective, the important point to remember is the necessity of treating each employee as an individual, each with his or her own strengths and weaknesses and not those imputed from the supervisor's attitude toward others.

FREQUENTLY ASKED QUESTIONS

1. When does an environment become sexually hostile?

The conduct must meet three basic requirements: a] It must have a sexual connotation. b] It must be objectively severe or pervasive so that a reasonable person would consider it hostile, offensive, intimidating, or abusive. c] It must be perceived by the person(s) affected as such.

Look to the criteria that courts examine: Is there any sexual or gender connotation whatsoever? Has this happened more than once? How severe is the conduct? Was it intimidating or physically threatening? Might it interfere with an employee's or student's performance? What is the relationship of the alleged harasser to the complainant? Supervisors should routinely direct these and other questions to the Office of Opportunity and Diversity (O.O.D.), which is there to assist you to resolve low-grade, first-time incidents. In more serious matters, or where there has been a previous occurrence involving the same employee or area, O.O.D. will also work with supervisors to determine what action, if any, must be taken.

2. When does the obligation to report an incident of sexual harassment arise?

The obligation to report sexual harassment arises as soon as it occurs. Employees are encouraged to protest the offensive conduct so that the alleged harasser is put on notice that the behavior is unwanted. Nonetheless, there remains a critical responsibility to bring **any** alleged sexual harassment to the attention of the O.O.D. First and foremost, failure to complain will serve only to perpetuate the conduct. Just as important, absence of complaint may undermine a later claim of sexual harassment or sexual discrimination according to recent decisions of the United States Supreme Court. Moreover, ***any incident of sexual harassment that comes to the attention of supervisors must be reported to O.O.D.*** and, if appropriate, to Campus Police or Labor Relations. HSCB has a policy that mandates this reporting. [See Policies and Procedures section 21 subsection V.](#) Failure to do so may result in disciplinary action.

3. How can I help protect my employees from sexual harassment?

The most important thing you can do is to make sure that everyone attends training. This process will get the word out concerning the ingredients of sexual harassment as well as the Health Science Center at Brooklyn's commitment to its prevention. You should act as a role model in your conduct and demand the same from everyone who reports to you or with whom you work. To do this, it is advisable to avoid any sexually charged behavior in the workplace. If any allegation arises, you should report it to O.O.D. That Office has an institutional responsibility to keep track of cases, even ones that are resolved at the lowest level. If someone is experiencing sexual harassment, you should give support to that individual and advise her/him to report it. If you are a supervisor, you have an obligation to report it when it comes to your attention.

4. What do you mean by “unwelcome”?

This is a very low threshold and is often defined in the eyes of the beholder, the victim of sexual harassment, as long as that person's perception is reasonable. Whether the conduct was rejected outright or not, or may be the leftover of an ended romantic relationship, you should report it to the O.O.D. Don't decide that the conduct is not sexual harassment without consultation with O.O.D. Share the information, and the responsibility.

5. Do these rules apply to parties and outings that are sponsored by the Health Science Center at Brooklyn, or organized by employees?

You should regard any direct or indirect connection to Health Science Center at Brooklyn as if the incident occurred in the workplace. O.O.D. will explore the links to determine if alleged sexual harassment that occurs outside the physical boundaries of the Health Science Center at Brooklyn is actionable.

6. What connection does all this have with other forms of illegal discrimination, such as racial, ethnic, age, national origin, pregnancy, gender, disability, religious or sexual orientation discrimination?

The same rules basically apply. Sexual harassment law does not exist in a vacuum. Supervisors should be alert to the types of discriminatory behavior or words that may detrimentally affect a workplace. If a working environment becomes hostile for any of the above reasons, O.O.D. must be notified immediately.

7. Is there anything I *shouldn't* be doing?

Don't question the alleged harasser until you have consulted with O.O.D. There are several reasons for this prohibition. One reason is that questioning an employee may have an adverse effect on a potential disciplinary investigation. Another concerns the possibility of inadvertently creating or aggravating a conflict where resolution or some other action can be facilitated by O.O.D.

Also, don't retaliate, either deliberately or unintentionally against the person who brings a complaint or anyone who may offer support for the complaint. Retaliation is against the law. Retaliation is any adverse action related to the terms and conditions of employment [e.g., raises, promotions, demotions, change of shift, change of pass day, change of duties, etc.] that is a result of the complaint. Before any personnel action is taken with respect to a complainant or to a possible witness, the O.O.D. must be consulted. Failure to do so, or engaging in or permitting retaliation will expose a supervisor to administrative action.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

COMMUNICATIONS AND SUPERVISION

No supervisor can overestimate the degree to which his or her ability to speak with others enhances the possibility of influencing behaviors. Nor are such abilities limited to oral communications. Clear writing plays a similarly important role. And as we will discover, other non-verbal ways we send messages can make an important difference in our work with others.

At the heart of this section is a premise which will emerge a number of times: when interacting with any person at work, HSCB expects all persons to treat each other with respect. Respect does not mean that one needs to agree with everything said by others, nor that one need be slavish in giving others attention. Respect means taking time to listen to others' concerns, speaking and writing with concern for their feelings and making decisions without taking others' interest and possible contributions for granted. The way in which we communicate is often a reflection of the respect we afford others.

Verbal and Non-Verbal Communications

To communicate with someone means that one person sends a message to another person. Messages contain meaning, and in this sense we ordinarily identify language with communications. When we send messages using language, whether orally or in writing, we have engaged in verbal communications.

At the same time, we send messages--units of meaning--in other ways. Suppose you walk into an office and see someone crying. The person never speaks to you, nor does anything to explain why the person is crying. Commonly, we would suppose the person to be unhappy, perhaps sad about something in his life or something he recently saw or heard. We would suppose this even though no one said or wrote it. In essence, the position and movements of the person have told us something about that individual, a message which did not have to be sent verbally. This is an example of non-verbal communication.

During the past several decades, behavioral scientists have become more sensitive to the distinction between verbal and non-verbal communications. For example, "body language" has become a hot topic for popular writers and workshop leaders when discussing communications at work. Others have written about fashion--what our type of dress "says" about us. Still others explore the use of furniture. For example, the manager who arranges an interview across a large desk has essentially told the

person being interviewed that the interaction is to be somewhat formal. The message would be different if the manager had asked the person to sit next to him or her on a couch. For our purposes, we believe that all forms of communication can be important.

Saying one thing, but then sending non-verbal cues indicating that what was said was not meant, creates confusion and bitterness among employees. Our major concern will be to understand that employees will listen to both verbal and non-verbal messages. In other words, employees will not only listen to what is said, but how it is said. They will be particularly sensitive to messages when a supervisor acts during a critical moment. In fact, it is precisely at these moments that there is the greatest danger that employees will believe they see meaning where a supervisor never intended to send a message.

The problem is that there is no universally accepted way to interpret non-verbal communications, rendering them relatively unreliable as a way of sending messages. Therefore, a supervisor should,

1. Not be quick to interpret "body language" and other non-verbal cues from employees without first confirming the meaning, if any, verbally; and,
2. Be particularly cognizant that any exaggerated mannerisms of their own may be misinterpreted by employees, and therefore should avoid such possibilities wherever possible.

A Communications Model

In order to help orient us in a manner which will provide guidance when communicating, let us understand the basis of a simple form of interaction: a discussion. We ordinarily understand a discussion to be an example of, minimally, a two-person communication pattern. In order for a discussion to be successful, four elements must be present:

1. One person must be willing to send a relevant message to the second person;
2. the second person must be willing to receive that message;
3. the second person must be willing to send a relevant message in return to the first person; and,
4. the first person must be willing to receive that message.

If any one of these elements is missing, there will be communication, but no

discussion. I use discussion as a format to begin our consideration of communications for two reasons. First, consistent with our notion that we show individuals respect at work, it is rare that we would interact without providing employees an opportunity to respond. Certainly, any individual at work is capable of speaking knowledgeably on topics normally relevant to their work and which are the subject of communications. When a supervisor speaks about these subjects--even if to "give an order"--allowing the possibility of feedback is one more way of indicating, "I respect your involvement and opinion."

A related issue is the fact that the reason we communicate in many instances is to ask for and receive information from others. There must be at least two people sending messages. In this vein, several of the activities in which supervisors must participate are specific examples of what we have identified as a discussion. Counseling and performance appraisal interviews are two examples of supervisory responsibilities which require the use of the discussion format. And the more generalized question of participative decision-making is likewise an example of the discussion format.

In any of these cases, a failure by either party to execute an element of the discussion will render the interaction defective. For example, a supervisor who speaks with an employee about an attendance problem in front of others is likely to cause a defensive reaction in the employee. The employee may either be unwilling to listen or may send irrelevant messages in return, or some combination of both.

A Supervisor's Responsibility

Clearly, everyone in an organization has a responsibility to seek to communicate clearly; however, those with supervisory duties must be particularly vigilant. As we noted at earlier points in this manual,

- Supervisors are held responsible for subordinates' behavior;
- Supervisors have authority to influence subordinates' behavior;
- Subordinates at any given level of motivation will produce at various levels of productivity given their abilities and role perception;
- Supervisors can help improve and reinforce employees' role perception and abilities in a variety of ways;
- In seeking to improve and reinforce role perceptions and abilities, supervisors must communicate with employees; and,

- Subordinates are likely to be extremely sensitive to what they believe is communication directed at them by supervisors.

Sometimes their interpretation is correct and sometimes it is flawed. As a consequence, supervisors must be careful to say what they mean for fear that it be misinterpreted. And they must be careful how they say it for fear that the message will not be received at all, or the employee will become so discouraged as to avoid sending relevant messages in return. In more concrete terms, there are several rules which would apply to all verbal interactions, whether oral or written:

- Generally, don't begin discussions with unnecessary small talk. Don't "beat around the bush".
- Don't interrupt employees while they are talking.
- Don't ask more than one question at a time, no matter how excited you may be.
- Look at the person with whom you are speaking.
- Don't speak either extremely fast or slowly.
- Don't use sarcasm. When you joke around with people, make sure that the person knows it is a joke. Sarcasm is usually interpreted by employees during critical moments as veiled criticism.

You may identify other rules that you should follow. The most important point we can make is that many of the rules cannot be adopted without extraordinary effort. Not all of us ordinarily speak in a calm and measured tone, nor do we all find it easy to look someone in the eye when talking. Supervisors should take a personal inventory of those characteristics which would interfere with their ability to communicate, whether it is what they say or how they say it. Particularly when beginning a critical moment, the supervisor should remind himself or herself of the need to control behavior for the duration of the discussion. A good technique to accomplish this goal is to plan the discussion in advance by thinking about what behaviors need to be controlled and *imaging* the discussion as it should take place.

The Role of Communication

At this point, we should stress that communication is what might be described as "infrastructure" in an organization. It is a process available to use for a variety of purposes. Those uses may be laudatory, or in some cases, nefarious. Obviously, we expect supervisors to communicate as a means of legitimately influencing behavior and consequently exercising the kind of leadership we discussed in section 2.

[When we look once more at the model relating effort to performance \(see page 2, Section 2\), we note that the important variable from a supervisor's point of view is performance.](#) And we should stress that we only understand whether someone's performance is appropriate if we first know what is expected behavior. In other words, we cannot evaluate the quality of anyone's performance without first knowing what he or she was supposed to do.

An important point which flows from this insight is that no employee can know what is expected of him or her without the organization giving information about appropriate behavior to the employee. Although there are rare exceptions--for example, an organization doesn't need to tell employees not to hit each other--most standards must be communicated to employees at some point early in their tenure, or as soon as new or revised standards are available.

We would go so far as to suggest that many of those standards are best developed in consultation with employees where supervisors are responsible for the development of policies and procedures. Participative or group decision-making techniques utilize the interest and knowledge of others to solve problems. In order to do this, people working together must engage in discussion, being particularly sensitive with respect to how messages are sent in order to avoid chilling others' involvement in the process.

Thus, from the outset of their relationship, a supervisor and those working for that person need to engage in constant dialogue. The supervisor may identify the existence of important policies and procedures to new employees the first day at work. It is such opportunities where both verbal and non-verbal communications can be important. For example, the supervisor is likely to speak with new employees immediately about such topics as job responsibilities--which are initially set forth in the job description--attendance policies and other important rules governing behavior. Other less global issues might be discussed as they arise. The failure to discuss an issue is a non-verbal clue that the rule, even if written somewhere, is unimportant or that the supervisor intends to give it perfunctory consideration when evaluating the employee.

If we reflect for a moment, the failure to communicate policy and procedure to an employee also retards the possibilities for improving that person's performance. Role perception and abilities cannot be improved without knowing what behaviors are appropriate in the first place.

After communicating expectations, another role of communications is to provide feedback. That feedback can take the form of reinforcement: telling people orally and in writing that what they did was correct and that the performance was appreciated. Too often supervisors fail to give reinforcement at all; and, in some cases where they give it, they avoid reducing it to writing. Some supervisors have claimed that putting "favorable" items in an employee's personal history folder would make it difficult to discipline an employee, if necessary, at a later date!

Our position is that an individual's personal history folder should reflect all work-related behavior. It should not be seen as a vehicle available only to the disciplinary process, which in any case is something which excellent supervisors strenuously seek to avoid by helping employees to improve their performance.

Supervisors have other opportunities to communicate consistent with their supervisory responsibilities. In succeeding sections, we will discuss at length counseling, counseling memos, performance appraisals and discipline. In each of these processes, the quality of the supervisor's communications will help determine the degree to which the employee improves or maintains performance.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

COUNSELING

A supervisor counsels an employee when he or she speaks with the employee about an apparent performance problem. The problem may be related to the manner in which an employee performs his or her job, or may involve behavior traditionally characterized as "misconduct." Labor Relations stands ready to assist any supervisor in planning for a counseling session.

Counseling is a direct technique; that is, it involves but two individuals: the supervisor and the subordinate. It is also direct in the sense that the two participants meet face-to-face and communicate orally. The purpose of the meeting is to discuss the apparent deficiency and ultimately to correct the employee's performance. There are other techniques at a supervisor's disposal which are designed to correct performance: evaluation, training, education, discipline. All of these efforts, however, require the intervention of third parties, and in some cases, the allocation of additional financial resources. Counseling suffers from neither of these limitations.

It is precisely that the technique is so direct that a supervisor's behavior is so critical to the outcome of a counseling session. A session that fails to improve an employee's performance does not necessarily mean that a supervisor has acted incorrectly. In some cases, the supervisor will make every reasonable effort to deal with the issue, but will find that the situation is too complex to be dealt with in this manner. However, a counseling session is a quintessential critical moment during which you, the supervisor, are under intense scrutiny.

When and How to Conduct a Counseling Session

Many supervisors will avoid speaking to employees in the counseling format: most individuals simply do not enjoy confronting other individuals with judgments about performance. As is true of most people, supervisors have a need to be liked by members of the social groups with which they are associated. Counseling can disrupt the personal relationships which such groups represent. The supervisor often anticipates that this will occur, imagining that the subordinate will react to the session with hostility, or withdraw during the interview into a shell and thereafter ignore the supervisor's presence except when given direct orders. Such reactions by subordinates are not uncommon, and, in anticipation, the supervisor avoids the discussion altogether.

It would be dishonest to assure any supervisor that there are techniques which will avoid the unpleasant aspects of counseling in every case. Like any aspect of supervision, counseling involves authority over and responsibility for the actions of other employees. It is precisely the control over others' behavior that produces the

potential conflict; however, such conflict can be minimized. First, it is important to understand when to conduct a counseling session. Certainly, an employee who has performed excellently for several years need not be counseled due to one day's tardiness. Certain types of behavior do not become "a problem" until a pattern develops. That excellent employee might require counseling if he were to be late for work several times in one month; however, premature attempts to counsel him may create a defensive attitude on his part. In essence, certain employees develop "credit" with their supervisors. By virtue of their work history, we are predisposed to assume the tardiness was unavoidable. When a pattern does develop, however, the supervisor should not hesitate to counsel any employee, regardless of his work history.

There are circumstances where a supervisor should meet with an employee in a counseling session the first time a problem arises. For example, if an employee is found sleeping on duty in circumstances which would not justify discipline the first time, certainly that episode justifies a meeting to discuss it. The supervisor need not wait for a pattern to occur.

One caution! There are also circumstances when counseling should not be employed. Arbitrators who consider disciplinary cases generally do not permit an institution to discipline an employee where the employee has been formally counseled for the same incident. The combination of counseling and disciplinary charges is often considered double punishment. **Where the behavior may warrant disciplinary charges, no matter the level of the potential infraction, supervisors should not conduct a counseling session. Where the decision may be open to question, supervisors must contact the Office of Labor Relations for advice.**

Second, when conducting a counseling session, there are several rules you should follow in order to minimize the potential conflict. Most importantly, you should not view the session as an opportunity to scold the employee. Your purpose is not to punish someone, but to determine the cause of the employee's change in behavior and correct it. In this light, you should view counseling as a problem-solving exercise: What prevents the employee from arriving at work on time? How can the employee remedy the problem? In this respect, it is the supervisor's job to set the tone of the meeting, putting the employee at ease as much as possible.

The Office of Labor Relations stands ready to assist supervisors in planning the counseling session and, after the session, to review the counseling memo before it is shared with the employee. This practice has proved helpful to individual supervisors and avoids potential problems. We urge you to contact us for step-by-step guidance. When you call, please be ready to identify the employee and his/her bargaining unit.

Additionally, there are a number of other guidelines which are helpful to understand when conducting counseling sessions.

1. Prepare for the counseling session by having specific information about the behavior with which you are concerned, as opposed to characterizations about behavior. For example, it would be better to say, "I received a report that you told a visitor to 'shut up', rather than, "I received a report that you were rude."
2. Always conduct a counseling session in a private location where you can talk to the employee without anyone else overhearing what you say.
3. Never schedule a counseling session with an employee when you are rushed with other duties. It will leave the impression that your concern is minimal if you must constantly look at your watch or you rush the employee out after only a few minutes and before your discussion is complete.
4. When an employee enters your office, do not act in a manner different from your normal demeanor. If you are normally relaxed with an employee, be yourself, otherwise an employee may read an unwarranted level of alarm into the discussion.
5. Do not beat around the bush. After greeting the employee and making him comfortable, go directly to the reason for your asking him to meet with you. Do not say, "Anything interesting happen on the unit today?" Questions such as these simply make the employee suspicious of your motives.
6. In broaching the issue(s), you should explain the exact nature of your concern. For example, you might say: "I received a report today that you told two visitors to 'shut up'. Obviously, the report concerns me. I wanted to take this opportunity to discuss the report with you and hear from you what happened."
7. Where employees are cooperative, your job will be confined to determining what the employee's view of the incident is. For example, if the employee responded to your statement in #6 above by saying, "Yes, that is true," you should follow up by asking: "Well, could you give me the details from your point of view? How did this come about?"
8. If after the discussion you believe that the employee should not be held responsible for the behavior described in the initial report, say so.

9. If after the discussion you believe the employee should be held responsible for the behavior, ask the employee how he or she believes he can improve. Sometimes the answer will be more training. In other cases, it may be a request for closer supervision. In some cases, the employee may be unwilling to speculate about how to improve, in which case the supervisor will make a suggestion. In any case, it is the employee's responsibility to improve, regardless of who suggests the manner in which that can be accomplished.
10. Some employees may be hostile. In those cases, you should remain calm, speaking in a measured voice. Because someone yells at you, for example, does not mean that you must yell back. Regardless of how insulting an employee is, you should constantly return his attention to your concern: What occurred? Why did it happen? How can we improve performance to insure it doesn't happen again?
11. If you are going to follow up the counseling session with a counseling memo, you should explain that to the employee during the counseling session; however, not all counseling sessions require a memo. If in doubt, you should confer with your supervisor or the Labor Relations Office before or after the session.
12. At the conclusion of the counseling session, you should thank the employee for seeing you and extend yourself to the employee should further problems of this nature arise. Ultimately you want the employee to know that you are available to assist in solving such problems before they develop into the type(s) of incident(s) which prompted the counseling session.

Many employees will ask that they receive union representation during a counseling session. With two exceptions, the contracts do not provide for union representation. Under most State agreements (for example, Article 33.2 of the CSEA Agreements), an employee is entitled to representation where he is the "target" of a disciplinary investigation. When counseling an employee, the supervisor has determined that discipline is not appropriate; therefore, the employee does not have the right to representation. Nonetheless, if during the counseling session the employee does disclose information which would warrant disciplinary action, the supervisor should halt the session and speak with his superior and the Labor Relations Office.

The exceptions involve a contract negotiated by Council 82. Appendix "B" of the Security Supervisors Unit and Appendix "C" of the Security Services Unit (now represented by NYSCOPBA) contain the following provision:

If the counseling situation warrants that more than one supervisor be present, the employee being counseled must be afforded the opportunity to invite a

Union representative who is readily available to attend the counseling session.
(Council 82 only)

Sometimes during a counseling session, an employee reveals the existence of a personal problem which requires professional assistance. Common examples are drug and alcohol abuse, or emotional distress associated with divorce or loss of a loved one. [In order to help employees cope with the problems, SUNY HSCB has established an Employee Assistance Program or EAP. See section 21A.](#) Supervisors should refer employees to EAP whenever it is reasonably suspected that the individual is experiencing a problem as described above. Supervisors should keep written records whenever an employee is referred, as the supervisors may later be asked to demonstrate what steps were attempted to assist the employee.

A referral to the EAP is not a disciplinary penalty and may be written or oral. Upon request, a supervisor will be informed whether the employee keeps his or her appointment; however, no other details will be divulged. Consultations with EAP are always confidential. The EAP coordinator at SUNY HSCB is Ms. Lorraine Brooks, Extension 1489.

Writing a Counseling Memo

In several ways, writing a counseling memo is not dissimilar from conducting the counseling session itself. First, a counseling memo is a summary of the counseling session, which is addressed and delivered to the employee. It should not contain information or remarks which were not covered in the conversation with the employee. Second, the memo is similar in tone to the session. It should not be punitive. In this respect, it should not be characterized as a disciplinary notice or letter of reprimand. It is neither.

A counseling memo need not be sent to an employee after every counseling session. For most persons--supervisor and subordinate alike--the written record represents a higher level of conflict than the actual interview. Many employees will become defensive at receiving one at all. Therefore, it is best to reserve sending memos for those situations where you do not have confidence that the employee will correct his or her behavior without further encouragement. If at the end of the counseling session it is clear that a counseling memo is necessary, you should tell the employee of your decision before he leaves the office. Giving the employee such notice can help to blunt a hostile reaction, at least to the extent that the employee is surprised by the written summary.

When writing the memo, you should touch on at least four subject areas:

1. A statement of the reason for the meeting;
2. The employee's response to your concerns (this is important as it demonstrates to the employee that you were actually listening during the counseling session);
3. The manner in which the employee will seek to improve performance; and,
4. Provisions for follow-up discussions.

[Please refer to Section 16 for examples of counseling memos.](#)

Labor Contracts and Counseling Memos

Finally, there are contractual provisions governing the distribution of counseling memos and employee rights associated with their being sent. All major State contracts require that such memos be placed in an employee's official personal file. Employees must be given copies of such memos, and in certain cases, employees may be asked to sign memos showing receipt. Article 18.3 of the Institutional Services Unit agreement provides that if an employee does not sign the memo showing receipt, the memo must be sent to the employee's home, certified mail. When sending the memo to the employee, the supervisor should note at the bottom the fact that a copy has been forwarded to the personal history folder.

In addition, employees are entitled under contracts to write a response to any counseling memo and have that response placed in the official personal file. Also, most contracts contain certain provisions which permit the removal of counseling memos (and certain other materials) under various circumstances. The chart on the next page summarizes those provisions.

**CHART 5.1: Provisions in Labor Contracts Governing the Removal of
Counseling Memos from Personnel Files**

➤ **Institutional Services Unit; Administrative Services Unit; Operational Services Unit: Article 18.5**

- Memos two years or older shall be removed upon written request of the employee.
- Memos can be removed at any time with agreement of appointing authority or designee.

➤ **Professional, Scientific and Technical Unit: Article 20.4**

- Memos three years or older shall be removed upon written request of the employee.

➤ **Security Units: Articles 10.4 and 10.5**

- Memos over one year may be removed upon written request of the employee, with the mutual agreement of the employee and Labor Relations.
- Memos over three years old shall be removed upon written request of the employee, provided there have been no additional counseling memos nor any notices of discipline.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

DISCIPLINE

In certain instances, a supervisor's best efforts may not result in changing the employee's behavior sufficiently to avoid the possibility of disciplining that employee. Regardless of the variety of ways in which we use the word "discipline" in our culture and even at work, when we discuss discipline in the context of this section, we speak of an action taken against an employee which imposes a penalty against that employee. Although the range of penalties may vary depending on the collective bargaining agreements and the provisions of Section 75 of the Civil Service Law, the most punitive measure in every case is the termination of the employee from his or her position.

We should stress that discipline is normally the last resort supervisors should consider when trying to improve an employee's performance; however, once determined to be the only appropriate action available, supervisors should understand the procedures which must be utilized if the disciplinary penalty is imposed appropriately.

In addition, we should stress that supervisors do not possess the authority to impose discipline. Any action which would constitute a disciplinary penalty under the contracts or the Civil Service Law can only be imposed by the appointing authority or his or her designee--in the case of SUNY HSCB, the [Office of Labor Relations](#). Also, many of the labor contracts contain clauses preventing supervisors from imposing "informal" discipline. A common form of "informal" discipline is changing someone's shift or pass day in a way the supervisor knows will be unacceptable to the employee. Chart 6.1 displays the various provisions prohibiting informal discipline which appear in the contracts. In addition, supervisors cannot unreasonably refuse to grant employee leave requests. A decision not to grant leave as a means of imposing discipline would also be considered inappropriate.

Finally, before proceeding, we should emphasize that the implementation of the disciplinary process is one more example of a critical moment, or more precisely, a series of critical moments inasmuch as there is usually more than one interaction involved under these circumstances.

Reasons for Discipline

Virtually all of the labor agreements and the Civil Service Law provide that discipline can be imposed for misconduct and/or incompetence. Certain types of misconduct are self-evident: stealing, fighting, abuse of patients in the hospital, selling drugs on the hospital grounds, coming to work under the influence of alcohol or drugs. In these circumstances, the hospital may not even have a written rule to reference in identifying inappropriate behavior. We ordinarily believe that stealing is wrong and

that any employee should know that without management taking the time to reiterate the obvious. Other types of misconduct are less evident, sometimes the result of a cumulative number of violations of a particular rule. For example, an employee who arrives for work late occasionally may never be subject to discipline even though he or she is in violation of the Attendance Rules. [But that supervisor should counsel the employee if a pattern emerges and refer him/her simultaneously for Time and Attendance Watch \(see Operations Guide\).](#)

Incompetence is treated like misconduct under the contracts and the law. Incompetence suggests that an employee is not capable of performing the work for which he/she is paid. Incompetence may be the result of deteriorating skills which could not be arrested by training or other supervisory interventions seeking to help the employee improve. In some cases, employees are charged with incompetence when they are unable over a long period of time to maintain attendance consistent with the requirements of a full-time position.

CHART 6.1: Contractual Provisions Prohibiting the Use of Informal Discipline by Supervisors

➤ **Professional Services Unit: Article 19.3**

Discipline shall be imposed upon employees only pursuant to this Article.

➤ **Institutional, Operational and Administrative Units: Article 33.8**

Change in shift, pass day, job assignment, transfer or reassignment to another institution, station or work location shall not be made for the purpose of imposing discipline.

➤ **Professional, Scientific and Technical Unit: Article 33.10**

Changes in shift, pass day, job assignment, or transfer or reassignment to another facility, work location or job station may not be made for the sole purpose of imposing discipline unless imposed pursuant to the provisions of Section 33.5, provided, however, that temporary reassignments may be made pursuant to Section 33.4.

➤ **Security Units: Article 8.7**

Shift, pass day, job transfer or other reassignment or assignments to another institution or work station shall not be made for the purpose of imposing discipline provided, however, that nothing in this paragraph shall bar any action otherwise taken pursuant to this Article. (Note: This contract provision currently covers many of the employees; a new representative, NYSCOPBA, has been certified and will be

negotiating a new agreement for its bargaining unit.)

Management's Responsibility Prior to Discipline

In the event management determines that discipline should be imposed against an employee, management must be prepared to make specific charges against an employee. Charging an employee with "conduct unbecoming an employee" without more would not be sufficient.

Such a responsibility is the result of the contract disciplinary procedures which generally require that any charge be accompanied by specific reference to times, dates and places of alleged misconduct.

In order to provide that level of specificity, it is generally considered the supervisor's responsibility to conduct at least a preliminary investigation into the matter. Although the Office of Labor Relations will almost always follow up that investigation with a more thorough inquiry, many facts will not be available to the Labor Relations Office as easily as to the supervisor. For example, a supervisor who discovers an employee sleeping on the night shift is likely the person to initially collect any physical evidence--an alarm clock, a blanket, are examples--which are not likely to be in the same location the next morning.

The Right to Representation

Although the Labor Relations Office can require employees to participate in a variety of ways during a disciplinary investigation, including submission to interviews, permanent employees who are identified as "targets" of the investigation must first be offered the right to be represented by their union representative, or their personal attorney. Failure to offer this right appropriately can result in considerable damage to the investigation.

1. The following labor agreements contain the identified clauses establishing the right to representation:

UUP	Article 19
CSEA Units	Article 33
Council 82,NYSCOPBA	Bill of Rights, Article 8
PEF	Article 33
GSEU	Article 17

There is no similar provision for classified service management employees contained

in Articles 75 or 76 of the Civil Service Law or unclassified service management employees under Board of Trustees Policies.

2. The most complicated provisions exist in the CSEA agreements. Article 33.2b(3) in each agreement contains the following language:

No employee shall be required to submit to an interrogation by a department or agency...if the information sought is for use against such employee in a disciplinary proceeding pursuant to this Article, or...after a notice of discipline has been served on such employee, or...after the employee's resignation has been requested pursuant to Article 35, unless such employee is notified in advance of the interrogation that he or she has the right to have CSEA representation...or private counsel provided at his or her own expense present or to decline such representation and that if such representation is requested, a reasonable period of time will be afforded for that purpose.

3. The most difficult situation for Labor Relations investigators to apply is contained in the phrase requiring that the right to representation be offered "if the information sought is for use against such employee in a disciplinary proceeding...". Article 33.2b(1) contains additional language which assists in understanding this requirement.

The term "interrogation" shall be defined to mean the questioning of an employee who, at the time of such questioning, appears to be a likely or potential target or subject for disciplinary action.

In other words, IF YOU HAVE INFORMATION WHICH, IF TRUE, WOULD CAUSE THE AGENCY TO DISCIPLINE SOMEONE, that person is the target of the investigation and must be given the right to representation. The information need not be proven for certain. It may be subsequently proven wrong; however, the important issue for purposes of determining whether someone should be offered the right to representation is not what might happen after the interview, but what the investigator knows at the moment of the interview.

4. Information which would make someone a target is not just direct evidence, but could also be circumstantial evidence which casts suspicion on the person.
5. When in doubt, it is generally preferable to offer the right to representation. If an arbitrator subsequently determines that an individual should have been offered the right and was not, the remedy is the exclusion of evidence gained from the improper interrogation. Further, any other evidence which cannot be shown to have been developed by means independent of the interrogation will likewise be

excluded. So supervisors must exercise great care when they speak with an employee who may be or may become, a target of discipline. [ASK LABOR RELATIONS!](#)

If at the outset of the interview an individual appears to be no more than a witness, but by virtue of his or her answers to the questions makes an incriminating statement, the Labor Relations interrogator must stop the interview and offer the individual the right to representation.

Conducting "Interrogations" or "Interviews"

Once it is determined that someone is the target, there is a series of procedures which should be followed by the interrogator. The collective bargaining contracts refer to disciplinary interviews as "interrogations." These interrogations are conducted by Labor Relations only.

1. The employee has the right to choose whether to be represented and therefore, it is not the agency's responsibility to require a union representative to attend. The Labor Relations representative must tell the person being interrogated that he or she is the target and that he or she may choose to ask a union representative to attend. The employee is advised that he/she must cooperate (i.e., tell the whole truth, or the employee may be subject to discipline on the failure to cooperate alone).
2. In response to union requests, the Office of Labor Relations of SUNY HSCB, the sole source for disciplinary interrogations, has modified notices to employees to appear for investigative interviews. Samples of those requests appear in section 15.
3. Regardless of the fact that it is the target's right to decide if he or she wants representation, an investigator may alert appropriate union officials when it is apparent that there will be an interrogation. If alerted in advance, union representatives are more likely to be available when needed, which will avoid unnecessary delays in conducting interrogations.
4. In the case of CSEA represented employees, the interrogator must offer this right by reading and giving a copy of OER Form 7 to the employee. The employee must sign the Form indicating that he or she has received it. For PEF, the interrogator must give a similar form to the employee, but does not have to read the form. In the case of Council 82 and UUP, statements made by an employee who has not been given an opportunity to have union representation may not be used in a disciplinary proceeding against that employee.
5. If the employee declines representation, the investigator should ask the employee to write at the end of OER Form 7 the following: "I decline representation by CSEA

or my personal attorney." The employee should then sign and date this statement. For employees working in non-CSEA represented units, this same language should be included in the body of the written statement the investigator will take after completing the interrogation.

6. If an employee desires representation, the agency must provide a reasonable period to secure it. What is reasonable will depend on a number of circumstances, including the nature of the incident being investigated, the location of the investigation, and the availability of a union representative or the personal attorney. If a representative is not present in a reasonable time, the interrogation may continue without representation.
7. In the CSEA agreements, Article 33.2(a)(2) contains a list of those individuals who may be present as representatives during an interrogation.
8. Regardless of who is present as a representative, the role of the representative is two-fold: to serve as a witness to the proceeding and to insure that the employee's rights under the contract are fulfilled. The representative is not there to speak for the employee and can only put the employee in jeopardy by advising the employee that he or she has the "right to remain silent." As we noted earlier in this section, ALL state employees have an obligation to cooperate in an investigation, including giving truthful statements about their activities, even if such statements would be incriminating. Failure to cooperate in this manner can subject the employee to potential charges of insubordination.
9. If the employee chooses to be represented, it is advisable to have a second management person in the room during the interrogation, if possible. The Office of Labor Relations tapes interrogations routinely.

The Disciplinary Grievance Procedures and Arbitration

After conducting an investigation, management may impose discipline under the contracts by issuing a notice of discipline. The notice must contain [a] specific charge[s] and a proposed penalty. The contracts provide that the proposed penalty cannot be implemented until one of a number of alternatives occurs:

If the employee chooses not to appeal, the penalty may be implemented. Each collective bargaining agreement provides time limitations for submission of an appeal to Step 2 after service of a Notice of Discipline (UUP-10 working days; CSEA, Council 82 and PEF-14 calendar days).

If an employee decides to appeal the notice of discipline, the contracts, in every case,

provide that the appeal should be sent to the Chancellor or his or her designee. A grievance meeting is scheduled at which the union and management discuss the case. The supervisor may be asked to attend that meeting.

A failure to settle the matter at that point can result in an appeal of the matter by the employee to final and binding arbitration. If appealed to this point, an arbitrator will schedule a hearing. At the hearing, the arbitrator will permit the parties to present their cases and make a decision about whether the employee is guilty of the alleged misconduct and/or incompetence. If the arbitrator determines the employee is guilty, he or she will also determine whether the proposed penalty is appropriate. Typically, supervisors are required to attend arbitrations since they often must give testimony about the employee's behavior or work history. The importance of your role in the entire process cannot be overemphasized.

Labor Relations endeavors to bring matters of this kind to a swift conclusion, particularly as compared to the protracted State arbitration panels that often span one-two years. It utilizes individual, mutually agreed-upon, settlements between the employee, the union and HSCB to fashion appropriate penalties. Often a probationary period is created, during which the employee must adhere to the agreement or be subject to a penalty, up to and including termination, in appropriate circumstances. Resort to probation provides the employee with an unusual opportunity to modify his/her behavior without suffering a monetary penalty. It also offers meaningful authority to the supervisor to monitor compliance during and after the term of the agreement. Again, the importance of your role in this aspect of the process cannot be overstated. You must notify Labor Relations if there is any indication that the employee has violated the agreement.

Chart 6.2 on the following page provides a summary of the location of important provisions in the labor contracts relating to the disciplinary procedure.

CHART 6.2: Disciplinary Provisions in Labor Contracts

PROVISION	UUP	PEF	CSEA	C82	GSEU
Coverage- employees to whom Procedures apply	19.3	33.1	33.1	8.1	1
Reasons for discipline	19.1 19.4	33.5a	33.3a	8.2a	17
Penalties which may imposed	19.4	33.5a	33.3a	8.2a	17
Appeal procedures	19.4	33.5 33.4	33.3	8.2	17
Resignations		35	35		
Employee's rights to union Representation	19.8	33.3	33.2	Bill of Rights	17
Limits on use of shift and pass days in order to impose discipline	19	33.10	33.8	8.7	
Settlements	19.5	33.6	33.4e	8.3	
Suspensions without pay before a Notice is filed/temporary Reassignments	19.7	33.4 33.3h 33.3g	33.4	8.4	

NOTE: With respect to disciplinary procedures, all CSEA contracts are identical.

Standards Arbitrators Apply to Disciplinary Cases

In analyzing disciplinary cases, most arbitrators are under a contractual obligation to determine if the disciplinary action is for "just cause". Over the years, arbitrators have developed a series of questions which they ask in making that determination. Although no two arbitrators will apply these principles in exactly the same way, virtually all profess to consider them in rendering awards. It is important that you understand these rules as you evaluate the appropriate actions to follow when you believe discipline may be called for. The Labor Relations Office is also guided by these principles in the consideration of disciplinary action against an employee.

Was there a rule?

Before anyone can be found guilty of misconduct, the employer must convince the arbitrator that there was a rule in force, one reasonably related to the needs of that institution. Ordinarily, the rule must be a written one, however, there are a number of behaviors which need not be spelled out in writing. For example, individuals may be disciplined for insubordination, reporting for work drunk, sleeping on the job, in possession of a weapon or stealing, without the employer's having previously issued a written rule on the subject.

1. Was the rule made known to the employee by the employer? In the case of written rules, the employer is responsible for distributing the rule to the employees. In order to meet this burden, it will be necessary to demonstrate such evidence that the employee actually received the rule. Such evidence might be a receipt with the employee's signature at the time he or she received a personnel manual, someone's signature on an attendance roster for a meeting at which the rule was distributed, or someone's having initialed a posted memo containing the rule. Discussion at a counseling session, preferably formalized by way of memo, would also suffice.
2. Was the rule clear? Whether written or not, the rule must be clear. The rule must not leave the employee in a quandary about what conduct is a violation.
3. Has management tolerated a practice which is at variance with the written or unwritten rule? If so, management must republish the rule in accordance with 1, above.

Did the employee violate the rule?

There are generally two issues which an arbitrator will confront with respect to this question:--one procedural, the other substantive.

1. Did the employer conduct a thorough and fair investigation of the incident BEFORE filing a disciplinary notice against an employee? Such an investigation must always provide the accused employee an opportunity to give his side of the matter before the notice is issued. Generally, this rule exists to prevent a manager or supervisor from responding to an incident impulsively.
2. At the arbitration hearing, did the employer meet its burden of proof when presenting evidence about the employee's conduct? The standard of proof which usually applies in disciplinary arbitration is not whether the case was proved beyond a reasonable doubt, but only whether proved by a preponderance of the evidence. Still, even by this less difficult standard, the employer's case, when viewed in its entirety, must be more convincing than the defense. If the cases are equally convincing, the employer will--and should--lose.

Is the proposed penalty appropriate?

Ordinarily, contracts give arbitrators the right to determine whether the proposed penalty is an appropriate one where the arbitrator has determined that the employee is, in fact, guilty of the alleged misconduct. Most arbitrators will evaluate penalties in light of the purpose of the disciplinary procedure, which is to correct behavior. Thus, for most infractions, arbitrators will ordinarily impose smaller penalties for the first violation, and successively larger penalties until convinced that the employee will not change his or her behavior. This graded process implements the principle of ***progressive discipline***. The ultimate penalty--discharge--becomes a penalty of last resort.

Of course, there are infractions for which discharge is necessarily the first penalty: certain types of patient abuse, sexual harassment, possession of a dangerous weapon, assault, stealing, gross insubordination, are examples.

Also, many arbitrators will take into account a number of the factors in determining penalty. Common factors include:

- The employee's length of service.
- The employee's work record.
- The employee's attitude.
- The penalty given other employees in similar circumstances.

Concluding Comments

Not every involuntary termination from service is the result of discipline. For example, [Civil Service Law, Section 73](#), provides for separation from service "[w]hen [a classified employee] has been continuously absent from and unable to perform the duties of his (her) position for one year..." for other than a disability resulting from occupational disease or injury. The employee may be reinstated if, within one year of the termination of his/her disability, he/she submits to and passes a State Doctor examination.

In light of this provision, when an employee is ill for more than one month, the supervisor should inform the Labor Relations Office in writing to explore the long-term approach appropriate for the particular employee. If the supervisor has notice that the employee will be out long-term at an earlier stage, he/she should contact Labor Relations at the earliest juncture. The supervisor has the responsibility to create and file required Personnel forms to clarify the employee's status. The supervisor should also notify Labor Relations at the nine-month point to consult on whether, and when, action under Section 73 should be taken. At the end of the year, a letter from the Department of Human Resources will initiate Section 73 proceedings.

In general, we emphasize the need to consult early and often with the Office of Labor Relations on any matter which may result in discipline or termination of an employee. No one expects every supervisor to be an expert on these matters. What we expect is that the supervisor is sufficiently sensitive to the important issues that he or she will know when to seek assistance from Labor Relations.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

PERFORMANCE APPRAISAL

To this point in the Manual, we have discussed a variety of issues which involve critical moments in the relationship of a supervisor and those subject to his or her supervision. Much of what we have discussed involves evaluation of an employee's behavior at work. For example, in section 4 we discussed the role of communication generally, including the issue of "reinforcement": identifying to an individual that what he or she did as part of the job was well done and that it was appreciated. In other sections we dealt with counseling and discipline.

This section covers supervisory responsibilities for evaluating employee job performance. The evaluation process encompasses different requirements for each union, and the specific procedures for evaluating employees in each union are discussed in detail. In addition, the section includes a section on the validity and reliability of a performance evaluation and on the importance of objectivity in rating employees. Please note that the subject matter of these latter sections is theoretical and is a departure from the "how-to" methodology utilized in the preceding sections.

Each of these issues involves the evaluation of performance. Such evaluation processes share a number of attributes:

- Each requires the supervisor to be familiar with the standards against which an individual's performance will be compared and insure that the employee likewise is familiar with those standards;
- Each requires that the behavior be measured in a way commensurate with the level of detail necessary to the evaluation process; and,
- Each assumes that there will be an outcome associated with the comparison of the behavior to the standards, for example, a statement of appreciation or the determination that a counseling session would be warranted.

In this section, we deal with the use of performance appraisal procedures. Performance appraisal is another way in which we evaluate employees; however, it provides a more comprehensive method than those processes we have discussed previously. The supervisor must provide the employee with feedback about his or her overall performance. In other words, this mechanism is not triggered because someone did something "right" or "wrong." In fact, all of the performance appraisal systems in use require that supervisors appraise employees at regular intervals, usually once a year. Whenever possible we encourage supervisors to meet with their employees every six months to review their performance.

All supervisors develop their own appraisal of their employees' performance. It is unlikely that anyone can work with someone else and not make such judgments. Nonetheless, many supervisors are reluctant to share those judgments with employees in the context of the performance appraisal process, much like the reluctance associated with the scheduling of a counseling session. Perhaps the supervisor's motivation is a fear of an employee's reaction. Or, in some cases, supervisors may believe that the procedures require an inordinate amount of time that interferes with his or her real work.

Regardless, supervisors are required to complete performance appraisals consistent with the procedures associated with each system currently in use. It is, in fact, their **real work**, the product of the need to evaluate the responsibilities which have been delegated to subordinates and for which the supervisor will receive praise or blame, depending on the quality of the subordinates' performance. In this context, and consistent with the model relating effort and performance which we discussed in section 2, we ask supervisors to view performance appraisal processes as an important means of helping employees to perform their jobs in the best possible fashion.

It is important to evaluate all employees on time. First, the evaluation process is a significant opportunity to review expectations, progress, and objectives. Second, employees should receive the monetary award associated with satisfactory performance at the time it is due them. In this way, the connection between performance and a tangible reward will be reinforced. Failure to complete evaluations on time may communicate to employees that their evaluation is a low priority. Timely evaluations avoid employee resentment, demonstrate the importance of employee morale, and communicate the supervisor's fairness and concern for the employee's performance.

For any employee rated unsatisfactory, the Department of Human Resources requires that documentation of poor performance accompany the evaluation. Acceptable documentation may include counseling memoranda, disciplinary actions and negative probationary evaluations.

Current Appraisal Systems

Professional, Scientific and Technical Services Unit

This system is the most complex of the systems in use. There are two variations of the system in use at Health Science Center at Brooklyn.

Supervisors of all nurses appraise their employees using a Professional, Scientific and

Technical Services (PS&T) Unit Criteria-Based Performance Evaluation Program. This Program includes evaluation categories and measures relevant to practice in the Nursing Services Department. Nurses are evaluated in the categories of Nursing Process, Safety Awareness, Communications/Interpersonal Relationships, Leadership Management, Professional Development and Organizational Policies.

Each evaluation category is further divided into specific tasks and objectives which serve as the Employee's Performance Program. The supervisor must rate the employee in each task/objective using one of five categories: Outstanding, Highly Effective, Effective, Needs Some Improvement, and Unsatisfactory.

At the start of the evaluation period, the Performance Program is discussed with the employee, and both the supervisor and the employee sign and date the Evaluation Form (Section 4).

The supervisor is then required to meet with the employee within one month before or after the mid-point of the rating period. During this appraisal conference, the supervisor and employee should discuss:

- The progress the employee has made in meeting the tasks/objectives outlined in the Performance Program;
- The obstacles, if any, which have impeded progress; and,
- What additional assistance can be given in order to help the employee fulfill the Program.

In addition, we should stress that such conferences provide an appropriate opportunity for the supervisor to reinforce good performance. At the conclusion of this meeting, the supervisor should comment on the employee's performance and overall strengths and weaknesses to date (Section 5).

Near the end of the rating period, the supervisor must rate the employee's performance in each of the specific tasks/objectives of the Performance Program. Any rating of "Outstanding" or "Unsatisfactory" requires written justification and specific comment by the supervisor. However, written comments for all ratings are recommended. The inclusion of detailed personal comments is an indication to the employees that their supervisor has taken the time and effort to carefully evaluate them instead of simply checking boxes on a form. In addition, specialized areas may use an added section to identify additional relevant categories to be evaluated. Finally, the supervisor must assign an overall performance rating (Section 6). The evaluation should then be submitted to the reviewer, usually the individual to whom

the supervisor reports, who must approve the rating and sign the evaluation. Subsequently, the supervisor meets with the employee to conduct the appraisal interview. In addition to explaining the rating, this meeting should include a give-and-take between the supervisor and employee, which results in the development and execution of a revised Program for the next rating period. The employee then signs the evaluation (Section 7) indicating that the evaluation was read and was discussed with the supervisor.

The PS&T appraisal system also determines employee eligibility for certain pay increases. These pay increases are called performance advances. Employees who meet the contract criteria for continuous service and who are rated above unsatisfactory are eligible for performance advances. Performance advances are paid to employees whose salaries are below the maximum salary for their grade (*i.e.*, the job rate). They advance the employee's salary to the next step in the contract's salary schedule for the grade of the employee's position.

These performance advances are linked to annual evaluation dates. The supervisor should prepare evaluations in time for the employee's anniversary date so that his or her salary increase is not delayed. For more detailed information about the amount of a performance advance and the eligibility rules, consult the PEF Agreement, Article 7.

Despite a supervisor's best efforts, employees may disagree with their evaluations. An employee may record his or her responses on the evaluation or submit a response which must be included with the evaluation. Employees may appeal unsatisfactory ratings within 15 days of the time the rating is received. An employee who wishes to appeal may obtain the appropriate form from the Office of Labor Relations. The employee's appeal is heard by a local Appeal Board composed of three voting members: one designated by management, one designated by PEF, and one jointly agreed on. (PEF field representatives designate the PEF member of the board.) The employee has the right to appear personally before the board. Management also appears. Both the supervisor and employee are responsible for providing information to support their respective positions.

The local board may recommend a change in rating to the agency head, or his appointed designee, who makes a final determination. The employee may appeal this decision to a Statewide Appeals Board. The employee must file the appeal within 15 days after receiving the agency head's decision. The Statewide Board's decision is final.

The employee may appear before the Statewide Appeals Board. The supervisor must allow time for the employee to attend an evaluation appeal hearing. Where necessary, travel time also must be allowed.

The second variation of the PS&T evaluation process is evaluating non-nursing employees. The primary difference between evaluating PS&T nursing and non-nursing employees is the degree of employee input into the process. Supervisors of non-Nursing Services staff begin with the completion of the "Performance Evaluation Program Part 1: Performance Program." The form requires the supervisor to identify "Tasks/Objectives" and then for each task/objective, identify the "Performance Standard" which will be the criterion to determine the degree to which the task/objective has been met. However, prior to the supervisor's completion of this form, the employee has the option of presenting Part 1 of the Employee Worksheet as the employee's contribution to the process. This procedure does not preclude additional discussion with the employee about the development of these tasks/objectives standards. The supervisor then holds the "mid-point" meeting described earlier, and then, near the end of the rating period, the supervisor completes Part II: Performance Appraisal and Rating.

Before completion, the supervisor sends the employee a second worksheet allowing the employee to provide further input to the process. Again, this document does not preclude additional discussion with the employee before the supervisor completes the appraisal and ratings. The supervisor then meets with the employee to conduct the appraisal interview and to assign the overall rating as described above.

Administrative Services Unit, Operational Services Unit, Institutional Services Unit

CSEA-represented employees attached to the Division of Nursing Services in the titles of Licensed Practical Nurse, Hospital Attendant, Psychiatric Therapy Aide, Surgical Tech I, II and Hospital Clinical Assistant II are subject to the same performance appraisal system as the PS&T nursing employees. The only distinction is in their Performance Programs which reflect the tasks and objectives expected for each position. Licensed Practical Nurses are evaluated in the categories of Nursing Process, Safety Awareness, Communications/Interpersonal Relationships, Personal Development and Organizational Policies. Hospital Attendant and Hospital Clinical Assistant II's are evaluated in the categories of Direct Patient Care (under supervision), Indirect Patient Care (under supervision), Self-Development and Organizational Policies.

All other CSEA-represented employees use a performance appraisal system similar to the PS&T system for non-nursing employees, although less complex. Both are criteria-based plans, requiring the supervisor to identify in advance important job tasks and determine standards against which the employee's behavior will be measured. Each then requires a subsequent determination of the degree to which the

employee met those expectations. Each system requires that the employees and supervisors work cooperatively in developing the Performance Program, that there be a mid-term appraisal conference and that there be a meeting at the end of the rating period to discuss the appraisal and begin planning for the Performance Program for the next rating period. Most of the differences are mechanical.

- The CSEA plan, unlike PS&T's non-nursing employees, does not contain separate worksheets on which an employee can make suggestions for the Performance Program or identify considerations to be taken into account for the final appraisal.
- The form on which the supervisor writes the Performance Program is much more limited in the amount of space available to write; neither does it separate the process of writing the tasks/objectives from writing the performance criteria. Supervisors are best advised to use additional sheets to accomplish this portion of the process, rather than trying to write this information in the space provided.

Also, on the last page of the form used in these units there is section 4, "Supervisor's Comments," which asks supervisors to do the following:

Comment on other aspects of the employee's performance, such as skills, behaviors, personal characteristics and time and attendance patterns, which have affected the employee's performance or the performance of other employees. Suggest ways in which performance can be improved.

In addition to providing an opportunity to put in writing ways to improve performance--for example, training or different assignments--this section allows a supervisor to comment on certain issues which might not be part of the Performance Program. For example, the Program might not read, "employee is expected to arrive at work on time." [If a position is patient-related, then the performance program should contain some recognition of the importance of punctuality and attendance as essential functions of the job.] Nonetheless, the supervisor can discuss a pattern of attendance which is either excellent or substandard by writing his or her comments in this section. Supervisors must also provide CSEA employees with the option to write additional comments responding to their evaluations.

The CSEA appraisal uses five overall ratings - Outstanding, Highly Effective, Effective, Needs Some Improvement, and Unsatisfactory. CSEA employees rated above unsatisfactory also are eligible for performance advances. For a detailed explanation of performance advances, the supervisor may read the compensation articles of the CSEA agreements.

CSEA employees who are rated unsatisfactory have a formal appeal mechanism similar to the one described for PS&T. Employees have 15 calendar days to appeal their ratings to the CSEA agency appeal board, which must have two voting M/C members designated by Management. The agency appeal board must meet within 60 calendar days of the employee's appeal. If the agency appeal is denied, the employee has 15 days from the receipt of the decision to submit a further appeal to the Statewide Performance Evaluation Appeals Board. This three-member panel is composed of one member selected by the Director of the Governor's Office of Employee Relations, a second member selected by the Statewide President of CSEA, and a third member selected by joint agreement of both parties. This panel is required to meet within 90 calendar days of the employee's appeal.

Professional Services Unit

The evaluation process for professional employees in the Professional Services Unit is a two-step process requiring both a Performance Program and an evaluation. Forms are available for both purposes from the Department of Human Resources. Both steps require consultation with the employee. The major differences between evaluations for these employees and the employees described above are that the employee must be rated as either satisfactory or unsatisfactory and that changes in an employee's appointment status, such as the non-renewal of a term appointment, are recorded on the evaluation form.

The Professional Services Unit encompasses professionals, faculty and librarians. For professionals, the performance appraisal system is governed by a document between the State University and UUP. The document is called the [Memorandum of Understanding between the State University of New York and United University Professions Relating to a System of Evaluation for Professional Employees](#). There is no required Statewide system of evaluation for faculty members. Faculty evaluation is accomplished consistent with campus and departmental policies, procedures and by-laws. This discussion is a summary of the [Memorandum of Understanding](#). For a full description of the procedure, the supervisor should read the [Memorandum](#) itself.

Evaluation is a continuing process carried out on a daily basis. Written evaluations must be prepared at least once each year for professionals, except that supervisors need not evaluate employees serving out their final year after notice of non-renewal. After consultation with the employee, the supervisor prepares a Performance Program which establishes the objectives to be achieved during the evaluation period and the criteria by which achievement will be evaluated.

The consultation between the employee and the supervisor on the Performance Program should cover the following topics:

- The nature of the professional employee's duties and responsibilities;
- Supervisory and functional relationships;
- Immediate and long-term objectives;
- Criteria for evaluating achievement of objectives, which can include such categories as effectiveness in performance, mastery of specialization, professional ability, effectiveness in University service, and continuing growth. These criteria are used as examples and are not intended to be exhaustive; and,
- Secondary sources which should be consulted in evaluating the employee.

After the consultation, the supervisor prepares the Performance Program. The supervisor should meet with the employee to discuss the Program. The employee signs the form and receives a copy. A copy should be sent to the official personnel file. A copy also should be sent to the evaluator's supervisor. An employee who disagrees with the Performance Program may attach a statement to it within 10 working days of receipt. This Performance Program is the basis for the employee's evaluation.

During the evaluation period, the Performance Program may be changed as circumstances warrant. A change in supervisor or in duties should be reflected in a modified Performance Program. When altering the Performance Program, the supervisor should use the same procedure used to prepare the original Program.

The supervisor should prepare a preliminary formal evaluation of the employee at least once annually. The evaluation must be based on the Performance Program. It includes the summary rating of satisfactory or unsatisfactory. It should also include the supervisor's recommendation relating to renewal or non-renewal of the employee's appointment or other actions affecting the employee's status. The supervisor also should prepare a new Performance Program and should hold a meeting with the employee to discuss both documents.

After the meeting, the supervisor prepares a final written evaluation and attaches the new Performance Program to it. The employee should sign the final report; the signature indicates only that the employee has received and discussed the evaluation, not that he or she agrees with it.

The supervisor should then provide the employee a dated copy of the final evaluation. If the employee is to be non-renewed, the evaluation should be given to the employee not less than 45 calendar days prior to the notice date for non-renewal of the employee's appointment. The original evaluation should be sent to the official personnel file housed in the Department of Human Resources, and a copy sent to the evaluator's supervisor. The new Performance Program also should be given to the employee, with copies to the personnel file and the official evaluator's supervisor.

Supervisors should be aware that employees in the Professional Services Unit rated unsatisfactory are entitled to have the evaluation reviewed. The Memorandum of Understanding, described earlier, provides a process for review by a local Committee on Professional Evaluation. An employee who wishes a review must inform his or her supervisor, the Chair of the Committee on Professional Evaluation and the College President or designee within ten (10) working days of receipt of the evaluation. The name of the chairperson may be obtained from the Office of Labor Relations or the UUP office. The supervisor must, within five (5) working days of the request for review, provide the Committee on Professional Evaluation a dated copy of the evaluation report.

If the supervisor's recommendations affect the employee's employment status, or are sent to the Committee on Professional Evaluation, they shall be sent to the college President or designee. The college President or designee will delay acting when the evaluation is being considered by the Committee on Professional Evaluation. Committee consideration, if untimely, does not prevent the President from acting upon a recommendation made in a final evaluation.

Security Services Unit

The performance appraisal system used by the Security Services Unit is, in concept, different from those described above. Instead of having to write a Performance Program and then appraise an employee's performance against the plan tailored for the employee, supervisors of employees in this unit give each employee they supervise a ranking of Outstanding, Excellent, Good, Needs Improvement, or Unsatisfactory in light of "performance factors" identified on the appraisal form. Each factor is expressed first as a particular task and then as three descriptive statements regarding a hypothetical employee's performance.

For example, performance factor five reads as follows:

MAINTENANCE OF EQUIPMENT

Consider the employee's treatment, protection and maintenance of equipment,

uniforms and/or weapons.

OUTSTANDING: Employee consistently maintains equipment and/or weapons in excellent condition; practices preventive maintenance and reports defective equipment in a timely manner.

GOOD: Employee maintains equipment and/or weapons according to generally accepted standards.

UNSATISFACTORY: Equipment and/or weapons are poorly maintained, treated in a careless manner, and frequently not accounted for.

The supervisor checks the box which represents the statement which "most accurately describes" the employee's performance. In addition, the supervisor, after completing all ten factors, gives the employee an overall performance rating.

Supervisors should note that employees who have ten full pay periods (100 full work days) but less than six months of service in grade are eligible for a performance advance payment. Evaluations for employees in the above category must be done prior to April 1 for the employee to be paid. Thereafter, evaluations will take place on the employee's anniversary date.

Should supervisors change during the rating period, the supervisor at the time the evaluation is due should prepare the evaluation after consultation with the previous supervisor if possible. Employees regularly supervised by two supervisors should be evaluated by both supervisors and both should sign the evaluation. If an employee is supervised by more than two supervisors, the supervisor most familiar with the employee's overall performance should evaluate the employee, after consultation with the other supervisors.

The appeal process for members of the Security Services Unit differs in several ways from the other negotiating units. First, a Security employee may appeal any final rating with which he or she disagrees. The appeal must be made to the local management review board within fourteen (14) calendar days of receipt of the final rating. The local board may raise ratings to the next higher level. It must issue a decision within fourteen (14) calendar days of receipt of the appeal.

The employee with a final rating of good or lower who is dissatisfied with a local appeal determination may appeal the decision to an agency level review board. An appeal to the agency level board must be submitted within fourteen (14) calendar days from receipt of the local decision. The agency level decision will be issued to the employee within twenty-one (21) days of receipt of the appeal.

Employees who are appealing a final rating of unsatisfactory may appeal an agency level decision to a statewide appeal board within fourteen (14) calendar days of receipt of the agency level determination. The Statewide Security Services Unit appeal board will consider the appeal and issue a determination within sixty (60) days of receipt of the appeal. For further information, supervisors should consult the "Personnel Guidelines" prepared by Personnel Administration, Department of Human Resources.

Performance Appraisal: Validity and Reliability

At the heart of any well-developed appraisal system is the belief that one can know and express verbally important aspects of an employee's job. Another dimension which is critical to this process is the belief that a supervisor can measure someone's performance against a standard in a way that will yield the correct result in the vast majority of cases. Taken together, we have identified the need for validity and reliability when developing Performance Programs.

Validity refers to the degree to which a task or objective is truly a legitimate part of someone's job. For example, consider the following: "The employee will interact in a therapeutic manner with patients." To be able to judge whether that is a valid task, one must first know the job for which the task is being proposed. For example, that task would be valid for a nurse, but not valid for a grounds worker. The validity of each task, therefore, must be considered in light of the work to which the employee being rated is assigned.

A more difficult problem is determining whether the task is expressed in a manner which can be **reliably** measured using objective evaluation criteria. In other words, to what extent can the supervisor, using the description of the task expected of the employee, actually measure a person's degree of success? Let's take the task in the previous paragraph which we identified as valid for a nurse:

The employee will interact in a therapeutic manner with patients.

If one were using that statement in order to appraise an employee, how would the appraiser know what "therapeutic" meant? Therefore, what aspects of the nurse's behavior should the appraiser then consider if there is no clearer definition of "therapeutic?" Is it possible that the appraiser might apply one definition to one person and a somewhat different definition to another?

In all systems but the Security Services Unit, the supervisor must identify "observable criteria for determining if objectives/tasks are fully met/performed." How would one know from the task, as expressed above, when that occurs?

The answer to these questions can be resolved by finding a more reliable way to

express what we already know to be a valid task or objective. For example, in the case of the nurse's task, we might become more specific in our expectation:

During the rating period, the employee will not administer a single incorrect dose of prescription medicine to any patient.

This is an example of an extremely high standard of performance, one which is justified because of the possible lethal consequences of administering medications inappropriately, and one which is expressed in a way that can be reliably measured if the supervisor takes the time to review appropriate medical documentation.

Other standards need not be so exacting. For example, supervisors might write the following standard for a nurse:

The employee will make all entries in a patient's log in accordance with the standards set forth in the Hospital's Nursing Manual, Chapter V. Upon review, it is expected that 95 percent of all such entries conform to the standards set forth in this chapter.

In this case, the employee can know what is expected by reading Chapter V , supposing that Chapter V itself is clearly written. With the same certainty, the supervisor has a clear set of criteria against which to measure the performance. In this case, the supervisor would review a sample of the employee's work, asking of each sample a series of questions culled from the Nursing Manual. The standard is met, exceeded, or not met based on the final "score" associated with that process.

At first blush, the development of valid and reliable measures of performance appears complex and tedious. It is. However, after the initial work at identifying such measures, their continued use only requires a process of refinement. The fruits of your work will be a clearer set of expectations for employees to use in guiding their work, a reduced level of antagonism at work and a more certain picture of which abilities or inappropriate role perceptions interfere with an employee's job performance.

Performance Appraisal: Rater Errors

Any introductory textbook dealing with Human Resource Management will provide a list of common errors associated with the actual completion of an appraisal. The following are common errors:

1. **HALO EFFECT:** Perhaps the most common error, one where the supervisor

evaluates an individual's overall performance based on a single characteristic. For example, a nurse is exceedingly good in caring for patients, but is below standard in a number of important areas involving the documentation of her nursing activity. The halo effect occurs when the supervisor tends to permit the recognition of the "good" work to obliterate any mention of the below standard behaviors.

2. **LENIENCY:** This error can be expressed either positively or negatively. In some cases, supervisors will rate all subordinates with "positive" leniency, that is, give higher appraisals than the facts would justify. "Negative" leniency occurs where supervisors give lower appraisals than the facts would justify.
3. **CENTRAL TENDENCY:** Sometimes supervisors find it comfortable to rate everyone about average, that is, somewhere in the "middle." Again, the rating is not based on the facts.
4. **FIRST/LAST IMPRESSION:** This is similar to the "halo" effect, except that the error is the result of either the very first or very last behavior which made an impression on the supervisor. In the case of first impression, the supervisor fails to consider any behaviors which occur after a major impression was made by the employee early in the rating period. This impression can be either favorable or unfavorable. The last impression occurs where the supervisor forgets everything that occurred during the rating period except for the most recent--favorable or unfavorable--event.
5. **COMPARISON TO OTHERS:** If performance appraisal is to work effectively, employees must be judged against expectations tailored to their job. Another error occurs where the supervisor compares employees to other employees rather than the job expectations. In other cases the supervisor compares the employee to himself or herself, judging the employee favorably depending on how similar the employee is to the supervisor.

Much of what arises as rater error is controllable by the supervisors themselves. Supervisors must constantly remind themselves that they should focus on the entire spectrum of an employee's job-related behavior.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

LABOR RELATIONS

The growth of unionism and its impact on management within State government has created a wide variety of issues affecting supervisors. As we noted in section 3, the most noticeable effects are primarily in three areas: the use and application of seniority; the procedures affecting discipline; and provisions regulating the role of union representatives at work and the role of the union in certain decision-making processes.

Discipline

Like seniority, disciplinary procedures are not unique to labor contracts. In fact, any person who is a member of the classified service but not covered by a labor contract—someone certified as management/confidential under the Taylor Law--would, under certain circumstances, be entitled to be disciplined only pursuant to Section 75. Those persons are any of the following who have received a permanent appointment, i.e., passed the probationary appointment:

- Any person in the competitive class;
- Any member of the non-competitive class who has served in the non-competitive class for five consecutive years;
- Any other member of the classified service who is an exempt volunteer fireman or a veteran of a war as defined by the Civil Service Law.

Beyond the Civil Service Law, Policies of the Board of Trustees similarly contain provisions governing discipline for those unclassified employees appointed to term appointments or to at-will appointments who are identified as management/confidential employees.

Still, for most employees, the origin of the procedures governing discipline is found in the labor agreements governing each bargaining unit. Section 6 is an extensive discussion of those procedures.

Seniority

Seniority as a concept is not unique to labor contracts. In State government, the Civil Service Law contains definitions of seniority and specifications for its application in cases of layoff. Nonetheless, most of the labor agreements extend the use of seniority beyond layoff situations. Chart 8.1 on page 3 displays the various uses of

seniority in the agreements affecting employees at Health Science Center at Brooklyn. In some cases, the use of seniority among classified employees is virtually absolute, for example, in the choice of vacation periods. However, many other decisions, for example, promotion of non-competitive class employees in certain bargaining units, are subject to a qualified use of seniority. Not to promote the most senior person would involve the ability of the supervisor to show that the most senior candidate was in some way incapable of performing the work. The supervisor should consult Personnel and Labor Relations before making a choice that contravenes seniority provisions. Similar circumstances exist with respect to choices in shift and work assignment or location. It is important that a supervisor be familiar with the precise language of any agreement concerning the particular employees in question.

The important issue which supervisors must bear in mind is that even though seniority must be considered in a variety of decisions, for most it is not absolute. A combination of factors will be important in deciding issues relating to promotion and job assignment, where seniority is considered at all. In the end, the quality of the supervision which preceded the decision will be vital to retaining flexibility. For example, in the event a supervisor believes that a non-competitive promotion should go to the less senior individual, that appointment can be made consistent with most contracts as long as the supervisor can demonstrate a pattern of behavior, which has been brought to the employee's attention, overcoming considerations based on seniority. "Feelings" that the less senior employee will do a better job will ordinarily not be sufficient.

The Role of the Union at Work

In section 1, we noted that the Health Science Center at Brooklyn has many characteristics of a bureaucracy. One of those characteristics is the existence of various levels of authority. Final authority rests at the apex of bureaucratic organizations.

Nonetheless, collective bargaining changes that model considerably. At the statewide level, the union representing employees in a bargaining unit is coequal to State representatives when negotiating over "wages, hours and other terms and conditions of employment." At the agency and facility level, there are additional responsibilities afforded the union which create an analogous relationship to the respective level in the organization.

CHART 8.1: SENIORITY PROVISIONS

UNIT	DEFINITION/ARTICLE#	APPLICATION/ARTICLE #	APPLICATION/ARTICLE #
PSNU/UUP	35.2(a)&(b)	35.2	Retrenchment
PS&ST/PEF	25.1	12.6(a) 25.2(a) 25.2(b)	Vacation Shift, pass days, voluntary Transfer
ASU/CSEA*	44.1	44.2	Vacation, shifts, pass days, work locations, alternative work schedules
ISU/CSEA*	44.1	44.2 45.1 44.2 44.3	Promotion/non-competitive Non-competitive & labor class Positions vacancies Work locations, shifts Pass days
OSU/CSEA*	44 45.1(d)	20 10.6 45.1(c) 50.2 50.3	Layoffs Vacations Promotion/non-competitive class Position vacancies Work locations, shifts Pass Days
SSU/Council 82*	24.1	14.1(d) 24.2 24.3	Vacation Pass days Shift, job assignments

NOTE: “SSU” represents the Security Supervisors’ Unit
 NYSCOPBA and the State are negotiating the rank-and-file’s agreement
 * If the employee is “permanent”

1. With respect to work within the Health Science Center at Brooklyn, the unions exist as representatives of employees most importantly concerning the identification of and initial presentation of grievances: alleged violations of the collective bargaining agreements.
2. In addition, most grievance/arbitration procedures contain the possibility of presenting for review other issues which are not contract violations, but nonetheless disagreements over the exercise of local discretion.
3. Finally, the collective bargaining agreements contain a series of provisions for local labor/management meetings, a decision-making forum in which the parties can discuss matters of mutual interest and make local agreements to resolve matters and thereby avoid grievances. In some cases, the authority to discuss an issue is explicit in the agreement. For example, in the case of the Institutional Service Unit Agreement, local facilities can make agreements to use methods other than seniority to choose shifts and pass days.

When acting in the capacity of grievance representative, a union official--whether a paid staff person or an elected employee representative--is coequal of the management person with whom he or she interacts.

NOTE: Labor Relations endeavors to address potential issues proactively. Labor Relations needs the help of each respective union to alleviate tensions or problems in employee relations. You, the supervisor, are key in this process. If you can anticipate an issue, or become aware of an employee's complaint, you should immediately bring it to the attention of the Labor Relations Associate who is liaison to the employee's union. This networking has resulted in improved communication and a significant decrease in formal grievances, thereby saving you time and ameliorating employee relations.

In addition, there are a variety of situations in which the union serves as a representative of the employee during meetings which might be construed by some as merely "supervisory" in nature. At the same time, certain "supervisory" meetings are not open to union representatives. Chart 8.2 contains a list of representation rights by bargaining unit. Generally, union representatives are permitted as representatives in "interrogations"--for a definition, see section 6--but not permitted as representatives during performance appraisal interviews or counseling sessions.

CHART 8.2: Circumstances Where Employees are Entitled to Union Representation

APPRAISAL	COUNSELING		
	<u>INTERROGATIONS</u>	<u>SESSIONS</u>	<u>INTERVIEWS</u>
UUP	YES	NO	NO
PEF	YES	NO	NO
CSEA All Units	YES	NO	NO
GSEU	YES	NO	NO
COUNCIL 82 Both Units	YES	No, unless Mgmt. has more than one person in attendance	NO

Note: NYSCOPBA is negotiating an agreement that may modify these provisions for the Security Unit employees.

Finally, the contracts contain employee organizational leave provisions providing leave with pay to union officers to fulfill certain functions: investigate grievances, attend grievance meetings, attend union conventions and conferences and attend labor/management meetings. Each contract contains a myriad of such opportunities; however, in every case the union representative must give his or her supervisor notice prior to leaving or not reporting for work. In most cases, the employee must receive supervisory permission to be absent.

Conclusions

The development of labor relations has, in some ways, complicated the life of supervisors in State government. On the other hand, the role of unions has helped to identify and correct many sloppy management practices, which would otherwise continue to exist. Still, no one expects each individual supervisor to be an expert in this area. Where there is doubt about what collective bargaining agreements provide or how to interact appropriately with a union representative, please contact your Labor Relations Office.

For more information on this topic, please E-Mail Labor Relations:
laborrelations@downstate.edu

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SUPERVISOR'S GUIDE TO THE DEPARTMENT OF HUMAN RESOURCES
OFFICE OF LABOR RELATIONS

Supervisors at SUNY Health Science Center at Brooklyn may contact the Office of Labor Relations of the Department of Human Resources for assistance with any aspect of employee relations. Labor Relations provides the following services:

Represents management in labor/management affairs

Assists departments in developing employee relations policies

Provides the Step 1 hearing officer for all employee grievances

Advises supervisors on issues of contract and policy interpretation

Mediates disputes between supervisors and employees; between co-workers

Conducts the disciplinary process prior to Step 2, including investigations,

and [Time and Attendance disciplinary procedures](#) for employees of all bargaining units

Administers the procedures for placing disabled employees on leave of absence

Administers the Doctor Referral Program to determine the physical or mental competence of an employee

Assists supervisors who may be called as witnesses before various internal or external tribunals (e.g., Workers Compensation Board, Unemployment Board, NYS Division of Human Rights, NYS Supreme Court, Federal Court, Committee on Professional Evaluation, other Evaluation Appeals Committees, Tripartite Panels, arbitrations)

Maintains a status report of all disciplinary actions and grievances

[Administers the Leave Donation Program](#)

Conducts the Supervisors' Seminars including Train-the-Trainer

Conducts follow-up sessions to Supervisors' Seminars

Administers filing requirements under [NYS Ethics Law](#)

[Administers the Federal Family Leave Act](#)

When to Call Labor Relations

When a Union Representative Requests Your Assistance

Union representatives often approach supervisors with requests to resolve employee problems. Labor Relations encourages supervisors to meet with union representatives within the framework of their divisions' policies to consider their requests. Often, an individual employee's questions can be resolved in this fashion, particularly where the questions concern vacation or holiday schedules or grants or extensions of leaves of absence. However, if a union request goes beyond an issue affecting a single employee, or if the request is for something that is not clearly within the supervisor's authority under the applicable collective bargaining agreement, the supervisor should seek advice from Labor Relations before making any agreement with the labor representative. Also, a union representative's statement about contract terms should be verified by consultation with Labor Relations. Finally, you may request that a Labor Relations Associate accompany you to any meeting with a union representative, if you so desire. At any time, Labor Relations and your immediate supervisor may arrange for the presence of a Labor Relations Staff member to assist you.

When a Union Representative Requests to Meet with Employees

Consistent with operating needs, supervisors should attempt to accommodate a labor representative's request to meet with a single employee. If the request is for a group or unit-wide meeting, the union representative should be referred to Labor Relations.

Whom Do I Call?

For your convenience, [attached is a list of Labor Relations staff](#), their functions and telephone numbers. Please consult this list to determine which staff member to contact if you have a particular question.

For University Hospital Supervisors

It is University Hospital's policy that the Hospital Personnel Office, the immediate supervisor and manager should be informed and copied on requests made to Labor Relations. In addition, all supervisors must notify their immediate superior of the initiation of all disciplinary actions and grievances. Reference should be made to the [Disciplinary Referral Protocol in Section 21](#), which outlines the instances when referral to Labor Relations should be made.

As of: 11/2002

NAME & E-MAIL ADDRESS	EXTENSION	TITLE	FUNCTIONS
David C. Pappalardo Dpappalardo@downstate.edu	1972	Director	<ul style="list-style-type: none"> ➤ Directs Labor Relations Programs and Operations ➤ Labor and Management Consultations ➤ Chief Management Representative for Collective Bargaining Units ➤ Chief Grievance Officer ➤ Chief Discipline Officer
Leonzo Cuiman Lcuiman@downstate.edu	1971	First Deputy Director	<ul style="list-style-type: none"> ➤ Collective Bargaining Units Consultations ➤ Manager, Disciplinary Cases and NODs ➤ Manager Grievances ➤ Supervising Grievance Hearing Officer ➤ Supervise the Time & Attendance Monitoring Program ➤ Consultation on SUNY/DMC Departmental Standards ➤ Job Abandonment ➤ Unemployment Insurance ➤ Liaison for CSEA
Michael Brennan Mbrennan@downstate.edu	3023	Deputy Director	<ul style="list-style-type: none"> ➤ UUP Consultations ➤ Performance Evaluation Appeals ➤ NODs and Grievances ➤ Grievance Hearing Officer ➤ Litigation Liaison with Attorney General ➤ Supervise Ethics Law Implementation ➤ Holiday Memos; Alcohol & Substance Abuse Policy Memo ➤ Supervise FMLA inquiries and correspondence ➤ Consultation on SUNY/DMC Departmental Standards ➤ Member, President's Advisory Committee on the Disabled ➤ Civil Service Sections 71, 72 & 73 ➤ Liaison for UUP

NAME & E-MAIL ADDRESS	EXTENSION	TITLE	FUNCTIONS
Adriana Conde-Billy Aconde-billy@downstate.edu	3094	Deputy Director	<ul style="list-style-type: none"> ➤ Supervises Labor Relations Operations ➤ Council 82 and NYSCOPBA Consultations ➤ NODs and Grievances ➤ Grievance Hearing Officer ➤ Leave Donation Program Supervision ➤ Consultation on SUNY/DMC Departmental Standards ➤ Oversight and Production of Internal Quarterly Reports and Annual Reports ➤ Supervision of Support Staff and Volunteers ➤ Liaison for Council 82 and NYSCOPBA
Bridget Goodman bgoodman@downstate.edu	3024	Labor Relations Associate	<ul style="list-style-type: none"> ➤ PEF and GSEU Consultations ➤ NODs and Grievances ➤ Grievance Hearing Officer/Grievance Chair ➤ Counseling Session Consultations ➤ Employee Health Service Evaluations ➤ Civil Service Sections 71, 72, 73 ➤ Assist Deputy Director as Litigation Liaison with Attorney General ➤ Consultation on SUNY/DMC Departmental Standards ➤ Work Related Clothing Allowance ➤ Liaison for PEF
Adril Jennings Ajennings@downstate.edu	1193	Personnel Associate	<ul style="list-style-type: none"> ➤ Administrative support for First Deputy Director ➤ Administrative Coordinator Time & Attendance Watch Program , NODs and Grievances ➤ Administrative Coordinator Leave Donation Program ➤ Coordinates Employee Organizational Leaves ➤ Daybook and Outgoing Office Correspondence ➤ Holiday Waiver Memo ➤ Unit Calls ➤ Contract interpretation

NAME & E-MAIL ADDRESS	EXTENSION	TITLE	FUNCTIONS
Joan Baracchini Jbaracchini@downstate.edu	1972	Assistant to Director	<ul style="list-style-type: none">➤ Administrative Support for Director, Deputy Director, Associate Director and Labor Relations Associate➤ Scheduling Calendar for Director➤ Administrative Coordinator of the Ethics Filing Requirements➤ Administrative Coordinator FMLA Program➤ Holiday Memo➤ Holiday Waiver Memo➤ Civil Service Section 71, 72, 73➤ Routes Incoming Correspondence➤ Unit Calls➤ Work Related Clothing Allowance➤ Contract interpretation

Red Flags: When to call Labor Relations

The [Disciplinary Referral Protocol](#), which can be found in [Section 21D](#) defines when you must consult Labor Relations. Be particularly careful when you are deciding whether to refer a matter for discipline. This decision may be dispositive in that counseling an employee as to a particular problem will often mean that discipline cannot be pursued for the incident in question.

Please keep us in mind when you have any of the following issues, or any variation thereof. This list is not exhaustive, but it is designed to provide guidelines to assist you in utilizing our services:

A. Performance Issues

1. [Mental or physical incompetence](#)
2. Deficient performance
3. You are considering [conducting a counseling session](#)
 - a. For time and attendance
 - b. For poor performance
 - c. For indiscreet reference to confidential patient data
 - d. For being off post of duty
 - e. For the employee's first sick call after being denied a day off
 - f. Improper telephone usage
 - g. One's appearance/hygienic habits
 - h. Interactions with colleagues or patients
 - i. Any other apparent performance issue you have observed
4. You are writing a draft of a [counseling memo](#) subsequent to a counseling session. (We can help with the draft, and we can review it before you give it to the employee.)
5. Lateness
6. Absenteeism that meets the [Attendance Monitoring Program](#) criteria
7. Negligent completion of assigned task
8. An altercation between two employees or an employee and a third party
9. You want to dock an employee's pay

10. You believe that an employee has shown signs of being [under the influence of some substance](#)
11. An employee calls in sick and asks to charge his Personal time.
12. Your unit requires unusually high overtime.
13. An employee whom you have asked to take over a weekend shift has told a colleague that he does not intend to show up.
14. Medication error
15. You see that a supervisor who reports to you has a [romantic interest in a subordinate](#).
16. You overhear two employees complaining about a colleague who recently stopped pulling his weight.
17. An employee is offended by the type of music being played on the radio in your area.

B. Contractual and/or Statutory Issues

1. Two employees request the same week off, and your operational needs do not permit more than one to be off.
2. An employee requests time off to help an ailing parent/aunt/friend, and you aren't certain [if you can grant the time](#), or how he should charge it to accruals.
3. You believe an employee is contemplating filing a grievance.
4. You anticipate conflict regarding an upcoming issue in your area.
5. You need to reassign employees to new days off, or to different hours, or to a different shift.
6. You have an employee with a long-term illness and would like to facilitate an ill employee's ability to access accruals by way of the [Leave Donation Program](#).
7. An employee is [absent from work without leave and without contacting you](#) according to established procedure.
8. You think an employee should submit his resignation. (Never do this by yourself!)
9. A [pregnant employee](#) requires several months off before she gives birth.
10. You would like to request medical documentation from an employee, but you are not certain that you are entitled to do so.

11. You have no choice but to assign someone to come in over the weekend, and either you have no process in place to do so, or you are aware that an employee will raise objections.
12. [An employee needs physical therapy](#) due to an automobile accident and seeks to leave early two days a week.
13. One of your staff seeks to utilize Employee Organization Leave because she is a union officer.
14. You believe that an employee's outside interests or use of State time may present a [conflict of interest](#), or the appearance of such a conflict.
15. You seek verification of medical documentation submitted by an employee.
16. You are unsure what to do if an employee has no more sick time.
17. An employee requests a long-term leave to engage in advanced professional studies.
18. Veteran employees appear to be hazing a new hire.
19. You are unsure what is legal to ask on an interview.
20. You intend to introduce a new program that will entail new and complex duties for your staff.

C. Possible Disciplinary Issues

1. [An employee strikes another employee or a third party.](#)
2. [An employee makes a statement that can be construed as a threat.](#)
3. [Verbal abuse of a patient, supervisor, co-worker or third party.](#)
4. An employee submits a questionable medical note or other documentation to cover an absence.
5. You get information that an employee who is on sick leave or Workers Compensation may be working, but only part-time, at another job.
6. An employee refuses your directive.
7. Medication error where there has been some adverse impact on a patient or where the employee has previously been counseled.
8. [Any act or behavior or statement that compromises patient care.](#)

9. Any act or behavior or statement that tends to create a hostile environment for patients, employees or third parties.
10. Sexual harassment
11. Two employees in a romantic relationship engage in conduct that makes a third party uncomfortable.
12. Improper use of the telephone
13. Inappropriate use of profanity
14. [Use of ethnic/racial/sexist slurs](#)
15. You suspect an employee is malingering.
16. Unauthorized absence from work location
17. Refusal to follow a directive.
18. You believe that an employee made a deliberate misrepresentation of authority to obtain information that he was not otherwise accessible
19. You have reason to believe that an employee did not return to work after his/her jury duty was completed.
20. A manager borrows money from a subordinate, either regularly, or in a large amount.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

OFFICE OF PERSONNEL ADMINISTRATION

The Personnel Administration Units assist departments and/or Vice Presidential liaisons in developing and/or complying with personnel policies and procedures consistent with various contractual agreements and State/SUNY regulatory agency requirements.

Supervisors at the SUNY Health Science Center at Brooklyn may contact the Personnel Administration Units of the Department of Human Resources for assistance in the following areas:

- Appointment/Status Change process
- Dual salaried appointment process
- Extra Service process
- Classification and Compensation process
- Benefits Administration
- Recruitment Administration (advertisements and vacancy announcements)
- Immigration (IRCA) process
- Performance Evaluation process
- Temporary workforce (Olsten) process
- Personnel/Position Data Management
- Workers Compensation

When to Call Personnel Administration

The Personnel Administration Units encourage supervisors to call the appropriate area for assistance in the preparation and routing of paperwork. New supervisors are welcome to set up meetings with Personnel Administration staff in order to familiarize themselves with appropriate procedures.

Whom Do I Call?

Attached is a listing of [Personnel Administration staff](#), their functions and telephone numbers. Please consult this list to determine which staff member to contact if you have a particular question.

University Hospital and Academic Supervisors

It is HSCB's policy that supervisors within these two (2) Vice Presidential areas route their paperwork through the appropriate liaison office for review and approval prior to the forwarding of same to Human Resources.

NAME	EXTENSION	TITLE	FUNCTIONS
Hendrina Goeloe-Alston	1191	Director of Personnel	<ul style="list-style-type: none"> ➤ Directs all Personnel Administration programs and operations
Robyn Meyers	1237	First Deputy Director	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Human resources ➤ Information Systems ➤ Human resources Information Systems [HRIS] and Reporting ➤ Personnel Data Systems [PDS] and Reporting ➤ PAYSR Transaction Processing for Group 1 And 2 payroll transactions.
Myra Weiner	2937	Deputy Director	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Employee notification letters for UUP, M/C and Classified Services, including Probationary Program ➤ Employment inquiries and Subponeas ➤ Liason for department audits ➤ Department budget activities

Grace Callender

1187

Deputy Director

Supervises the following:

- Access and develop unique classification and compensation requests for submission to SUNY and/or Civil Service and/or DOB
- Classifies all new positions and reclassifies existing positions in conformance with SUNY/Civil Service/DOB rules and regulations
- Conducts and/or responds to classification and compensation surveys
- Conducts Position Management in SUNY Human Resource Management Systems [HRMS]
- Designation of professional positions for overtime eligibility under FLSA
- Immigration Services
- Extra Service Program
- Employment Window
- Posts all vacancy announcements; collects and forwards resumes/applications to recruiting departments

Maria Silas	1099	Manager, Faculty And Professional Appointments	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Faculty and Professional Appointments and Status Changes ➤ UUP Continuing and Permanent Appointments and Status Changes ➤ UUP Term Renewals
Patricia Brown	2990	Manager, Classified Appointments	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Classified Service Appointments and States Changes ➤ Temporary Agency Employment Contract Placements and funding review ➤ Advertising Agency Contract Placements and funding review
Doriel Forde	2411	Manager, Benefits	<ul style="list-style-type: none"> ➤ Supervises all aspects of State Employee Benefits administration including Worker's Compensation Program and Tax Deferred Annuity Programs ➤ Coordinates new employee orientation ➤ Conducts pre-retirement counseling ➤ Issues ID authorization for new State-paid employees

Tony Parker	4979	Manager, HR Regulatory Compliance	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Staff Credentialing Office and maintenance of Hospital employee required documentation including documentation for contract/agency/employees ➤ Employee Performance Evaluation/Competency Review Program ➤ UUP Non-Renewal process
Ricardo Espinalcs	3063	Personnel Associate	<ul style="list-style-type: none"> ➤ Immigration Services ➤ Extra Service Process
Patricia Larroy	8116	Manager, Nursing Personnel	<p>Supervises the following:</p> <ul style="list-style-type: none"> ➤ Nursing Personnel office ➤ Prepares and processes Nursing Personnel transactions ➤ Communicates with Nursing Administrators and follows up on Nursing Personnel issues ➤ Liaison to UHB FTE Control Board ➤ Liaison to UHB Faculty FTE Control Board

John Zummo

2662

Policy/Systems Analyst

- Develops written Policy and Procedure
- Guidelines for review by Senior Management
- Develops/revises HR forms and related documents as required to enhance operational efficiency
- Reviews/analyses HR systems and makes recommendations to enhance service delivery and efficiency

NEW YORK STATE CIVIL SERVICE LAW -- SECTION 71

A classified service employee absent due to a worker's compensation injury for a cumulative period of one year, who is not permanently disabled, and who has not returned to duty, may be sent a notice of separation pursuant to Section 71. The employee, however, may request that he/she be restored to duty, and is entitled to an examination by the New York State Employee Health Service (State Doctor). If the State Doctor finds the employee to be unfit for duty, the employee has ten days to object to this determination and to request a hearing. The employee's department is responsible for hearing-related fees. It is the responsibility of the supervisor to notify Labor Relations as soon as he/she becomes aware of the possibility of a long-term absence, i.e., more than 30 calendar days

An employee who is terminated under this Section may also claim that he/she is capable of returning to work within one year of the termination of his/her disability. In this instance, the employee must make application to Labor Relations for a medical examination conducted by the State Doctor. If the State Doctor certifies that the employee is physically and mentally fit to perform the duties of his/her former position, he/she shall be eligible for reinstatement under Section 71.

Labor Relations will be in contact with supervisors several months prior to the anniversary date of the employee's absence to consult regarding this decision.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

MEDICAL ASSESSMENTS OF EMPLOYEES' HEALTH, SECTION 72

When to Seek Medical Assessments

Whenever a supervisor believes that an employee's health problem negatively affects the individual's ability to perform his or her duties, the supervisor should consider a referral for medical assessment. The apparent health problems which may lead to referrals include physical and mental or emotional symptoms. The most common circumstances under which a supervisor should consider referral for medical assessment are:

- (1) When an employee requests a leave of absence for health reasons, particularly a long-term leave (such as Family and Medical Act Leave), and the supervisor believes the health reason should be verified by a doctor other than the employee's own physician. [NOTE: It is the responsibility of the supervisor to notify Labor Relations as soon as he/she becomes aware of the possibility of a long-term absence, i.e., more than 30 calendar days]; or
- (2) When a supervisor has reason to believe an employee's health problem has affected his or her performance; or
- (3) When a supervisor has reason to believe an employee has a disability which renders him or her incapable of performing his or her duties. For a Classified Service employee, this referral is made in accordance with Section 72 of the Civil Service Law.
- (4) When a supervisor has reason to believe the employee may be malingering.

Who Performs the Medical Assessment

For Classified Service employees, Labor Relations reviews referrals for medical assessment and transmits them to the Department of Civil Service, New York State Employees' Health Service (hereinafter "State Doctor"). For Unclassified Service employees, fitness for duty may be conducted either by the State Doctor or by a designated physician. All requests to verify either a Classified or an Unclassified Service employee's health status must be made to the Office of Labor Relations. The requesting department is responsible for related fees.

Procedure for Seeking Medical Assessment

The extent and precision of the doctor's report and recommendation for any referral depend on the completeness of the information the Department

provides prior to the examination. To obtain the most useful responses, requests for medical or psychiatric assessments should be sent to the Office of Labor Relations and should include:

1. Employee's full name, Social Security Number, Date of birth, Number of years employed, Title.
2. Job site.
3. Business telephone.
4. Home telephone.
5. Statement whether the referral is for a Section 72 examination.
6. Reason(s) for referral including a description of the problematic behavior, with specific dates and details; for example, excessive use of sick leave; work performance apparently adversely affected by an (un)identified health condition; identifiable pattern of absence that is disruptive to the operations of the unit; bizarre behaviors exhibited.
7. Where pertinent, work history including a specific statement of the facts leading to the referral request. Detailed reference should be made to dates of the pertinent behavior and persons who can attest to these facts.
8. Employee's formal job description and a description of actual assignments, such as a Performance Program.
9. All medical, or other relevant information submitted by the employee.

Labor Relations reviews all referrals and determines if a physician appointment is warranted. The appointment is scheduled after the doctor reviews the submitted information and makes a determination of the type of examination required to evaluate the employee's fitness. The Civil Service Law requires that we share with the employee the same data the physician receives. Labor Relations endeavors to explain to the employee that this process is not intended to be punitive but is designed to assist employees with long-term health issues or those that impact performance.

The employee is responsible for notifying Labor Relations of any cancellation or necessary change in the appointment at least 48 hours in advance. If the employee fails to appear for the exam, the supervisor must contact Labor Relations to determine the employee's status and if further action is warranted.

Procedure After the Medical/Psychiatric Assessment is Made

Labor Relations notifies the referring department of the results of the physician's examination of the employee's fitness.

For Section 72 examinations, *i.e.*, for classified employees only, if the State Doctor finds the employee is unfit to perform the duties of his or her position, Labor Relations gives the employee ten days' notice that he or she will be placed on a leave of absence. The department is copied on this notice. The employee is given a written statement of the reasons for the leave of absence.

If the employee appeals the determination of unfitness, no leave of absence may be imposed, unless Labor Relations determines that the employee's continued presence on the job represents a potential danger to persons or property, or would interfere with operations. In either event, however, the employee must receive a hearing if he/she requests one.

An employee who has been placed on leave after a Section 72 examination and/or proceeding may seek reinstatement within one year after the date the condition for which the leave was imposed is remedied or thereafter, if his or her employment status has not been terminated. The employee seeking reinstatement should apply to Labor Relations for a medical examination by the State Doctor.

SICK LEAVE FOR A YEAR (CIVIL SERVICE LAW, SECTION 73)

Civil Service Law Section 73 provides for separation from service "[w]hen an employee has been continuously absent from and unable to perform for one year..." for other than a disability resulting from occupational disease or injury. The employee may object to the termination and request a hearing if he or she can provide medical documentation indicating that he or she may return to work without limitation.

An employee who is terminated under Section 73 may claim that he/she is capable of returning to work within one year of the termination of his/her disability. In this instance, the employee must make application to Labor Relations for a medical examination conducted by the New York State Employee Health Service or a designated physician. The employee is responsible for notifying Labor Relations in advance of any cancellation or necessary change in the appointment. If the physician certifies that the employee is physically and mentally fit to perform the duties of his/her former position, he/she shall be eligible for reinstatement under Section 73. The requesting department is responsible for all related fees.

A supervisor's obligations under Section 73 begin when an employee has been ill for more than one month or when he/she learns that the employee **may be** out more than 30 calendar days. At that time, the supervisor should inform Labor Relations, in writing, to explore the long-term approach appropriate for the particular employee. NOTE: An employee must be removed from the payroll as soon as authorized leave accruals are exhausted. The supervisor must also notify Labor Relations at the ten-month level to consult on whether, and when, action under this Section should be taken. At the end of the one-year period of absence, a letter from DHR will notify the employee of his/her termination. If the supervisor has any information, at any time, that the employee may not be genuinely ill, is working at another job, or has submitted questionable documentation, he/she must call Labor Relations immediately.

Procedure After the Medical Assessment is Made

Labor Relations notifies the referring department of the results of the physician's examination of the employee's fitness.

[For Section 72 examinations](#), if the State Doctor finds the employee is unfit to perform the duties of his or her position, Labor Relations gives the employee ten days' notice that he or she will be placed on a leave of absence. The department is copied on this notice. The employee is given a written statement

of the reasons for the leave of absence. If the employee appeals the determination of unfitness, no leave of absence may be imposed, unless Labor Relations determines that the employee's continued presence on the job represents a potential danger to persons or property or would severely interfere with operations. In either event, however, the employee must receive a hearing if he/she requests one. The employee's department is responsible for hearing-related fees.

An employee who has been placed on leave after a Section 72 examination and/or proceeding may seek reinstatement within one year after the date the leave of absence is imposed, or thereafter if his or her employment status has not been terminated. The employee seeking reinstatement should apply to Labor Relations for a medical examination by the State Doctor.

PROBATION - CLASSIFIED SERVICE EMPLOYEES

The New York State Civil Service Law and Rules require that a probationary term be served upon original permanent or contingent permanent appointment to a position in the competitive class, upon interdepartmental and intradepartmental promotion, and upon appointment to positions in the exempt, non-competitive and labor jurisdictional classes. When a probationary term is required upon promotion, the employee may be placed on a leave of absence from his/her former permanent position pending that term. Civil Service Law, Section 63.1 (CSL).

A temporary or provisional employee has no permanence rights and, therefore, the law permits termination at will. However, the supervisor must demonstrate to Labor Relations that he/she has offered appropriate supervision and guidance to the employee. SUNY-HSCB recommends that supervisors make efforts to document poor employee performance and address problems by appropriate measures, including counseling, and, if necessary, termination. Temporary and provisional employees must precede permanent employees if positions are abolished and layoffs required.

The basic probationary term for most original permanent appointments is 52 weeks. Employees promoted to positions in grades 13 and below generally receive a 26-week probationary term. Employees promoted to positions in grades 14 and above generally receive a 52-week probationary term. Some appointees, such as those in the Research Scientist series, receive three-year terms. Periods of authorized or unauthorized absence up to 20 workdays may, at the discretion of DHR, be considered as time served toward completing probation. Any periods not so considered or in excess of these maximum intervals should be brought to the attention of DHR at the earliest possible opportunity to effect an extension of the probationary term by the number of workdays of absence not so counted.

A supervisor should report on the conduct and performance of the probationer at least three weeks before the end of the term. The supervisor should also advise the probationer of his/her status and progress at various times during the term. A probationer whose services are to be terminated must receive written notice at least one week prior to the action. Civil Service Rule 4.5 (iii).

Generally, a supervisor need not and should not provide to the employee a written or verbal statement of the reasons for termination. If an employee seeks a meeting to discuss the reasons, the supervisor should consult Labor Relations before responding.

There is no appeal to the Civil Service Commission (CSC) on the merits of probationary dismissal. Courts will not disturb the decision unless it is clearly shown to have been made in bad faith. In other words, the basis for the recommendation of termination may not have illegal or discriminatory elements. Therefore, it is of the utmost importance that the dismissal be supported with appropriate documentation evincing objective, sound reasons for the action. Ideally, the DHR's personnel file should contain a thorough performance evaluation, counseling memos, time and attendance references or other relevant documents that substantiate a firm basis for the termination. Labor Relations strongly recommends that supervisors complete these documents in a timely fashion and according to DHR rules.

Should a probationer, temporary appointee, or any employee wish to resign, the resignation must be in writing. Our "C" Form for Classified Service employees, signed by the employee, will suffice. [A UP-2 Form and letter of resignation is required for all UUP and M/C employees.] A resignation generally may not be withdrawn, cancelled or amended after its delivery to the DHR without the consent of the requesting department, appropriate Vice Presidential Area designees and DHR.

The probationary period is a most valuable time for training and assessing a new employee. It is a time for that employee to demonstrate his/her best performance. The supervisor's concomitant role, to monitor and document the quality and progress of a probationer, cannot be overemphasized. While we seek to nurture productive employees, if, despite our best efforts, we cannot achieve this goal, we must promptly and effectively identify, document and act on problem employees during this time. Thereafter, permanence significantly diminishes our discretion and triggers the counseling process and the contractual disciplinary system as available responses to problem employees.

INVESTIGATIVE INTERVIEWS

Upon receipt of a request for disciplinary action, the Labor Relations Office will notify the requesting department in writing that no administrative transaction concerning the targeted employee may take place without consultation with Labor Relations. [A copy of this letter is attached on page 7.](#)

The Labor Relations Office of HSCB, in response to union requests, has modified notices to employees to appear for investigative interviews. Samples of those requests appear on pages 2 through 6. [The letter on page 2](#) is sent to witnesses. If a witness fails to appear, [the letter on page 3 is sent](#). If an employee has been identified as a target of the investigation, the letters on [pages 4 and 5](#) are sent, in the same progression. If Labor Relations determines that no charges should be brought, [the notice on page 6 is sent](#). The case may be reopened should new information become available, but only if the notice of discipline is issued prior to the expiration of the statute of limitations established in all contracts. (One year-CSEA Article 33.3(a)(2); PEF, Article 33.5 (h); UUP, Article 19.9; nine months-Council 82, Article 8.6.) If it is determined that charges should be brought, a Notice of discipline (“n.o.d.”) is served on the employee and on the employee’s union representative. The notice Labor Relations routinely sends to supervisors upon receipt of a referral for disciplinary investigation [appears on page 7](#). That notice advises that no personnel or administrative action concerning the subject employee may be taken without consulting Labor Relations. [A sample n.o.d. begins on page 8.](#)

MEMORANDUM

TO:

FROM:

DATE:

**SUBJECT: Investigation of Possible Disciplinary Charges Concerning an
Incident that Occurred on _____ and Related Matters**

You are directed to report to my office on _____ at _____ as
you are a possible witness to the above incident.

If you are unable to attend for good cause, you must speak with _____,
to determine when the appointment may be scheduled.

For your information, a copy of Article ____ of the _____ Agreement, which
provides the procedure for discipline, is attached.

Attch.

cc: (Vice President)
(Immediate Supervisor)
David Pappalardo
Case File

MEMORANDUM

TO:

FROM:

DATE:

**SUBJECT: Investigation of Possible Disciplinary Charges Concerning an
Incident that Occurred on _____ and Related Matters**

You are directed to report to my office on _____ at _____ as you are a possible witness to the above incident.

Failure to report to this meeting may result in disciplinary action for insubordination. If you are unable to attend for good cause, you must speak with _____ to determine when the appointment may be scheduled.

For your information, a copy of Article _____ of the _____ Agreement, which provides the procedure for discipline, is attached.

Attch.

cc: (Vice President)
(Immediate Supervisor)
David Pappalardo
Case File

CERTIFIED MAIL #P
RETURN RECEIPT REQUESTED

MEMORANDUM

TO:

FROM:

DATE:

**SUBJECT: Investigation of Possible Disciplinary Charges Concerning an
Incident that Occurred on _____ and Related Matters**

You are directed to report to my office on _____ at _____.

You may, if you wish, bring a union representative to this meeting. If you are unable to report to this meeting for good cause, you must speak with _____ to determine when the appointment may be rescheduled.

For your information, a copy of Article _____ of the _____ Agreement, which provides the procedure for discipline, is attached.

Attch.

cc: (Vice President)
(Immediate Supervisor)
David Pappalardo
Union Grievance Chair
First Class Mail
Case File

CERTIFIED MAIL #P
RETURN RECEIPT REQUESTED

MEMORANDUM

TO:

FROM:

DATE:

**SUBJECT: Investigation of Possible Disciplinary Charges Concerning an
Incident that Occurred on _____ and Related Matters**

You are directed to report to my office on _____ at _____.

You may, if you wish, bring a union representative to this meeting. Failure to report to this meeting will result in action for insubordination. If you are unable to attend for good cause, you must speak with _____ to determine when the appointment may be scheduled.

For your information, a copy of Article _____ of the _____ Agreement, which provides the procedure for discipline, is attached.

Attch.

cc: (Vice President)
(Immediate Supervisor)
David Pappalardo
Union Grievance Chair
First Class Mail
Case File

CERTIFIED MAIL #P
RETURN RECEIPT REQUESTED

MEMORANDUM

TO:

FROM:

DATE:

**SUBJECT: Investigation of Possible Disciplinary Charges Concerning an
Incident that Occurred on _____ and Related Matters**

You previously reported to Labor Relations and gave a statement as part of the investigation of the above incident. I am pleased to inform you that no disciplinary charge will be issued against you as a result of this incident. Thank you for your cooperation in this matter.

cc: (Vice President)
(Immediate Supervisor)
David Pappalardo
Union Grievance Chair
First Class Mail
Case File

CONFIDENTIAL

MEMORANDUM

TO: (Supervisor)

FROM: (LR Staff Member)
Labor Relations

DATE:

SUBJECT: LABOR RELATIONS DISCIPLINARY INVESTIGATIONS

=====

The purpose of this memorandum is to inform you that, after an employee has been referred for a disciplinary investigation, and during the pendency of that matter, your department should not process any personnel or administrative transaction concerning that employee before consulting with Labor Relations. This includes, but is not limited to, notifications of appointment, transfers, salary increases, salary decreases, promotions, performance evaluation ratings, etc.

We have a referral for the following employee(s) in your department:

NAME	LINE #
(Employee Name)	(Employee Line #)

Should you have any questions with regard to the above referenced matter, please contact me at extension 3019.

cc: Case file

CERTIFIED MAIL #P 230-666-898
RETURN RECEIPT REQUESTED

NOTICE OF DISCIPLINE

NAME: John Smith **DATE:** October 25, 2003
ADDRESS: 300 Main Street **SHIFT:** 3:00 p.m. - 11:30 p.m.
Brooklyn, NY 11203
TITLE: Hospital Attendant **PASS DAYS:** Saturday & Sunday
DATE OF SERVICE: October 25, 2003
WORK LOCATION: Department of Nursing
REPRESENTATIVE UNIT: CSEA - Institutional Services Unit

Dear Mr. Smith:

In accordance with the provisions of Article 33 of the Agreement between the State and the Civil Service Employees Association, you are informed that a disciplinary proceeding against you is hereby instituted. The reason(s) for this disciplinary action and the penalty I am imposing are contained in the attachment of this letter.

The proposed penalty will take effect fourteen (14) calendar days from the date of service of this Notice subject to the provisions of Article 33.3(d) of the Operational Services Unit Agreement.

If you wish to grieve this Notice of Discipline, you may do so by completing a Disciplinary Grievance Form (OER-5) and filing it within fourteen (14) calendar days of service of this Notice, in person or by certified or registered mail, return receipt requested, to the Office of Faculty and Staff Relations, State University of New York, State University Plaza, Albany, N.Y.

12246.

- 2 -

You are provided two (2) copies of this Notice of Discipline so that you can furnish one to your union representative. Employees in your negotiating unit are represented by the Civil Service Employees Association (CSEA). Also enclosed are Statement of Rights (OER-9), and copies of Article 33 and Article 35 of the Agreement. You should read carefully the attached statements relating to the disciplinary grievance procedure and to rights provided to you by the State - CSEA Agreements.

Any further communication with you concerning this disciplinary matter will be mailed to your latest address on record in the Department of Human Resources. Your current address on record is indicated above.

Sincerely,

David Pappalardo
Director, Labor Relations

SJG:jb

Attachments: Specifications
Grievance Forms (OER-5)
Article 35 (OER-11)
Statement of Rights (OER-9)
Additional copy of Notice of Discipline

cc: David Pappalardo
William Jones
Unit President (#P 230-666-899)
Irene Cummings (#P 230-666-900)
Personnel File
First Class Mail

ATTACHMENT TO NOTICE OF DISCIPLINE

NAME: John Smith **DATE:** October 25, 2003
ADDRESS: 300 Main Street **SHIFT:** 3:00 p.m. - 11:30 p.m.
Brooklyn NY 11203
TITLE: Hospital Attendant **PASS DAYS:** Saturday & Sunday
DATE OF SERVICE: October 25, 2003
WORK LOCATION: Department of Nursing Services
REPRESENTATIVE UNIT: CSEA - Institutional Services Unit

The following charges of misconduct/incompetence are preferred against you:

SPECIFICATION I

MISCONDUCT

In that while employed as a Hospital Attendant in the Department of Nursing Services, from September 26 to October 15, 2003 you were absent without authorization on nine (9) separate occasions in that you failed to notify your department that you would not be reporting to work. See Schedule A attached.

SPECIFICATION II

MISCONDUCT

In that while employed as a Hospital Attendant in the Department of Nursing Services, from August 6 through September 11, 2003 you had a total of seven (7) unscheduled absences thereby creating a pattern of excessive unscheduled absences. See Schedule B attached.

SPECIFICATION III

MISCONDUCT

In that while employed as a Hospital Attendant in the Department of Nursing Services, on October 10, 2003 you were absent from duty without authorization from approximately 3:10 p.m. to 11:30 p.m.

SPECIFICATION IV

MISCONDUCT

In that while employed as a Hospital Attendant in the Department of Nursing Services, on October 10, 2003 you falsely stated on your Bi-Weekly Attendance & Leave Accrual Report that you were on duty from 3:30 p.m. to 11:30 p.m.

SPECIFICATION IV

MISCONDUCT

In that while employed as a Hospital Attendant in the Department of Nursing Services at approximately 9:00 p.m. on October 5, 2003 you were insubordinate in that you refused a directive from your supervisor, William Jones, to transport a bodily fluid specimen from Nursing Station 74 to the Extended Recovery Room.

The penalty to be assessed against you for the above charges of misconduct is suspension of eight weeks from State service.

SCHEDULE A

September 26, 2003
September 27, 2003
September 28, 2003
October 2, 2003
October 3, 2003

October 8, 2003
October 8, 2003
October 12, 2003
October 15, 2003

SCHEDULE B

August 6, 2003
August 9, 2003
August 10, 2003
August 21, 2003
September 3, 2003
September 4, 2003
September 11, 2003

SAMPLE COUNSELING MEMOS

Section 5 of this manual describes why, when and how supervisors should counsel. Below is a sample memorandum that illustrates the format for notifying an employee of a counseling session. On the next page there is a memorandum that illustrates a [summary of a counseling session](#).

Sample Counseling Session Notice

Memorandum

TO: Name of Employee, Title
FROM: Name of Supervisor, Title
DATE: Month, Day, Year
SUBJECT: **COUNSELING SESSION**

Please be advised that a counseling session to discuss [topic(s)] has been scheduled at (time) on (date) in (location).

Please prepare to attend.

cc: Personnel File

Sample Counseling Memo

TO: Randy Jefferson, (Title)
FROM: Mary Matthews, (Title)
DATE: April 10, 2003
SUBJECT: **Counseling Session of APRIL 10, 2003**

This memo is a summary of our discussion in my office earlier today and your behavior when dealing with Mr. and Mrs. Koch.

Mr. and Mrs. Koch complained that you lost your temper and told them to keep quiet. You confirmed their report explaining that, after disturbing a patient whom they had visited, they would not leave, and you could not take it any more.

Although we did not come to a definite agreement about how seriously your behavior differed from what is expected, I did point out that your frustration in dealing with members of the public should not result in shouting or rudeness on your part. We also discussed that information had been given to you in orientation about how to deal with the public. We agreed that you would attend an in-service training seminar, "Dealing With The Public" next Tuesday starting at 8:30 a.m. Also, per our conversation, I have assigned you to Mrs. Pope. Let's meet in two weeks to see if these activities have been helpful to you.

Thank you for coming in and discussing this. Please contact me if there are other ways I can be helpful to you.

Received By

Date

cc: Personnel File

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

SUBSTANCE ABUSE IN THE WORKPLACE

In accordance with the Drug-Free Workplace statute, HSCB issued a Substance Abuse Policy. The Drug Free Workplace Act requires employers to take steps to ensure a drug-free workplace or face the loss of federal funds. The HSCB Substance Abuse Policy prohibits use and sale of controlled substances and alcohol at work. It also prohibits impairment while at work. It offers employees help through the HSCB Employee Assistance Program (EAP). [The HSCB Policy is included in section 21A.](#) Also provided on the following page are guidelines for employees and supervisors who encounter substance abuse problems at work.

To further assist supervisors who must counsel subordinates whom they believe may have a substance abuse problem, a sample counseling session summary may be [found on pages 6 and 7.](#) Further information is available by contacting Labor Relations at Extension 3019.

**STATE UNIVERSITY OF NEW YORK
(SUNY/BROOKLYN)
HEALTH SCIENCE CENTER
SUPERVISORS' GUIDE TO
ALCOHOL AND CONTROLLED SUBSTANCES PROCEDURES**

In compliance with Federal Law, it is the policy of New York State and SUNY/Brooklyn to maintain a drug-free workplace. This policy prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance at State workplaces and worksites. Employees will be subject to criminal, civil and disciplinary penalties if they distribute, sell, attempt to sell, possess or purchase controlled substances while at the workplace or while performing in a work-related capacity. In those work locations where it is permitted, an employee may possess and use a controlled substance which is properly prescribed for him or her by a physician.

Employees are also prohibited from on-the-job use of or impairment from alcohol or controlled substances. If a supervisor has a reasonable suspicion that an employee is not able to perform his or her duties as a result of a disability which may be caused by use of alcohol or a controlled substance, Labor Relations may require that the employee undergo a medical examination under Section 72 of the Civil Service Law or applicable collective bargaining agreement provisions to determine the cause of the disability.

As a condition of employment, each employee is subject to the terms of this statement and must notify SUNY/Brooklyn if he or she is convicted of any criminal drug statute conviction for a violation occurring in the workplace or at a worksite, no later than 5 days after such conviction. Employees must give notification of these convictions in writing to Labor Relations, Box 53.

What is "Reasonable Suspicion"?

A reasonable suspicion must be based on specific, reliable observations about the employee's appearance, behavior, speech or odor. Some examples would be:

- Unsteady gait
- Odor of alcohol on the breath
- Thick or slurring speech
- Aggressive or abusive language or behavior
- Disorientation or lethargy

Other factors to consider include:

- Employee's time and attendance patterns, such as absences around weekends, pass days or payday, excessive use of sick leave, excessive lateness and unauthorized absences
- On-the-job accidents
- Difficulty in remembering instructions or conversation
- Poor relationships with co-workers and supervisors
- Other variations in productivity

If a Problem is Suspected, How Does the Supervisor Proceed?

1. The supervisor consults with his or her supervisor and the Office of Labor Relations.
2. Together, the above parties may decide to require the employee to undergo a medical examination, which could include a drug test. In such a case, confidentiality of the testing process and results will be maintained.
3. If a positive determination of abuse of alcohol or a controlled substance is made, Labor Relations will decide what action to take, based on the nature of the job and the employee involved. Available options include:
 - Referral to the Employee Assistance Program (EAP). Participation in the EAP is confidential and voluntary on the part of the participant. It is available without a medical examination.
 - Disability leave procedures, when an employee is disabled by drug or alcohol use.
 - Disciplinary procedures consistent with applicable laws, rules, regulations and collective bargaining agreements.

These options are not mutually exclusive. A referral to EAP, for instance, does not exempt anyone from discipline.

INSTITUTIONAL CONSEQUENCES: Setting Limits

It is every employee's responsibility not to "enable" a substance abuser. This obligation requires setting limits on co-workers when they may not be capable of satisfactorily completing their duties. Such a situation must have its institutional consequences, and this message must be communicated. Supervisors, in particular, have a professional obligation to react promptly and appropriately when it is reasonable to suspect substance abuse. This protocol is intended to assist supervisors in their responses to employees who evidence behavior associated with substance abuse. It suggests methods for all employees to set limits and the correct protocol supervisors should follow.

Protocol for Observed or Suspected Substance Abuse

1. If you observe illegal use of drugs or any dangerous or threatening behavior, notify Campus Police at Extension 2626 and Labor Relations at Extension 3019.
2. If you suspect impairment or intoxication:
 - a) Set limits and make clear to the employee that specific consequences will ensue. Practical limits for dealing with co-workers and subordinates who exhibit such symptoms are suggested below. This list is offered in ascending order based on the level of knowledge you have.
 - 1) Refuse to do the other person's work.
 - 2) Refuse to cover for the other person.
 - 3) Constructive confrontation. (This discussion should not take place when the employee is agitated or appears to be under the influence.) Urge EAP consultation. (This step may be taken at any time.) Report it to the supervisor.
 - 4) Arrange EAP consultation. Report it to Labor Relations.
 - 5) Report it to Campus Police, if there is an unsafe working condition or illegal use of drugs on premises.
 - b) If you are a supervisor, document the incident by describing the employee's actions, words, speech, eyes, behavior, gait, etc., in detail, without characterizations; obtain a witness to the incident and notify Labor Relations by telephone followed by written memo;

- b) Speak to the employee; refer that employee to EAP; order the employee to EAP, if necessary. The employee may then decide to what extent, if any, he or she will cooperate with or participate in an EAP program. Any supervisory referral should be in writing and copied to Labor Relations. Upon such a referral, the supervisor should notify Lorraine Brooks, EAP Coordinator, under what circumstance the employee is seeing her. For example, is the employee attending willingly or under a directive?

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

SAMPLE

MEMORANDUM

TO: Barry Beer

FROM: Suzy Supervisor
Administrator

SUBJECT: COUNSELING SESSION OF NOVEMBER 23, 1989

DATE: November 27, 1999

This memo is to summarize the counseling session held with you on November 23, 1999 to discuss the fact that you were found sleeping on the job and your use of alcohol in the workplace.

On November 22, 1999 at about 10:15 a.m., you were observed asleep in the Linen Room with an empty can of Miller Beer in your hands. The Unit Director tried to wake you by gently shaking you, but to no avail. Another employee was asked to assist in attempting to wake you and was successful only after applying cold towels to your face. Upon waking, you were could not sit upright and could not give responsive answers to my questions, including, what day was it, and where were you one hour before.

As of 10:15, you had not performed any of your assigned tasks. You were observed leaving your area around 9:00 a.m. by the Director. Given the condition that you were in when you were awakened around 10:15, you were sent to Student Health and from there, escorted home. Therefore, you did not complete any of your assignments on November 22, 1999. We discussed your docking for the day, and you agreed you should not be able to charge the day to sick leave.

We discussed the Policy on Alcohol and Controlled Substances in the Workplace. You were made aware of the penalties for violation of this Policy. You responded that you did not have an alcohol problem. You said that you were undergoing some stressful situations at home, which caused you to take a drink sometimes.

I have set up an appointment for you to meet with the EAP Coordinator on Wednesday, November 18, 1999 at 2:00 p.m., during your regular working shift.

I directed you to attend this session, although it is your choice to participate in any of the programs. Participation is, of course, confidential. You stated that you would favorably consider the EAP Coordinator's advice to participate in a treatment program.

A follow-up meeting is scheduled for Monday, December 18, 1999, at which time we will review your work performance and discuss what attempts you have made to address your alcohol problem. I have included a copy of the Policy for your review.

I have received a copy of this summary and the policy:

Name

Date

cc: Personnel File

HOW TO HANDLE LEAVES

THE FEDERAL FAMILY MEDICAL LEAVE ACT (FMLA)

Under the Family and Medical Leave Act ("FMLA"), eligible employees are entitled to take up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons during each calendar year. Reasons for taking leave are to care for the employee's child after birth, or placement for adoption or foster care; to care for the employee's spouse, child or parent who has a serious health condition; and for a serious health condition that makes the employee unable to perform his/her job.

Employees are eligible for FMLA leave if they have worked for the State for one year and have actually worked **for 1,250 hours over the twelve months immediately preceding the leave.**

Failure to properly designate leave as FMLA can have adverse consequences for the department and for the individual. For example, failure to timely designate may cause the 90-day period to be tolled. Designation as FMLA for an absence that does not qualify may result in unwarranted protection for those absences.

Each collective bargaining agreement places limits on the number of sick leave accruals that can be charged to the current Family Medical Leave for absences necessitated by illness of a family member or other covered event not related to the employee's own illness. The maximum limit for UUP, PEF, CSEA & NYSCOPBA/ C82 is 15 days per calendar year.

For Family and Medical Leave Act second opinion examinations, if the doctor finds that the employee is fit for duty, the employee has a right to request a third opinion by a health care provider which shall be final and binding.

Contact Labor Relations extension 3019 to receive instructions on how to process FMLA requests. See section 21, subsection H, for detailed instructions on Family Medical Leave.

UNAUTHORIZED ABSENCE

Unauthorized absences are generally defined as those that occur without supervisory approval. Unauthorized absences include the following categories:

1. An employee who fails to report to duty or notify his/her immediate supervisor or designee that s/he will not be at work at the prescribed time.
2. An employee who is out sick who has insufficient leave time to cover the absence(s) and is not on approved leave of absence without pay.
3. An employee who fails to provide appropriate medical documentation subsequent to direction by 1) Labor Relations that such documentation is required for claims of temporary disability or illness, or 2) the supervisor upon their first day of return to duty. The supervisor's direction should be communicated to the employee in a counseling session preferably followed by a written summary. The supervisor should consult with Labor Relations prior to conducting the counseling session & requiring medical documentation; the employee should receive the summary and sign for receipt of same. However, for UUP employees, a medical documentation requirement should be imposed through Labor Relations rather than by the supervisor. A supervisor who wishes to impose this requirement should contact Labor Relations.
4. An employee may, subsequent to consultation with Labor Relations, be considered unauthorized if s/he is absent on a day that s/he had requested and been denied.
5. An employee who leaves his/her worksite without prior authorization from their supervisor.

When presented with the circumstances in #4 above, or at any time there is a question on what constitutes unauthorized absence, the HSCB Office of Labor Relations should be consulted immediately before docking or taking other action. [See Section 21, Subsection K, for further information on Job Abandonment procedures.](#)

HSCB ATTENDANCE MONITORING PROGRAM

The HSCB Time and Attendance Monitoring Program applies to all employees.

1. The Monitoring Process

After the first instance that an employee covered under the Agreement between the State of New York and CSEA is absent without authorization (e.g., no call/no show), the supervisor should orally counsel the employee and caution that any further unauthorized absences may subject them to disciplinary charges. A notation that the employee was orally counselled and cautioned should be memorialized on the employee's timesheet and the Office of Labor Relations should be contacted. After the second instance of an unauthorized absence or the third unscheduled absence within 90 calendar days, the employee should be counselled in writing. After the third instance, the employee should be referred to Labor Relations to be placed on Time and Attendance Watch. At this point Labor Relations may issue a notice of discipline.

2. The Attendance Monitoring Program Criteria

It is the supervisor's responsibility to review the employee's time and attendance on a monthly basis. Employees who continue to manifest unsatisfactory attendance patterns (e.g., excessive unscheduled absences/lateness, calling in sick before/after scheduled days off) after being formally counselled about their time and attendance abuse should be referred to the Office of Labor Relations. The criteria that should serve as a guide to supervisors in determining whether an employee should be required to submit documentation (e.g., medical notes) for all unscheduled absences and/or referred for discipline may be found in [Section 21W](#).

3. Labor Relations' Standards for Processing Referrals

While the above criteria generally will result in a medical documentation requirement, it is within the sole discretion of Labor Relations to impose the requirement or to serve a notice of discipline. In making this determination, Labor Relations may also consider past attendance records or other objective data. Additional information regarding the HSCB's Time and Attendance Program can be found in the HSCB's Supervisors' Manual [Section 21W](#) or you can contact the Office of Labor Relations at extension 3019.

4. Probationary Employees

Departments should continue to be alert to attendance problems

exhibited by new employees during their crucial probationary period. Counselling and attendance watches may be used to correct the behavior of provisional, temporary, or probationary employees; however, they do not limit the supervisor's authority to recommend the end of a provisional, temporary, or probationary appointment.

JOB ABANDONMENT

After the first instance (i.e., not to exceed one day) of an employee being absent without notifying his/her department of said absence, he/she should be formally counseled upon their return to duty by the supervisor if this is the first offense. Employee(s) who are no call/no show for more than one day but less than three, should be docked (i.e., removed from the payroll for days of absence) and immediately referred to Labor Relations for discipline.

When employees are absent without notification for three consecutive days or more, the supervisor must notify Labor Relations in writing or by telephone and request that job abandonment be pursued. If the supervisor calls Labor Relations he/she must confirm the request in writing within one business day. Supervisors requesting job abandonment should carefully investigate within their departments to insure that no calls, letters or other communication occurred prior to notifying Labor Relations. If notification has occurred in accordance with departmental procedures, the employee should not be considered as having abandoned his or her job. Labor Relations should be consulted to determine if disciplinary action should be pursued as an alternative to job abandonment.

Once a job abandonment request is made, the supervisor should insure that the timesheets of the absent employee are updated to reflect the period of unauthorized absence. Copies of recent timesheets should be included with the request for job abandonment. Agreements between the State of New York and various unions provide different procedures and definitions of job abandonment. Below is a summary of the requirements for each union.

CSEA - Administrative, Operational, and Institutional Services Units

Article 36 of the **Agreement** provides that an employee absent from duty for 14 consecutive calendar days shall be deemed to have resigned from his/her position. S/he has 15 calendar days from the date the resignation is deemed to take effect, as specified in a letter from Labor Relations, to explain in writing why it was impossible to report to work or notify HSCB and the reason for his/her absences.

PEF - Professional, Scientific and Technical Services Unit

Article 35.3 of the **Agreement** provides that an employee absent from duty for 10 consecutive workdays shall be deemed to have resigned from his position. S/he has 20 calendar days from the date the resignation is deemed to take effect to explain in writing why it was impossible to report to work or notify HSCB of the reason for his/her absences.

NYSCOPBA - Security and Security Supervisor

Article 14.10 of the **Agreement** currently in effect provides that an employee absent from duty for 10 consecutive workdays shall be deemed to have resigned his position. The newly elected bargaining unit representative, New York State Corrections Officers and Police Benevolent Association (NYSCOPBA), will negotiate a contract that may vary these and other terms.

UNITED UNIVERSITY PROFESSIONS

Article 23.10 of the **Agreement** provides that an employee absent without authorization for 10 consecutive workdays shall be placed on a leave of absence without pay for the balance of the semester where the College has hired a replacement for the employee.

If the unauthorized absence without written explanation continues for a total of 30 consecutive workdays, the employee shall be deemed to have resigned.

For further information and interpretations see Section 21 K, and please consult with the HSCB Office of Labor Relations.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

NO RETALIATION POLICY

Supervisors should be alert to the fact that retaliation is prohibited and illegal. It can be a violation of a collective bargaining agreement, the Public Employee Relations Law, or other state and federal laws. This prohibition applies to employees who have filed grievances, who have filed complaints with the Office of Labor Relations, the Office of Opportunity and Diversity, with the State Division of Human Rights, the Department of Labor, in the court system, etc. This rule protects an employee if he/she can demonstrate that some disciplinary or other adverse personnel action was motivated by a retaliatory intent. Supervisors must, therefore, be cautious not to respond defensively if an employee makes such a complaint. Supervisors are urged to consult with Labor Relations before taking any personnel action with respect to an employee who has filed a formal complaint, for example, claiming disability discrimination. This caution does *not* mean, however, that such an employee is not subject to discipline or other "adverse personnel actions". For example, an employee may be transferred, a shift may be changed, or overtime required if the applicable union contract is satisfied, and if the employee has not been singled out based on the grievances/ complaints/disclosures he/she had made. Similarly, if the employee commits an infraction that would otherwise subject a person to disciplinary charges, that person may be charged. An independent basis, separate from the subject of the complaint, must be clearly established. If such an infraction has been committed, Labor Relations will assist in developing the charge and determining whether, in fact, the events are distinct. Therefore, if a supervisor initiates any disciplinary action against such an employee, he/she should notify Labor Relations in writing, describing the underlying complaint and explaining the differences between it and the facts from which the disciplinary case arose.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

WORKERS' COMPENSATION PROGRAM

Provided below is a brief overview of the New York State's Workers' Compensation Program, which is applicable to the State University of New York Health Science Center at Brooklyn (SUNY HSCB). The supervisor can facilitate the receipt or denial of benefits in several ways that are set forth below.

Definitions and Conditions of Coverage

- New York State Workers' Compensation benefits are intended to ensure income maintenance for an employee who suffers a job-related injury.
- A Workers' Compensation disability is defined as any injury, disease, or condition arising out of, or occurring in the course of, the normal conditions of employment and is an unavoidable result of the same.
- All annual salaried employees subject to the Attendance Rules and whose positions are in ASU, ISU, OSU, PS&T, Council 82 (NYSCOPBA) or Management/Confidential (06) are eligible for Workers' Compensation. Employees are eligible from their first day of employment with SUNY Health Science Center at Brooklyn.
- Classified Service full-time and part-time employees (including those employed on a seasonal basis) who have Attendance Rules coverage are eligible for this benefit. Those who are paid on an hourly or per diem basis must have gained Attendance Rules coverage, by having completed the required 19 qualifying bi-weekly pay periods, prior to becoming eligible for this benefit. However, once Rule coverage is attained, these employees' benefits are identical to those available to annual salaried employees.
- M/C and UUP employees are ineligible for the Workers' Compensation nine-month benefit; however, other options may be available (please see Section 20-Page 16).

SUPERVISOR'S GUIDE

I. Introduction

The purpose of this information package is to explain the supervisor's role in handling workers' compensation claims. The New York State Workers' Compensation Law was created to ensure that certain benefits are paid during an extended period of absence from work as a result of any injury, disease or condition arising out of or occurring in the course of the normal conditions of employment.

II. Filing Workers' Compensation Claims

Should an employee have an accident or illness at the worksite:

• **THE ORIGINATING DEPARTMENT SUPERVISOR MUST:**

1. **Immediately notify** Benefits of the alleged incident by calling Extension 4301 and providing the following information:

- Employee's name
- Employee's Social Security Number
- Employee's bargaining unit
- Employee's current home address
- Employee's telephone number
- Employee's title
- Nature, time, date and location of injury
- **Follow instructions of Workers' Compensation Program under the employee's bargaining unit described below.**

2. **Immediately** provide Benefits with the completed Employee Accident and Investigation Report ("EAR"). You must also provide a copy of the Employee Accident and Investigation Report to Student/Employee Health Service when referring the employee for medical attention.

Copies of the EAR should also be furnished to the Office of Environmental Health and Safety (D. Bejasa, Box #13), the Office of Risk Management (C. Yeaton, Claims Manager, Box #23), Epidemiology and Infection Control (Box #23), and to the employee.

NOTE: Supervisors must also furnish the Department of Environmental Health and Safety (Box #13) with a completed Safety Program Investigation Form.

3. Refer the injured employee to the Student/Employee Health Service with a Referral Slip and a copy of the EAR. The Student/Employee Health Service is located at 440 Lenox Road, Suite 1S, and is open Monday through Friday from 9:00 a.m. to 4:00 p.m. During times when Student/Employee Health Service is closed, you may refer the injured employee to the Nursing Supervisor on duty who will refer the employee to the physician on duty or to the ACRC.

NOTE: Night, Evening and Weekend Supervisors must refer the employee to the Nursing Supervisor on duty who will complete the Physician's Employee Accident Report - Addendum or refer employee to the physician on duty or to the ACRC.

Employees should NOT be referred to Kings County Hospital Center unless medical services cannot be provided by SUNY HSCB. The Nursing Supervisor or the physician providing care must forward the entire completed Physician's Employee Accident Report - Addendum to the originating department's supervisor.

Night, Evening or Weekend Supervisor ONLY: When the completed Physician's Employee Accident Report - Addendum is received from the Nursing Supervisor on Duty:

- (a) Keep a copy
- (b) Send a copy to the same distribution as EAR
- (c) Send a copy to Student/Employee Health Service (Box #33)

4. Notify Benefits of any changes or developments in the injured employee's health status (e.g., disability termination, retirement, death, etc.). **Any lost time due to the injury MUST be reported to Benefits as soon as possible.**
5. If medical documentation clearing the employee to return to work is submitted to the department, it should be forwarded to Benefits, Box #1191, as soon as possible. Supervisors should not allow employees to return to duty without consulting Benefits. Benefits will verify the

medical documentation and determine, in conjunction with the supervisor, the date the employee is eligible to return to work.

The supervisor should notify Benefits, in writing, whether the employee returns to work on the day the employee is directed to return.

• **THE INJURED EMPLOYEE MUST:**

1. Notify his/her supervisor of injury or accident as soon as it occurs.
2. Complete the Employee Accident and Investigation Report (EAR).
3. Submit the EAR to the immediate supervisor.
4. Call the New York State Accident Reporting System (ARS) by calling the toll free number 1-888-800-0029 which is available 24 hours a day. The ARS operator will give the employee an incident number. This number will be needed when the employee uses the prescription drug benefit under the ONECARD Rx card.
5. The ONECARD RX card is the Workers' Compensation/Health Insurance prescription drug program. The employee will not have to pay a co-payment fee for most prescription drugs the employee may need for a work-related injury or illness.
6. Keep in written and verbal communication with supervisor AND Benefits **during the period of absence** by calling in on a daily basis and supplying medical documentation.

• **STUDENT/EMPLOYEE HEALTH SERVICE OR THE ACRC MUST:**

1. Complete Physician's Employee Accident Report - Addendum.
2. Forward completed Physician's Employee Accident Report - Addendum to Benefits (Box #1191), the Office of Environmental Health and Safety (D. Bejasa, Box #13), the Office of Risk Management (C. Yeaton, Claims Manager, Box #23), the originating department, and to the employee within 48 hours of the alleged incident.

III. Workers' Compensation Benefits - The Role of the State Insurance Fund

After an employee makes a Workers' Compensation claim, the State Insurance Fund (SIF), the insurer that handles all work-related injuries or diseases claimed for State employees, will make a decision whether to accept the claim or oppose it. At some time in the future, SIF will send the employee a notice explaining this decision. You will be notified of the decision by Benefits.

SIF's decision whether to accept or deny the Workers' Compensation benefits is based upon the details provided in the EAR and the medical reports from a health care provider. It is, therefore, imperative that you provide as much detail as possible about the accident on the EAR and forward any medical notes or reports that the supervisor receives from the employee to Benefits. All medical bills related to the injury or illness should be submitted to SIF as soon as possible. These bills may be paid by SIF if the claim is accepted.

As the State Insurance Fund reviews the employee's case, it will send the employee written notices indicating its case number and the status of the claim. It will inform the employee if the case is controverted (not accepted). **If the claim is accepted, SIF is solely responsible for maintaining the payment benefit.**

IV. Medical Evaluations

Injured employees in all units may be referred through the Department of Human Resources-Benefits to:

1. The State Insurance Fund (SIF)
 - (a) Priority medical (first 5 days)
 - (b) Regular medical consultation (at any point during the disability)

Requests for these referrals should be submitted by the employee's supervisor, in writing, to the Office of Benefits, Box #1191. Priority exams are requested infrequently; but they can make an important difference to you, to the employee and to SUNY HSCB. For instance, of a work-related injury to a knee or a back may require an MRI, expeditious referral for a priority exam can result in early diagnosis and treatment. On the other hand, if an employee suffers a minor injury but claims a need to be out for what seems an unreasonable period, the priority exam can quickly determine whether the claim is supportable. Finally, if there is reason to doubt whether the employee suffered an injury or if it is work-related, the priority exam should be utilized.

V. Conditions of Coverage

Below are some important conditions that apply to **all HSCB employees who are absent due to a workers' compensation injury or illness:**

- Employees are required to notify SIF and Benefits of any changes in their address to ensure that they continue to receive benefit checks.
- Employees are required to present ongoing, verifiable, satisfactory medical documentation to Benefits during the course of their absence. Medical documentation must include a clear statement of (a) date of examination (b) the ability to work (c) prognosis for recovery (d) date of next examination and (e) signature by a physician. Benefits may require the physician to complete a form which estimates the employee's physical capabilities in detail. If any medical bills or doctor's notes are submitted to the supervisor, they should be forwarded to Benefits as soon as possible.
- Employees must be available to report to Human Resources at any time during regular working hours to discuss their claim and all related matters.
- If the employee's own doctor or the SIF physician provides satisfactory documentation indicating that he/she may return to full and unrestricted duty, the employee must do so by that date. **Failure to report on that date may result in disciplinary action.** Prior to returning to work, the employee must submit the medical note clearing the return to work to Benefits. Benefits will consult you, and the employee will be notified by Benefits when to report to duty.
- Employees must attend medical examinations scheduled by the State Insurance Fund or HSCB. Failure to do so may result in elimination of benefits, leave without pay, counseling and/or disciplinary action. If SIF or HSCB determines that the employee is fit to return to duty, he/she will be directed to return and must do so.

- Employees may be subject to monitoring and/or follow-up investigations of disability claims made to the Workers' Compensation program, including, but not limited to, examination by SUNY HSCB's choice of physician(s).
- HSCB may require the employee to come to Benefits in person to deliver medical documentation. If the employee cannot keep this appointment for a medical reason, the employee may be required to submit medical documentation supporting the inability to report.
- Failure to comply with any directives may result in delay of the receipt of the employee's check and/or disciplinary charges.

If you have any questions concerning this policy, please E-Mail Personnel Services: goeloealston@downstate.edu.

Workers' Compensation Program: How it Works

If Claim is Accepted

STATUTORY BENEFITS PROGRAM FOR **CSEA EMPLOYEES**

[After 7/1/92]

This benefit provides employees, absent due to a work-related incident, reimbursement for medical expenses and a wage replacement equal to two thirds of your average weekly wage not to exceed \$400 dollars. An employee **may charge** any available leave accruals during the initial **seven calendar day** waiting period and request sick leave at half pay after exhaustion of leave credits. Once the seventh calendar day period has passed, the employee will be placed on a workers' compensation disability leave without pay and receive wage replacement benefits directly from the State Insurance Fund (SIF).

The employee has the right to a leave of absence from his/her position for a maximum of one cumulative year unless the employee is found to be permanently disabled.

- **When Will the Employee Receive Wage Replacement Payments**

If the SIF, as the State of New York's insurance carrier, accepts responsibility for the claim, the first payment must be made within 18 calendar days after the disability commences or 10 calendar days after notification to the Benefits Office, whichever is later. In order for the SIF to pay wage replacement benefits, they need to have an accident report from us, the employer, and a medical report from a physician indicating the employee's disability is related to the reported injury. Payments are then due every two weeks for the period of disability.

If the employee is entitled to wage replacement benefits from the SIF the employee will receive two checks at approximately the same time at the beginning of his/her disability: - a check from the State [HSCB] for the two weeks the employee worked prior to your accident (lag paycheck) and a wage replacement check from the SIF for the initial period of disability. As a result of receiving these two checks at approximately the same time, the employee is no longer on a two-week lag payroll cycle. Consequently, when the employee recovers, returns to work and is restored to the State's payroll, the employee will be required to make up this two-week lag period. The result is that the employee will not receive the first State paycheck until s/he has worked for approximately four weeks while the SIF disability payments will stop close to the employee's return to work date.

- **How Will The Replacement Rate Be Determined**

If the employee is disabled and is eligible for wage replacement benefits, s/he will receive two-thirds of the average weekly wage, but no more than the maximum benefit of \$400. The employee's average weekly wage is determined by the SIF based on payroll records for the year prior to the date of disability or accident.

Under the Workers' Compensation Law, disabilities are classified under several groups. When a disability is classified as total, the employee will receive the maximum benefit based on the employee's average weekly wage. When the employee's disability is classified as partial, s/he will receive a percentage of the benefit maximum based on the employee's average weekly wage and the employee may qualify to participate in the Mandatory Alternate Duty Program described below.

- **Medical Documentation**

The employee is responsible for ensuring that the treating physician submits the necessary medical information to the SIF. Please note that without medical documentation, the SIF cannot process payment to the employee. Adequate medical documentation substantiating the employee's absence **must** also be submitted to the supervisor, and to Benefits **for the duration of the employee's absence.** **Such documentation must contain a prognosis, diagnosis and expected date of return if known, or the next scheduled medical appointment.**

----**SIF REQUIREMENTS**

It is the employee's responsibility to submit medical documentation to the State Insurance Fund (SIF). Should the employee fail to submit documentation, payments from SIF may be stopped. The employee may be referred for a medical examination by SIF. The employee must keep the appointment and be on time for it. If the employee does not keep the appointment, the compensation benefits may cease. In addition, employees may be subject to disciplinary action for failure to keep an appointment for an SIF examination.

During the employee's absence all correspondence transmitted to SIF by Benefits will be copied to the employee and to you. In addition, Benefits will maintain ongoing communication with you. Should you have any questions or need direction, do not hesitate to call extension 4301.

If the SIF or employee's physician determines that the employee's disability has lessened, the compensation benefits may be reduced.

----**AGENCY REQUIREMENTS**

Employees also must submit copies of all their medical documentation to the Benefits Office. Employees who do not submit satisfactory documentation or who do not keep SIF appointments may be subject to counseling or disciplinary action.

- **Return to Duty**

The employee must submit adequate documentation of medical clearance and intent to return to full duty to the worker's compensation administrator and to you, the supervisor, at least one week in advance of the date the employee returns to duty.

Appropriate medical documentation should be submitted **PRIOR** to allowing an employee to return to work. The employee should be able to perform in full duty status without restrictions. If medical documentation clearing the employee to return to work is submitted to the supervisor, it should be forwarded to Benefits, Box #4301, as soon as possible. Supervisors should not allow employees to return to work without consulting Benefits. Benefits will verify the medical documentation and determine, in conjunction with the supervisor, the date the employee is eligible to return to work. ***The supervisor should notify Benefits, in writing, whether the employee returns to work on the day the employee is directed to return.***

The employee may charge leave credits for **partial day** absences following return to work. However, they **are not** permitted to charge leave accruals for **full days** of intermittent absences following return to work. Accordingly, when an employee reports any future absences related to the above-referenced accident, you **MUST** inform Ms. Stephanie Watson, Workers' Compensation Administrator, at (718) 270-4301. **Please note that the employee will be removed from the State Payroll for the duration of any future intermittent full-day absence attributable to the accident.** Accordingly, Benefits will inform the SIF of these absences.

The final decision as to whether these intermittent absences are attributable to the workers' compensation injury will be made by the Workers' Compensation Board.

- **Returning to Work Prior to Full Recovery/Mandatory Alternate Duty Program**

The Mandatory Alternate Duty Program (MADP) will allow management to recall an employee to duty and will allow an eligible employee to request to return to duty subject to the eligibility criteria.

To qualify for participation in this program an employee must meet the following criteria:

1. be classified as partially disabled at **50% or less** by SIF; and
2. have a prognosis of full recovery (defined as the ability to perform the duties of the job in which the employee was injured) **within 60 calendar days** (defined as 60 calendar days prior to the date of full recovery given by the examining physician).

Management shall have the authority to make mandatory alternate duty assignments to tasks that can be performed by the employee not necessarily within their original job duties, title series, work schedule, work location or work week.

The employee who accepts a mandatory alternate duty assignment is returned to the payroll and is entitled to receive his/her regular salary for the period of the mandatory alternate duty assignment. Eligibility for added salary factors is the same as for an employee performing full duties. In addition, time spent in a mandatory alternate duty assignment counts as time served for the purpose of completing an employee's probationary period. Employees working a mandatory alternate duty assignment are in full pay status and are eligible to earn bi-weekly leave accruals, observe holidays, earn holiday pay or holiday leave for work on a holiday, earn floating holidays, and otherwise be treated for attendance and leave purposes as any other employee at work performing his/her regular duties.

Where an employee declines a mandatory alternate duty assignment, the employee will be continued on workers' compensation disability leave without pay and will be referred to the SIF for an appropriate benefit determination.

Employees who neither request nor are ordered to return to work continue on workers' compensation disability leave without pay receiving wage replacement benefits from the SIF in accordance with the Workers' Compensation Law.

During the period of alternate duty, the employee will be expected to provide periodic medical documentation from the attending physician to verify that the employee's medical condition and the assignment remain consistent and to confirm full recovery prior to returning to the regular job assignment.

- **Civil Service Law Section 71**

Please be advised that when an employee has been placed on a leave of absence from State service by reason of a disability resulting from occupational injury or disease as defined in the workers' compensation law, he/she shall be entitled to such leave of absence for one year, unless his disability is of such a nature as to permanently incapacitate him/her from the performance of the duties of his/her position. After the commencement of the cumulative 365 days of leave, the State reserves the right to separate the employee from his/her position in State service.

If the employee does not return to work prior to the expiration of workers' compensation leave, the employee can be separated from State service as a matter of law. The employee has the right thereafter to apply to the Department of Civil Service within one year of the end of disability for a medical examination to determine the employee's fitness to return to work. If the employee is fit to return to work, we will consider the employee for reinstatement to the employee's position, if vacant, or to a similar position. If the employee cannot be reinstated at that time, the employee's name will be placed on a preferred list pursuant to Section 71 of the Civil Service Law and Rule 5.9 of the Rules for the Classified Service.

- **The Family Medical Leave Act**

If the accident requires the employee to be absent from work for a period of more than three days and to seek continued treatment by a health care provider, the employee's health status may meet the definition of a serious health condition under the Family Medical Leave Act (FMLA). If the employee meets the 1250 hours of service requirement, we will designate the employee's leave as both a worker's compensation leave of absence and family medical leave.

Please see benefits under the Family Medical Leave Act on Section 18 page 1.

- **The Americans with Disabilities Act**

As required by the Americans with Disabilities Act (ADA), it is the policy of this agency to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee with a disability. If the employee is an individual with a disability, as defined by the ADA, the employee

may be entitled to an accommodation to enable him/her to perform the essential duties of the position. If an employee believes that he/she would be able to perform the duties of the position with a reasonable accommodation, the employee must contact Grace Callender, Reasonable Accommodation Officer (270-1738), for an application to request such an accommodation or for further information concerning the ADA.

- **Authorized Payroll Deduction**

If the employee qualifies for supplemental payments through the medical evaluation program, deductions that would be taken out of the employee's regular paycheck will be deducted from their supplemental check if the supplement is sufficient. Such deductions include, in addition to taxes, Social Security and Medicare. If the employee's supplement is insufficient to cover all fixed deductions, it will be necessary to cancel those deductions. If the employee's supplement becomes sufficient, deductions will be automatically restarted again, with the exception of health insurance.

The employee is responsible for arranging to make payments directly for all payroll deductions not taken. Payroll deductions are listed on the employee's paycheck. The employee is responsible to carefully review his/her check stub every two weeks as deductions may be added or deleted as the supplement changes.

- **Direct Deposit Program**

If the employee has participated in the Direct Deposit program, the employee will not be able to have the SIF's payment sent directly to his/her account. Once the employee has returned to work, however, the employee may submit a memorandum to Steven Sodikoff in the Payroll Office indicating that he/she was on worker's compensation leave and would like to continue with direct deposit. If the employee continues to meet the eligibility requirements as listed in the Payroll Office, direct deposit will be continued.

- **Accruals**

The employee will continue to accrue sick, annual and personal leave while on workers' compensation leave. However, the only holidays that the employee will be allowed to accrue are floating holidays designated by the Governor's Office of Employee Relations. If the employee is on workers' compensation leave when his/her anniversary of employment occurs, any existing personal leave accruals are to be deducted from their balances and a new personal leave balance credited. Supervisors should complete time sheets for employees who are on leave. The timesheet should reflect the fact that the employee is absent, is on workers' compensation leave, and is therefore unable to sign the time sheet.

- **Health Insurance**

The employee will continue to be covered by health insurance benefits while receiving compensation payments from SIF. However, payments may be deferred until the employee returns to the payroll, when he/she will be required to repay his/her portion of health insurance contribution not paid while on workers' compensation leave. The employee must contact the Benefits Office to make arrangement for health insurance coverage while on Workers' Compensation Disability Leave Without Pay.

- **Retirement Benefits**

The employee will continue to be part of the retirement system during workers' compensation leave; he/she will be required to pay the amount of his/her own contributions owing for the retirement benefits upon return to work.

- **Other Union Benefits**

The employee should contact the appropriate Union Office if there are any questions about benefits afforded directly by the Union.

- **Credit Union**

Questions about the Credit Union should be made directly to the employee's local Credit Union office.

MEDICAL EVALUATION PROGRAM FOR **PEF** EMPLOYEESAfter
7/1/93

PEF employees have the choice to apply for benefits under the Workers' Compensation Law Benefit or the Medical Evaluation Program. Unless the Benefits Office is informed in writing of the employee's decision it will be understood that the employee is interested in the Medical Evaluation Program. As a **PEF employee** who suffered a work related injury/illness subsequent to July 1, 1993, the programs available to the employee are as follows:

PROGRAM I - WORKERS' COMPENSATION LAW COVERAGE

This benefit provides employees, absent due to a work-related incident, reimbursement for medical expenses and a wage replacement equal to two thirds of the employee's average weekly wage not to exceed \$400 dollars. The employee may charge any available leave accruals during the initial seven calendar day waiting period and request sick leave at half pay after exhaustion of leave credits. Once the seventh calendar day has passed, the employee will be placed on leave without pay with no additional benefits.

If the injury requires it, the employee has the right to a leave of absence from his/her position for a maximum of **one cumulative** year unless found to be permanently disabled.

PROGRAM II - MEDICAL EVALUATION & ALTERNATE DUTY

As of July 1, 1993, PEF employees are eligible to participate in the Medical Evaluation Program that will make the employee eligible for benefits with a supplement to bring the employee up to a minimum of 60 percent of their gross pay or full pay if the employee participates in the Mandatory Alternate Duty Program. To qualify for the Mandatory Alternate Duty program the employee must be classified as partially disabled at **50% or less** by the State Insurance Fund (SIF) and have a prognosis for full recovery within **60 calendar days**. **See the description of the Mandatory Alternate Duty Program Section 20-Page 10.**

Both programs (I and II) have initial payments dispensed through our insurance carrier, the SIF. If there are supplemental payments, they will be dispensed through the Payroll Office of the SUNY Health Science Center at Brooklyn with a return to full pay if the employee receives an alternate duty assignment.

PEF employees follow the same procedure as CSEA employees in the following categories. As such, please see the description above of:

- **When Will the Employee Receive Wage Replacement Payments**
- **How Will The Replacement Rate Be Determined**
- **Medical Documentation**
- **Return to Duty**
- **Returning to Work Prior to Full Recovery/Mandatory Alternate Duty Program**
- **Civil Service Law Section 71**
- **The Family Medical Leave Act**
- **The Americans with Disabilities Act**
- **Authorized Payroll Deduction**
- **Direct Deposit Program**
- **Accruals**
- **Health Insurance**
- **Retirement Benefits**
- **Other Union Benefits**
- **Credit Union**
- **If Claim is Opposed**

Management/Confidential **M/C 13** & **UUP** **(Unclassified)**

Employees are ineligible for the Workers' Compensation nine-month benefit. Injured employees can charge their own accruals and, upon exhausting accruals, can request Presidential Sick Leave in writing. It should be emphasized that it is in the President's discretion to grant or deny Presidential Sick Leave. Adequate medical documentation **must** be submitted by employees to **Benefits** on a bi-weekly basis for the duration of the absence. Such documentation should contain the prognosis, diagnosis and expected date of return if known, or the next scheduled medical appointment. The supervisor should send Benefits all pertinent data received regarding the injury. Depending on the years of service and length of disability, employees may be eligible for disability insurance benefits. Unclassified employees may request a Leave of Absence Without Pay and receive some Workers' Compensation benefits through the State Insurance Fund. The employee will **NOT** continue to be covered by health insurance while receiving compensation payments from SIF. They will be contacted by COBRA and will be given the option of paying health insurance premiums while on a Workers' Compensation Leave of Absence and until the employee returns to duty.

The employee does not accumulate accruals while on Worker's Compensation Leave of Absence, they only accumulate time when they are charging their own accruals.

Council 82/NYSCOPBA

Injured employees, upon submission of appropriate medical documentation, can be granted Workers' Compensation Leave for up to **six months**. At the end of the six months, employees can charge accruals. Upon exhaustion of these accruals, employees may request, in writing, Sick Leave at Half Pay. (NOTE: Until a new collective bargaining agreement is negotiated, Council 82/NYSCOPBA employees follow the "old" Workers' Compensation Program, which was in effect for all employees prior to April of 1986.)

If Claim is Opposed

SIF, our insurance carrier, will determine whether claims filed by employees for Workers' Compensation benefits will be paid or opposed. (SIF uses the term "controverted".) If a claim is opposed by SIF, final determination will be made by the Workers' Compensation Board. While SIF determines if it will oppose or accept a case, you, as the supervisor, should verify the validity of a claim by providing a thorough "Supervisor's Statement" (entry #21 in the Employee Accident and Investigation Report). If an employee has not reported an incident on a timely basis and/or the supervisor has no knowledge of the incident, this, too, should become part of the supervisor's statement.

MEMORANDUM

TO: All Employees

FROM: Stephan Kass

DATE: October 4, 2000

SUBJECT: State University of New York/Downstate Medical Center (SUNY-DMC) Policy on Alcohol and Controlled Substances in the Workplace

Introduction

Under the Federal Drug-Free Schools and Communities Act Amendments of 1989, New York State policy, and the Federal Drug-Free Workplace Act, SUNY- DMC must take certain steps as part of a good faith effort to maintain a drug-free workplace and establish a drug-free awareness program. Accordingly, SUNY-DMC has adopted the attached SUNY-DMC Policy Statement on Alcohol and Controlled Substances in the Workplace. The Policy is designed to inform employees about the dangers of drug and alcohol abuse in the workplace, to explain the sanctions for drug and alcohol offenses in the workplace, and to describe the medical, legal and employment consequences of substance abuse. SUNY-DMC will review its drug and alcohol programs biennially for effectiveness and consistency of application and where necessary make appropriate changes.

In summary, the policy prohibits employees from unlawfully using, manufacturing, distributing, dispensing, or possessing a controlled substance or alcohol at State workplaces, work-sites and SUNY-DMC sponsored activities. Employees are also prohibited from on-the-job use of alcohol or controlled substances or coming to work in an impaired state as a result of the use of alcohol or controlled substances. If a positive determination of abuse of alcohol or a controlled substance is made, in addition to the options set forth in the Policy Statement, SUNY-DMC will seek disciplinary penalties in accordance with the schedule attached to the Policy Statement. Similar rules apply to SUNY-DMC students.

Please note particularly the requirement that, as a condition of employment, any employee convicted of drug-related crimes must report his or her conviction to SUNY-DMC if

the violation took place in the workplace. State agencies that fail to impose this requirement or comply with the other provisions of the law will lose substantial amounts of federal assistance in the form of grants and contracts. Employees need report convictions only, not arrests. SUNY-DMC must notify the federal oversight agency of workplace drug statute convictions of personnel hired under a federal contract or grant. Also, SUNY-DMC must take appropriate action in response to a drug statute conviction within thirty days of notification. In addition, a drug-free awareness program must be conducted.

Employees are referred to the attached policy statement for a statement of prohibited behavior, applicable sanctions, legal penalties applicable to drugs and alcohol, health risks of drugs and alcohol, and counseling, treatment, rehabilitation and re-entry programs.

STATE UNIVERSITY OF NEW YORK DOWNSTATE MEDICAL CENTER
(SUNY-DMC)

POLICY STATEMENT ON
ALCOHOL AND CONTROLLED SUBSTANCES IN THE WORKPLACE

In compliance with Federal Law, it is the policy of New York State and SUNY-DMC to maintain a drug-free workplace. This policy prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance at State workplaces and work-sites. Employees will be subject to criminal, civil and disciplinary penalties if they distribute, sell, attempt to sell, possess or purchase controlled substances while at the workplace or while performing in a work-related capacity. In those work locations where it is permitted, an employee may possess and use a controlled substance that is properly prescribed for him or her by a physician.

Employees are also prohibited from on-the-job use of or impairment from alcohol or controlled substances. As a condition of employment, each employee is subject to the terms of this statement and must notify SUNY-DMC if he or she is convicted of any criminal drug statute for a violation occurring in the workplace or at a work-site, no later than 5 days after such conviction. Employees must give notification of these convictions in writing to the Office of Labor Relations at Box 1224.

If a supervisor has a reasonable suspicion that an employee is not able to perform his or her duties as a result of a disability which may be caused by use of alcohol or a controlled substance, the supervisor must consult the Labor Relations Unit. The Labor Relations Unit may require that the employee undergo a medical examination under [Section 72 of the Civil Service Law](#) or applicable collective bargaining agreement provisions to determine the cause of the disability. This medical examination could include a drug test. In such a case, confidentiality of the testing process and results will be maintained.

If a positive determination of abuse of alcohol or a controlled substance is made, the Labor Relations Unit will decide what action to take, based on the nature of the job and the employee involved. Available options include:

- Referral to the Employee Assistance Program (EAP). Participation in the EAP is confidential and voluntary on the part of the participant. It is available without a medical examination. Attachment A is a description of the EAP.
- Disability leave procedures, when an employee is disabled by drug or alcohol use.
- Disciplinary procedures consistent with Attachment B, Sanctions for Violations of the Alcohol and Drug Policy, as well as applicable law, rules, regulations and collective bargaining agreements.

These options are not mutually exclusive. A referral to EAP, for instance, does not exempt anyone from discipline.

Sanctions for Drug and Alcohol Policy Violations - General Information

Attachment B is the schedule of sanctions for violations of the drug and alcohol policies that SUNY-DMC is required to develop under federal law. Violations of the policies often occur simultaneously with other behavioral problems, such as time and attendance problems, poor performance of assignments, threats, and altercations, to name only a few possibilities. The penalties suggested do not preclude SUNY-DMC from seeking or imposing, where the labor agreements do not require review by a neutral third party, additional penalties for any related behavioral problems.

Legal Penalties

New York State and Federal penal laws provide a wide range of penalties for crimes related to the possession, sale and trafficking of controlled substances and marijuana. In New York, penalties for possession of marijuana range from a minimum of a fine up to \$100 to a maximum of fifteen years imprisonment. Penalties for possession or sale of other drugs, such as cocaine, crack, heroin, LSD or amphetamines range from a minimum of up to one year to a maximum of life imprisonment. A table summarizing the New York State penalties for narcotic and marijuana offenses is contained in Attachment C.

Federal penalties for manufacturing, importing, exporting or trafficking (including possession with intent to commit such offenses) in marijuana range from a minimum of up to eighteen months imprisonment to life imprisonment for repeat offenders when death or serious injury results from the use of marijuana. Federal penalties for such offenses involving other drugs such as heroin, cocaine and amphetamines range from a minimum of up to thirty-seven months imprisonment to life imprisonment for repeat offenders when death or serious injury results from the use of such drugs. A table summarizing the Federal penalties for narcotic and marijuana offenses is contained in Attachment D.

The New York State Vehicle and Traffic Law also provides significant penalties for driving under the influence of alcohol or a controlled substance. Penalties for driving while intoxicated (a blood alcohol content of at least .10 or intoxication by a drug) range from a minimum of a \$500 to \$1000 fine and/or up to one year imprisonment to a maximum of a \$1000 to \$5000 fine and/or up to four years imprisonment. In addition, the operator's driver's license must be revoked for a period of six months to one year.

Penalties for driving while impaired by alcohol or a controlled substance (a blood alcohol content of less than .10) range from a minimum of a \$300 to \$500 fine and/or up to 15 days imprisonment, plus suspension of the operator's driver's license for a period of 90 days, to a maximum of a \$750 to \$1500 fine and/or up to 6 months imprisonment, plus revocation of the operator's driver's license for six months.

Health Risks

The health risks of drug and alcohol abuse are substantial. Medical authorities indicate that the short-term effects of marijuana include impairment of memory and physical coordination, anxiety and increased heart rate. Long-term effects of habitual use include severe lung damage and deleterious effects on male and female reproductive hormones. The use of cocaine or crack, a highly addictive drug, may result in depression, paranoia, an irregular heartbeat, and increased blood pressure. Long-term or substantial use may lead to destruction of liver and nasal cells, angina, seizures, delirium, heart attacks and strokes. Cocaine or crack use also has a devastating effect on fetal development, and may result in miscarriage, an addicted baby, or stillbirth. Attachment E lists the harmful effects associated with these and other drugs.

The use of alcohol causes a number of marked changes in behavior. Even low doses significantly impair the judgment and coordination required to drive a car safely, increasing the likelihood that the driver will be involved in an accident. Low to moderate doses also increase the incidence of a variety of aggressive acts, including spouse and child abuse. Moderate to high doses of alcohol cause marked impairments in higher mental functions, severely altering a person's ability to learn and remember information. Very high doses cause respiratory depression and death. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations, and convulsions. Alcohol withdrawal can be life-threatening. Long-term consumption of large quantities of alcohol, particularly when combined with poor nutrition, can also lead to permanent damage to vital organs such as the brain and the liver. Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation. In addition, research indicates that children of alcoholic parents are at greater risk than other youngsters of becoming alcoholics.

Counseling, Treatment, Rehabilitation and Re-Entry Programs

Employees may utilize SUNY-DMC's Employee Assistance Program ("EAP") as a confidential source for referrals for counseling, treatment, and rehabilitation and continuing care programs. EAP also seeks to assist employees upon re-entry into the workforce. A description of the EAP is included in Attachment A to the Policy Statement on Alcohol and Controlled Substances. However, as the policy statement notes, a referral to EAP does not exempt any employee from disciplinary or other action by SUNY-HSCB. In addition, a full range of detoxification, outpatient and inpatient rehabilitation and re-entry programs is available in New York City. The programs listed below will refer clients based on individual needs.

Alcoholics Anonymous	212-870-3400
Al-Anon	212-254-7230
Narcotics Anonymous	212-929-6262
N.Y.S. Drug Information Line	800-522-5353
Cocaine Hotline	800-COCAINE

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

SUNY - HSCB SANCTIONS FOR VIOLATIONS OF THE ALCOHOL AND DRUG POLICY

**SECTION 1
ALCOHOL BEVERAGES
POLICIES**

VIOLATIONS	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
<p>1.01 a) <u>EMPLOYEES*</u></p> <p>Possession or consumption of alcohol on the job is prohibited. Impairment on the job as the result of the consumption of alcohol is prohibited. Being under the influence of alcohol on the job is prohibited. Unlawful possession or use of alcohol on HSCB property or as part of any HSCB activity is prohibited.</p> <p>b) <u>STUDENTS</u></p> <p>Possessions of alcohol or consumption of alcohol while engaged in clinical or learning duties or in a manner which renders them unfit for clinical or learning duties. Students are prohibited from being under the influence of alcohol while engaged in clinical or learning duties. Unlawful possession or use of alcohol on HSCB property or as par at of any HSCB property or as part of any HSCB activity is prohibited.</p>	<p>Formal counseling session and required appointment with Employee Assistance Program ("EAP"). As an operational matter, employees also will be placed on unauthorized absence if unfit to perform duties.</p> <p>Probation and referral to an in-house or community substance abuse program.</p>	<p>Disciplinary action seeking penalties ranging from a fine through termination. May include immediate suspension if circumstances warrant, <u>e.g.</u>, the employee poses a threat to persons or property or seriously interferes with operations, or is involved with direct patient care.</p> <p>Suspension for one semester; re-instatement, subject to completion of a certified substance abuse program.</p>	<p>Disciplinary action seeking termination. May include immediate suspension if circumstances warrant, <u>e.g.</u>, the employee poses a threat to persons or property or seriously interferes with operations, or is involved with direct patient care.</p> <p>Suspension for one year or expulsion if circumstances warrant.</p>

** Management/Confidential employees, classified employees who have not attained permanent status, UUP employees having temporary appointments and those whose job functions depend on the pleasure of the President (e.g., Chairs, Directors) may be terminated or relieved of their responsibilities as appropriate for first offense violations of these policies.*

<p>1.02 a) <u>EMPLOYEES*</u></p> <p>Unlawful manufacturing of alcohol is prohibited.</p> <p>b) <u>STUDENTS</u></p> <p>Unlawful manufacturing of alcohol is prohibited.</p>	<p>Formal counseling and referral for criminal prosecution</p> <p>Penalties range from a formal warning through suspension for one semester and referral for criminal prosecution.</p>	<p>Disciplinary action seeking penalties from a fine through suspension of three months and referral for criminal prosecution.</p> <p>Suspension for one year and referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination.</p> <p>Expulsion and referral for criminal prosecution.</p>
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<p>1.3. a) <u>EMPLOYEES*</u></p> <p>The sale of alcohol on HSCB property or as part of any HSCB activity is prohibited, except as authorized by HSCB policies and procedures.</p> <p>The service of alcohol in public areas of HSCB property or as part of any HSCB activity is prohibited, except as authorized by HSCB policies and procedures.</p> <p>b) <u>STUDENTS</u></p> <p>The sale of alcohol on HSCB property or as part of any HSCB activity is prohibited, except as authorized by HSCB policies and procedures.</p> <p>The service of alcohol in public areas of HSCB property or as part of any HSCB activity is prohibited except as authorized by HSCB policies and procedures.</p>	<p>Formal counseling and possible referral for criminal prosecution.</p> <p>Penalties range from a formal warning through suspension for a semester and possible referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking penalties from a fine through termination and possible referral for criminal prosecution.</p> <p>Suspension for one year and possible referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination and possible referral for criminal prosecution.</p> <p>Expulsion and possible referral for criminal prosecution.</p>
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<p>1.04 STUDENTS</p> <p>The use of alcoholic beverages for pledging or qualifying for membership in any organization is prohibited.</p>	<p>Individual: Suspension from University for semester.</p> <p>Organization: Privileges and status are revoked for a period not to exceed two years.</p>	<p>Individuals: Expulsion</p> <p>Organization: Privileges and status may be revoked indefinitely.</p>
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**SECTION 2
DRUGS
POLICIES**

VIOLATIONS	1 ST OFFENSE	2 ND OFFENSE	3 RD OFFENSE
<p>2.01 a) EMPLOYEES</p> <p>Unlawful possession or consumption of any substance** on the job is prohibited. Impairment on the job as the result of the consumption of substances** on the job is prohibited. Unlawful possession or use of any substance** on HSCB property or as part of any HSCB activity is prohibited.</p>	<p>Formal counseling and required appointment with EAP or disciplinary action seeking a penalty ranging from a reprimand to termination. May include immediate suspension if circumstances warrant, <u>e.g.</u>, the employees poses a threat to persons, or property or creates a serious interference with operations, or is involved with direct patient care. As an operational matter, employees also will be placed on unauthorized absence if unfit to perform duties. Possible referral for criminal prosecution.</p>	<p>Immediate suspension from duty; disciplinary action seeking termination. Possible referral for criminal prosecution.</p>	<p>Immediate suspension from duty; disciplinary action seeking termination. Possible referral for criminal prosecution.</p>

**** As used in this document, "substance(s)" is any drug listed in Attachments A or B to the Policy Statement.**

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<p>b) <u>STUDENTS</u></p> <p>Students are prohibited from unlawful possession of substances** or consumption of any substance** on HSCB property or as part of any HSCB activity. Students are prohibited from being under the influence of substances** on HSCB property or as part of any HSCB activity.</p>	<p>Probation and participation in an in-house or community substance abuse program and possible referral for criminal prosecution.</p>	<p>Suspension for one semester; reinstatement subject to completion of a certified substance abuse program and possible referral for criminal prosecution.</p>	<p>Suspension for one year or expulsion and possible referral for criminal prosecution.</p>
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<p>2.02 a) <u>EMPLOYEES*</u></p> <p>Unlawful possession of any substance** with intent to sell or in quantities sufficient to constitute a felony under the Penal Law of New York State on HSCB property, or as part of any HSCB activity, or while performing in a work-related capacity is prohibited. (See attachment A to the Policy Statement for information on New York State felony drug offenses.)</p> <p>b) <u>STUDENTS</u></p> <p>Unlawful possession of any substance** with intent to sell or in quantities sufficient to constitute a felony under the Penal Law of New York State on HSCB property or as part of any HSCB activity is prohibited. (See attachment A to the Policy Statement for information on New York State felony drug offenses.)</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p> <p>Expulsion and referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p>
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<p>2.03 a) <u>EMPLOYEES</u> **</p> <p>Unlawful distribution, dispensing, sale, attempted sale, or purchase of any substance** on HSCB property, as part of any HSCB activity, or while performing in a work-related capacity is prohibited.</p> <p>b) <u>STUDENTS</u></p> <p>Unlawful distribution, dispensing, sale, attempted sale, or purchase of any substance** on HSCB property or as part of any HSCB activity is prohibited.</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p> <p>Expulsion and referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p>	<p>Immediate suspension and disciplinary action seeking termination and referral for criminal prosecution.</p>
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<p>2.04 a) <u>EMPLOYEES</u> *</p> <p>Unlawful possession of drug paraphernalia on HSCB property, as part of any HSCB activity or while performing in a work-related capacity is prohibited.</p> <p>b) <u>STUDENTS</u></p> <p>Unlawful possession of drug paraphernalia on HSCB property, or as part of any HSCB activity is prohibited.</p>	<p>Formal counseling and required appointment with EAP or disciplinary action seeking a penalty ranging from a reprimand to termination. May include immediate suspension if circumstances warrant, <u>e.g.</u> the employee poses a threat to persons, or property or creates a serious interference with operations, or is involved with direct patient care. As an operational matter, employees also will be placed on authorized absence if unfit to perform duties and possible referral for criminal prosecution.</p> <p>Probation and participation in an in-house or community substance abuse program and possible referral for criminal prosecution.</p>	<p>Immediate suspension from duty; disciplinary action seeking termination and possible referral for criminal prosecution.</p> <p>Suspension for one semester; reinstatement subject to completion of a certified substance abuse program and possible referral for criminal prosecution.</p>	<p>Immediate suspension from duty; disciplinary action seeking termination and possible referral for criminal prosecution.</p> <p>Suspension for one year or expulsion and possible referral for criminal prosecution.</p>
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**STATE UNIVERSITY OF NEW YORK
HEALTH SCIENCE CENTER AT BROOKLYN**

**PROCEDURE FOR REQUESTING REASONABLE ACCOMMODATION
UNDER THE AMERICANS WITH DISABILITIES ACT (ADA) OF 1990**

Employees or prospective employees/applicants with disabilities (as defined in the ADA) may request reasonable accommodation in the workplace, if necessary, to enable them to have access to employment opportunity or to perform duties essential to their job. Such requests may be made regardless of title, salary grade, bargaining unit, employment status (permanent, temporary, provisional) or jurisdictional classification (exempt, non-competitive, competitive, etc.)

A person may request reasonable accommodation in situations such as the following:

- a job applicant may request an accommodation for the employment interview;
 - a new employee who identifies him/herself as having a disability may request an accommodation to perform the job;
 - an employee returning to work after experiencing an illness or injury may request an accommodation;
 - a current employee with a disability whose medical condition has changed may request an accommodation for the first time or a change in accommodation;
 - any employee with a disability may request an accommodation at any time.
1. Current SUNY Health Science Center at Brooklyn employees in need of an accommodation as defined in the Americans with Disabilities Act of 1990 (ADA) should make such a request in writing to his/her / immediate supervisor and submit a copy of the request to the Reasonable Accommodation Officer at Box 1220.
 2. It is recommended that decisions regarding requests for accommodation be made at the departmental level by the immediate supervisor whenever possible and that the Reasonable Accommodation Officer be notified of such decisions. When the immediate supervisor is unable to authorize the requested accommodation, the supervisor and the department head will consult with the Reasonable Accommodation Officer. Costs for an

accommodation may be reimbursable through a central fund.

3. The Reasonable Accommodation Officer will conduct a comprehensive review of the request for accommodation which may include:
 - request and assessment of medical documentation;
 - meeting with the employee;
 - arranging for a job analysis;
 - consulting with other State agencies or organizations who provide services to persons with disabilities;
 - consulting with Counsel's Office, the NYS Office of the Advocate for the Disabled, and other agencies and personnel;
 - researching costs for equipment, etc.

When a qualified individual with a disability requests an accommodation, every effort will be made to provide an accommodation that is effective for the individual unless to do so would create an undue hardship for the institution. This may involve a detailed review of the particular job involved and its essential functions. The individual with a disability will be consulted to determine his/her specific physical and mental abilities and limitations as they relate to the essential job functions and to identify potential accommodations and their effectiveness. If there are several effective accommodations that would provide an equal employment opportunity, the preference of the individual with a disability will be considered. The accommodation which best serves the needs of the individual and the employer will be selected.

4. Once the Reasonable Accommodation Officer completes a comprehensive review of the accommodation request, the following may occur:
 - a. If there is adequate documentation to conclude that an accommodation be provided, it will be made. The accommodation may or may not be the accommodation requested by the employee, but we will endeavor to make it mutually satisfactory to both the employee and department.
 - b. If there is insufficient documentation for the accommodation request, the Reasonable Accommodation Officer may ask the employee to provide additional documentation or may refer the employee to the State physician for further examination. Once the necessary documentation is provided and then reviewed, the Reasonable Accommodation Officer makes a determination concerning the employee's request for accommodation.
 - c. The Reasonable Accommodation Officer may conclude that the

request or accommodation should be denied, based on review of all relevant documentation. At this point, the employee has the following options:

- (S)he may choose to accept the agency's decision and end the process;
- (S)he may choose to appeal the decision by filing a complaint under the SUNY Internal Grievance Procedure for Review of Allegations of Discrimination with the Affirmative Action Office;
- (S)he may file a complaint with the appropriate external compliance agency designated under Sections **503/504** of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990- the Equal Employment Opportunity Commission or the State Division of Human Rights; or (s)he may initiate a civil suit to challenge an alleged discriminatory practice.

Any further inquiries regarding this procedure or other issues relating to the Americans with Disabilities Act should be addressed to:

Ms. Grace Callender
Reasonable Accommodation Officer
BOX # 1220

Ms. Callender's office is located at 151 East 34th Street AF-103 and her telephone number is 18) 270-1738.

Issued:	9/94
Reissued:	10/00

July 25, 1994

To: Vice Presidents, Deans, Chairs, Department Heads

From: Leslie Rogowsky
Americans with Disabilities Act Coordinator

RE: **IMPORTANT INFORMATION ON PRE-EMPLOYMENT QUESTIONING
AND MEDICAL EXAMINATIONS under the Americans with
Disabilities Act (ADA)**

Under the ADA, it is illegal for an employer to make preemployment disability-related inquiries or to conduct medical examinations prior to a conditional job offer to an applicant. The Equal Employment Opportunity Commission, charged with investigating discrimination complaints based on alleged violations of the ADA, has produced a list of questions considered to be “disability-related inquiries” and therefore, prohibited, and a list of factors which are used in determining whether any particular test is medical. We have attached this list and urge you to read it carefully.

ADA’s prohibitions in this area are designed to prevent discrimination against those with “hidden” disabilities like cancer, mental illness, heart disease or AIDS. **“The guiding principle....is that while employers may ask applicants about the ability to perform job functions, employers may not ask about disability at the pre-offer stage.”**

Employers may lawfully ask questions such as: *“Can you perform the functions of this Job with or without reasonable accommodation?” Please describe how you would perform these functions.* The EEOC guidance goes on to stress that even if an applicant voluntarily discloses his or her need for reasonable accommodation, the employer may not make additional inquiries about accommodation at the pre-offer state. However, when an applicant who has been offered a job requests an accommodation, the employer may require documentation of the individual’s need for such accommodation.

In hearings, employers have urged the EEOC to revise a key portion of this decision regarding the ability to discuss reasonable accommodation until after a job offer has been made, but at this time, the above information prevails.

Remember, it is unlawful to NOT hire someone on the basis of their disability. Good job descriptions will state the essential functions of the job in question. It would be illegal if you decide, for example, that a deaf person cannot have a position simply because he or she cannot answer the telephone.

Please circulate this information widely to your first line supervisors and anyone who is involved in the interview and hiring process. If you would like further clarification on the EEOC Enforcement Guidance, would like to discuss specifics pertaining to your department or area of responsibility, or would like to schedule a Training Session for your department on the ADA and its operational implications, please call me at x1738.

The U.S. Equal Employment Opportunity Commission

NOTICE

Number EEOC 915.002

Date 7/27/00

1. SUBJECT: EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)

2. PURPOSE: This enforcement guidance explains when it is permissible for employers to make disability-related inquiries or require medical examinations of employees.

3. EFFECTIVE DATE: Upon receipt.

4. EXPIRATION DATE: As an exception to EEOC Order 205.001, Appendix B, Attachment 4, § a(5), this Notice will remain in effect until rescinded or superseded.

5. ORIGINATOR: ADA Division, Office of Legal Counsel.

6. INSTRUCTIONS: File after Section 902 of Volume II of the Compliance Manual.

7/27/00

Date

/s/

Ida L. Castro
Chairwoman

DISTRIBUTION: CM Holders

**ENFORCEMENT GUIDANCE:
DISABILITY-RELATED INQUIRIES AND
MEDICAL EXAMINATIONS OF
EMPLOYEES UNDER THE AMERICANS WITH
DISABILITIES ACT (ADA)**

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SUNY HEALTH SCIENCE CENTER AT BROOKLYN AIDS POLICIES

As part of the Health Science Center at Brooklyn's initiative in developing a comprehensive institutional response to the AIDS epidemic, the following policies and procedures which state the Health Science Center at Brooklyn's position against discrimination toward people with AIDS or other HIV-related conditions, the right to confidentiality in testing at our Employee/Student Health Service, and the availability for treatment should any employee be exposed to blood, or body fluids via needle stick or splash. These policies were developed by a Centerwide committee of faculty and professional staff, and have been reviewed and approved by the President's Advisory Committee on AIDS and the State University of New York.

**SUNY HSCB POLICY STATEMENT ON NON-DISCRIMINATION BASED UPON
ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN
IMMUNODEFICIENCY VIRUS (HIV)**

Acquired Immune Deficiency Syndrome (AIDS) is a physical impairment closely associated with human immunodeficiency (HIV) infection. Section 504 of the Federal Rehabilitation Act of 1973, 19 U.S.C. 794, New York State Civil Rights Law Section 40-c and New York State Executive Law Section 296 prohibit discrimination on the basis of disability. The State Division of Human Rights considers AIDS a protected disability under the applicable prohibitions. Accordingly, no otherwise qualified individual with AIDS or other HIV-related conditions may solely, by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in terms and conditions of employment or under any other program or activity of the Health Science Center at Brooklyn.

Persons with AIDS or other HIV-related conditions are often well enough to participate in everyday activities, including employment. There is no evidence that the disease has been transmitted through casual contact in the workplace. State guidelines issued by the Governor's Office of Employee Relations provide that no restrictions should be placed on the employment of persons with AIDS or other HIV-related conditions, if their health status enables them to perform the duties of their positions. Therefore, the same policies regarding sick leave for or reasonable accommodation to other types of disability shall apply to individuals with AIDS or other HIV-related conditions. If the individual's condition presents any known danger to patients, the President's Advisory Committee on AIDS shall work, wherever it is possible and within the framework of applicable state and federal anti-discrimination laws, with the individual and his/her department and/or academic adviser to restructure his/her duties or academic requirements to eliminate patient exposure to AIDS or other HIV-related infections while maintaining the opportunity for productive

learning and employment.

Employees or students with AIDS or other HIV-related conditions are strongly urged to notify the President's Advisory Committee on AIDS. The Advisory Committee will structure, with the prior written approval of the affected employee or student, education and counseling programs for these individuals, and their coworkers, dormitory coresidents, or other fellow students, to create a positive environment within which the individual can continue his/her work or studies with dignity and without risk to patients. Notification to the Advisory Committee can be made by contacting The Office of Opportunity and Diversity at extension 1738.

Any employee or student who refuses to work with another employee, or student or a patient because that employee, student or patient has AIDS or another HIV-related condition shall be subject to disciplinary sanctions.

HSCB provides an internal mechanism through which incidents of illegal discrimination may be identified and eliminated. HSCB students or employees who feel that they have been discriminated against under this policy because of their AIDS or other HIV-related conditions may submit a grievance in writing under the State University of New York Internal Discrimination Grievance Procedure. A copy of the procedure and form for filing a complaint is available in the Affirmative Action Office, Administrative Facilities Building, AF-103. For further information or assistance concerning complaint procedures, contact the Affirmative Action Officer, Ms. Adriana Conde-Billy at (718) 270-1738.

CONFIDENTIALITY IN AIDS TESTING POLICY FOR THE HEALTH SCIENCE CENTER AT BROOKLYN'S (HSCB'S) EMPLOYEE/STUDENT HEALTH SERVICE (ESHS)

The ESHS offers confidential testing of HSCB students and employees for the presence of the HIV antibody. ESHS provides the same degree of confidentiality to the HIV test records of each student and employee who chooses to avail himself/herself of this service as is accorded the medical records of a patient seeking HIV testing under applicable Federal and State laws and health agency regulations. In a pre-test counseling session, the employee or student will be given oral and written notice of any applicable statutory or regulatory reporting requirements. Pre-test counseling also shall include a discussion of alternative testing options.

Therefore, unless otherwise mandated by law or health agency regulation, ESHS will not disclose any information regarding a student's or an employee's HIV antibody test or the results therefrom without the subject's prior written consent.

ADDITIONAL TEST SITES:

Call 1-800-TALK HIV or 1-800-541-AIDS.

MANAGEMENT OF INDIVIDUALS EXPOSED TO BLOOD OR BODY FLUIDS

Any SUNY-HSCB individual (employee, student, physician) who has experienced a significant contact with blood or body fluids of a patient who is HIV, HBV and/or HCV positive should immediately report the incident to his or her supervisor and submit an incident report to Employee/Student Health Services describing the contact as soon as possible. If ESHS is closed, the individual reports immediately to the Emergency Services Department of UHB.

Follow-up of Individual Involved in Incident

The individual is seen by a physician in Employee/Student Health Services. The physician will obtain baseline information and inform the individual of the personal testing options.

The individual is then counseled by a ESHS health provider and offered:

- Appropriate baseline lab test and post exposure medication, if appropriate.
- Psychiatric referral, if appropriate

All individuals are scheduled for follow-up visits with Employee/Student Health Service.

For more information contact Employee/Student Health Service, 270-1995

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN SECTION 21 D
SUPERVISOR'S MANUAL**

POLICY & PROCEDURE

**UNIVERSITY HOSPITAL Prepared by: Committee No: Hum. Res. -14
SUNY HEALTH SCIENCE Issue Date: 6/99
CENTER AT BROOKLYN Reviewed by: J.H. Boyce, Ph.D. Supercedes: New
445 LENOX RD
BROOKLYN, NY 11203 Approved by: J.H. Boyce, Ph.D. Review Date: _____**

SUBJECT: UHB DISCIPLINARY REFERRAL PROTOCOL PAGE 1 OF 4

POLICY

To ensure protection of the rights of patients, employees and visitors, any complaint or allegation of negligent, malicious, unethical or illegal behavior by an employee at SUNY/HSCB must be immediately reported to the appropriate authority (i.e. Campus Police or Labor Relations) to ensure that a prompt and thorough investigation is conducted.

RESPONSIBILITY:

1. Hospital Administration and Labor Relations are responsible for implementing this policy.
2. Supervisors are responsible for filing a report and for forwarding a written recommendation to their Department Head or clinical Chairperson or his/her designee immediately upon notification of the occurrence. This obligation relates to all Department of Health-reportable incidents as well as any other occurrence that may warrant discipline. Within one business day of notification of the occurrence, the Department Head or the clinical Chairperson will make a written request to the Director of Labor Relations to initiate a disciplinary investigation, if appropriate. A copy of the request generated by the Department Head or clinical Chairperson will be simultaneously sent to the Chief Operating Officer for review and concurrence. The referral should contain a detailed description of the incident including any statements given by witnesses. Documentation supportive to the case i.e., policy and procedure, prior counseling sessions (as applicable to the case) should be included. (See attachment A for sample referral). Where appropriate, the Office of Opportunity and Diversity and/or Public Safety must also be contacted after review by the Department Head or designee.

PROCEDURE:

Whereas University Hospital endeavors to treat all employees fairly and consistently, it is the policy of the Hospital to handle allegations that may call

for disciplinary review in a uniform and expeditious manner. Where the employee's behavior may be serious enough to warrant disciplinary charges, supervisors must contact Labor Relations before taking any action (i.e. counseling, evaluations, etc.). The supervisor may ask for written statements from employees, but may not conduct any questioning or interrogation.

Below is a list of typical, as well as some unusual allegations, each of which should be regarded as a basis for disciplinary referral. Where there is uncertainty as to whether the matter warrants disciplinary action, the Department Head or his/her designee should contact Labor Relations to discuss the appropriate action. In the following instances, Labor Relations should be contacted:.

1. Physical Abuse
 - A. Physical abuse of a patient or visitor
 - B. Physical abuse of a co-worker or supervisor
2. Verbal Abuse
 - A. Verbal abuse towards a co-worker, supervisor, patient or visitor
 - B. Shouting, cursing, racial or other epithets in the workplace
3. Insubordination (failure or refusal to follow a directive)
4. Sexual Abuse
 - A. Sexual harassment of a patient, co-worker or supervisor or visitor
 - B. Improper touching of a patient, co-worker or supervisor or visitor
5. Patient Abandonment
6. Conflict of interest - breach of Public Officers Law
7. Threats
8. Breach of patient confidentiality
9. Theft of state or personal property or services
10. Falsification of state or medical records
11. Deliberate misrepresentation of authority
12. Excessive lateness or absence

13. Working while impaired by a substance; possession of an alcoholic or illicit substance
14. Unauthorized absence from work location
15. Other events deemed appropriate by Department Head for discipline

Since this list is not exhaustive, the supervisor must, within 24 hours, consult with Labor Relations regarding the appropriate disposition of any matter involving misconduct or incompetence that may rise to the level of discipline.

After the referral has been made to Labor Relations, the department or service may not continue its own investigation without consulting Labor Relations. Any further investigation from the department without coordination with Labor Relations may hinder the filing of possible disciplinary charges. Moreover, the department must review with Labor Relations any administrative change that may impact on the terms and conditions of employment of the subject employee before it is implemented.

Upon completion of the investigation, Labor Relations will consult with Hospital Administration and determine the proper course of action. Penalties and disciplinary action can only be recommended and imposed on an individual basis by Labor Relations. Departments are encouraged to recommend actions to Labor Relations. Resolution may consist of a finding of no charges against the employee, a notice of discipline or a settlement which may provide for other penalties, including probation. The employee will be formally notified in writing of the outcome of the investigation by Labor Relations.

If the penalty reached as a result of discipline includes a settlement of a probationary period or a fine held in abeyance, it is the supervisor's responsibility to ensure the employee's adherence to the settlement specifications. The supervisor must monitor the employee's performance and determine whether the behavior demonstrated during the probationary period violates the settlement. If the settlement is violated, the supervisor must contact Labor Relations by telephone and by memo promptly.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu
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ATTACHMENT A

SAMPLE DISCIPLINARY REFERRAL

TO: Director of Labor Relations

FROM: Department Head or Clinical Chairperson

SUBJECT: REFERRAL FOR DISCIPLINARY INVESTIGATION

DATE: October 11, 2000

In the past few weeks, it has come to my attention that Mr. John Smith, Hospital Attendant on Nursing Station 74, has been having a number of performance problems that warrant your department's attention. As the enclosed time sheets indicate, his attendance since August has been unsatisfactory. He called in sick on seven days between August 6th and September 11th, 1998, and since September 26th, he has been no-call no-show two times, including today. I counseled him the day he returned to work following the first time he was no-call/no-show.

In addition, on October 10th, a payday, Mr. Smith showed up to work, collected his paycheck at the beginning of his shift, and then at approximately 3:30p.m., disappeared for the rest of the evening. As he is the only Hospital Attendant on NS 74, Nursing was forced to move another Hospital Attendant from NS 73 to cover the unit. Despite this absence, Mr. Smith falsely indicated on his timesheet that he was present from 3:00 to 11:30 p.m. on that day.

Finally, on October 11, 1998, I asked Mr. Smith to transport a urine sample from NS 74 to the Extended Recovery Room. Transporting specimens of this kind is a task that he is regularly expected to carry out. Mr. Smith said that he was too busy to go. I then directed him to transport the specimen, and he said, "Jones, just leave me alone" After this refusal, I asked another Nurse's Aide to take the specimen down. This kind of insubordination is completely unacceptable on a Nursing Station and is detrimental to our operations.

I have formally counseled Mr. Smith on a number of occasions about his behavior (counseling memos attached), and he is currently on Time and Attendance Watch. Smith's performance has not improved, and therefore, I am requesting disciplinary action for the above misconduct.

cc: Assistant Vice-President for Patient Operations

COMMITTEE MEMBERS
UHB DISCIPLINARY REFERRAL PROTOCOL

Lorraine Blake-Reid
Luzviminda Casapao
William Gerdes
Steven Greenblatt
Jocelyn Mathew-Guiston
Joan McCallum
Cecelia Yeaton



Vice President for Administration

MEMORANDUM

To: DISTRIBUTION

From: Ivan Lisnitzer

Subject: Disciplinary Referral Protocol

Date: September 30, 1996

Please find attached a formalized Disciplinary Referral Protocol for the Administration Division. I would like you to distribute this to your supervisory staff and ensure that they understand and follow it.

If you have any questions, you may contact Steven J. Greenblatt, Director of Labor Relations, at extension 3019.

DISTRIBUTION: Stephan Kass
Alvin Berk
Richard Bentley
Louis Cardinali
Denis Collins
Helene Georgis-Corey
Tim Herzog
Jim Parise
Meg O'Sullivan
Albert Fraiser

DISCIPLINARY REFERRAL PROTOCOL

POLICY:

To ensure protection of the rights of patients, employees and visitors, any complaint or allegation of negligent, malicious, unethical or illegal behavior by an employee at SUNY/HSCB must be immediately reported to the appropriate authority to ensure that a prompt and thorough investigation is conducted.

RESPONSIBILITY:

- 1. Supervisors are responsible for filing an incident report and for forwarding a written recommendation to their department head or his/her designee immediately upon notification of the occurrence. If the incident requires an exigent response, the supervisor should contact Labor Relations immediately by telephone. In all instances, the department head or supervisor will within one business day of notification of the occurrence make a written request to the Assistant Vice President for Human Resources or his designee to initiate a disciplinary investigation. The referral should contain a detailed description of the incident including any statements given by witnesses. Documentation supportive to the case i.e. , policy and procedure, prior counseling session (as applicable to the case) should be included. (See attachment A for sample referral). Where appropriate, the Office of Opportunity and Diversity and/or Public Safety must also be contacted after review by and with Department Head or designee.***
- 2. Labor Relations is responsible for enforcing the implementation of this policy.***

PROCEDURE:

Whereas Administration endeavors to treat all employees fairly and consistently, it is the policy of Administration to handle allegations that may call for disciplinary review in a uniform and expeditious manner. Where the employee's behavior is serious enough to warrant disciplinary charges, supervisors should NOT conduct a counseling session, but rather contact Labor Relations for advice.

Below is a list of typical as well as some unusual allegations, each of which should be regarded as a basis for disciplinary referral. In the following instances, Labor Relations should be contacted:

A. Physical Abuse

- 1. Physical abuse of a patient or visitor***
- 2. Physical abuse of a co-worker or supervisor***

B. Verbal abuse

1. **Verbal abuse towards a co-worker, supervisor, patient or visitor**
2. **Shouting, cursing, racial or other epithets in the workplace**

C. Insubordination (failure or refusal to follow a directive)

D. Sexual abuse

1. **Sexual harassment of a patient, co-worker or supervisor or visitor**
2. **Improper touching of a patient, co-worker or supervisor or visitor**

E. Threats

F. Working while impaired by a substance; possession of an alcoholic or illicit substance

G. Other events deemed appropriate by Department Head for discipline

Since this list is not exhaustive, the supervisor must, within 24 hours, consult with Labor Relations regarding the appropriate disposition of any matter involving misconduct that may rise to the level of discipline.

After the referral has been made to Labor Relations, the department may not continue its own investigation without consulting Labor Relations. Any further investigation from the department without coordination with Labor Relations may hinder the filing of possible disciplinary charges. Moreover, the department must review with Labor Relations any administrative changes that may impact on the terms and conditions of employment of the subject employee.

Penalties and disciplinary action can only be imposed on an individual by Labor Relations. Departments are encouraged to recommend actions to Labor Relations. Upon completion of the investigation, Labor Relations will consult with the department representative and determine the proper course of action. The employee is then formally notified in writing of the outcome of the investigation by Labor Relations.

Where appropriate, there will be an exigent response by Labor Relations to investigate a disciplinary referral. In other cases, Labor Relations will endeavor to conclude all other investigations within a three (3) month period. Most time and attendance disciplinary cases will be concluded within three (3) weeks of receipt of referral and supporting documentation.

If the penalty reached as a result of discipline includes a settlement of a probationary period or a fine held in abeyance, it is the supervisor's responsibility to ensure the employee's adherence to the settlement specifications. The supervisor must monitor the employee's performance and determine whether the behavior demonstrated during the probationary period violates the settlement. If the settlement is violated, the supervisor must contact Labor Relations by telephone and by memo within 48 hours of the alleged violation.

9/18/96

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

ATTACHMENT A

SAMPLE DISCIPLINARY REFERRAL

MEMORANDUM

FROM: Department Head or Supervisor
TO: Director of Labor Relations
DATE: October 11, 1996
SUBJECT: REFERRAL FOR DISCIPLINARY INVESTIGATION

In the past few weeks it has come to my attention that Mr. John Smith, Hospital Attendant, on Nursing Station 74 has been having a number of performance problems that warrant your department's attention. As the enclosed time sheets indicate, his attendance since August has been unsatisfactory. He called in sick on seven days between August 6 and September 11, 1995, and since September 26, he has been no-call no-show two times, including today. I counseled him the first time he was no-call no-show.

In addition, on October 10, a payday, Mr. Smith showed up to work, collected his paycheck at the beginning of his shift, and then at approximately 3:30 p.m., disappeared for the rest of the evening. As he is the only Hospital Attendant on NS 74, Nursing was forced to move another Hospital Attendant from NS 73 to cover the unit. Despite this absence, Mr. Smith falsely indicated on his time sheet that he was present from 3:00 to 11:30 p.m. on that day.

I have formally counseled Mr. Smith on a number of occasions about his behavior (counseling memos attached) and he is currently on Time and Attendance Watch. Smith's performance has not improved, and therefore, I am requesting disciplinary action for the above misconduct.

cc: Department Head

**PROCEDURE FOR EARLY CONSIDERATION
FOR PERMANENT APPOINTMENT**

PURPOSE: To explain how eligible professional employees in grades 1 through 4 may seek permanent appointment effective at the completion of the fifth or sixth consecutive year of service.

POLICY: The Policies of the Board of Trustees of the State University of New York now permit eligible professional employees to request consideration for permanent appointment prior to completion of seven consecutive years of professional service. The applicable language of the Board of Trustees' Policies is attached as Appendix A to this procedure.

PROCEDURE:

1. Who is eligible

- (a) Professional employees who want to be considered for permanent appointment before the completion of seven consecutive years of professional service are eligible to request early consideration if they:
 - (1) are in grades 1 through 4;
 - (2) have worked for three or four consecutive years at SUNY Health Science Center at Brooklyn;
 - (3) have been in full-time service; and
 - (4) have been in the same professional title for the last year.

2. When to submit requests

Eligible employees can be considered for permanent appointment effective at the completion of the fifth or sixth year of service. They have two (2) opportunities to request early consideration for permanent appointment.

- (a) To be considered for permanent appointment effective at the completion of the fifth year of service, employees must submit written requests in the first three months of their fourth year of employment. Failure to submit a request during the first three months of the fourth year of employment will delay eligibility for early consideration of permanent appointment until the completion of the sixth year.

Example: A grade 1 through 4 professional employee is appointed on July 15, 1985. He/she continues to work full-time in the same title until July 14, 1988. If he or she wants to be considered for permanent appointment at the earliest possible date, he or she must submit a request during the period from July 15, 1988 through October 15, 1989. If the request is granted, and the Chancellor awards a permanent appointment, the permanent appointment would begin July 15, 1990.

- (b) To be considered for permanent appointment at the completion of the sixth year of service, employees must submit written requests in the first three months of their fifth year of employment. Failure to submit a request during the first three months of the fifth year of employment will prohibit eligibility for early consideration of permanent appointment.

3. Effect of Early Consideration Request

Early consideration is not automatic upon the employee's request. The President may grant or deny a request to be considered for an early permanent appointment.

- (a) If early consideration is denied, the employee's appointment status does not change. He or she may be re-appointed or non-renewed as if no request had been made. An employee denied consideration for fifth year permanent appointment may apply for early consideration for sixth year permanent appointment.
- (b) If early consideration is granted, the employee's up-or-out date **is** changed. If the President grants the employee's request to be considered for permanent appointment effective at the completion of the fifth or sixth year of service, the employee must move up (permanent appointment) or out (non-renewal) at that time.

Example: An employee appointed July 15, 1985, requests consideration for permanent appointment at the completion of the fifth year of service. The President agrees to consider him or her. The employee may not be employed after July 14, 1990 except on the basis of permanent appointment. If the employee **is** not recommended for permanent appointment, he or she must receive a notice of non-renewal no later than July 14, 1989. If the employee is recommended for permanent appointment, permanent appointment would take effect at a time approved by the Chancellor, but not earlier than July 15, 1990.

4. Processing of the Early Consideration Request

- (a) An eligible employee must submit his or her written request for early consideration to the supervisor on the Permanent Appointment Early Consideration Request form which is provided by the Department of Human Resources upon request. The employee should state on the form why early consideration **is** appropriate and submit it to his or her supervisor. The employee should keep the employee's copy of the Permanent Appointment Early Consideration Request form and forward the Pre-Notification/Human Resources copy of the form to the

Department of Human Resources. By receipt of the Pre-Notification copy of the form, the Department of Human Resources will be aware that the employee has filed the request in a timely manner and will, therefore, be able to monitor the processing of the request.

- (b) Each request for early consideration must be considered on its own merits. No department may make a policy that it will not grant early consideration to any employee.
- (c) The Dean, Department Chair or Unit Head, in consultation with the immediate supervisor must submit to the appropriate Vice President/Executive Director of University Hospital, a statement, using the Early Consideration Request form, on the advisability of early consideration for the employee.
- (d) The appropriate Vice President/Executive Director of University Hospital should also prepare a statement (using the Early Consideration Request form) on the advisability of early consideration.
- (e) These statements should reflect that each employee's request has been considered on a case-by-case basis. The statements may address any aspect of the employee's and supervisor's statements upon which the administrator wishes to comment.
- (f) The appropriate Vice President/Executive Director of University Hospital should send the Early Consideration Request form to the Department of Human Resources for submission to the President. On behalf of the President, the Department of Human Resources will advise the employee and the Department in writing that the request is granted or denied.
- (g) If early consideration **is** granted, the Department must then prepare and submit either a permanent appointment or non-renewal package.

If you have any questions concerning this policy, please E-Mail Personnel Services: goeloe-alston@downstate.edu.

I believe early consideration *is* appropriate because (attach additional sheets if necessary):

Unit Head's Statement on advisability of early consideration (attach additional sheets if necessary):

Department Chair's statement on advisability of early consideration (attach additional sheets if necessary):

Dean's Statement on advisability of early consideration (attach additional sheets if necessary):

Vice President/Executive Director University Hospital statement on advisability of early consideration (attach additional sheets if necessary):

Send completed form to Department of Human Resources, Box 53 for transmittal to President.

President's Statement (attach additional sheets if necessary):

MEMORANDUM

TO: Faculty Subject to the Ethics Law Financial Disclosure Requirements

FROM: Stephan Kass

DATE: October 18, 2000

SUBJECT: Filing Requirement

The New York State Ethics Commission has determined that academic employees who earn an annual compensation in excess of \$66,140 ("covered employees") must file an abbreviated annual statement of financial disclosure with SUNY Downstate Medical Center. Downstate is required to review these forms, which are called [SUNY Form 1](#), for conflicts of interest.

The attached Ethics Commission form must be filed with Downstate by no later than November 15, 2000. SUNY Downstate Medical Center must report to the Ethics Commission those persons who do not meet the deadline or who submit incomplete forms. In addition to identifying information, the form asks a single question which seeks a description of any outside employment and other enumerated activities for the year ending August 31, 2000. If you have no such activities, please write "not applicable" in the space provided (do not use the abbreviation "N/A"). Instructions from the State University regarding the limited disclosure form indicate that the Ethics Commission does not require the listing of uncompensated outside activities or book or patent royalties. However, participation in a SUNY clinical practice management plan, service at an affiliated hospital, extra service from another campus or State agency and salary from the Research Foundation must be listed. (Service at an affiliated hospital must be listed whether or not Downstate has a formal affiliation agreement with the affiliate institution).

Additional detailed instructions appear on the back of the form. The form must be signed and returned to Michael Brennan, Academic Financial Disclosure Designee, at Box 1224. Inasmuch as we want to preserve the confidentiality of the information, please use a sealed envelope rather than an interoffice envelope to return the form.

Additional Forms for Grants and Contract Applications

Covered employees who apply for sponsored program grants and contracts are required by the Ethics Commission to file a second short disclosure form, called [SUNY Form 2](#). This form also will be reviewed for conflicts of interest. [SUNY Form 2](#) will be provided

by Research Administration with each grant and contract application. Only one filing of Form 2 is necessary each academic year if no changes occur in the information to be reported. A new contract application triggers the requirement to file Form 2, whether or not the application is made through the Research Foundation.

Procedure for Inspection of Forms 1 and 2

As required by law, both limited financial disclosure forms are available for public inspection. Persons seeking to inspect these forms must submit a request to the Ethics Commission. Request forms are available through Michael Brennan. Please contact Michael Brennan at extension 1972 if you have any questions regarding the limited disclosure requirement.

**DISCLOSURE STATEMENT FOR CERTAIN ACADEMIC EMPLOYEES
STATE UNIVERSITY OF NEW YORK**

REPORTING YEAR: September 1,1999 August 31,2000

Pursuant to State Ethics Commission Advisory Opinion No. 93-6, this form satisfies the filing requirements of Public Officers Law §73-a. Information on this form is available for public inspection pursuant to the [rules of the State Ethics Commission](#). The Statements are not available for photocopying; handwritten notes may be taken.

Name	

Title of Position	

Campus	Department

List below the source and description of any outside employment and sources of honoraria, consultant or lecture fees, whether public or private, for the academic year September 1, 1999 - August 31, 2000. DO NOT LIST THE AMOUNTS.

<u>Source</u>	<u>Description</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

USE ADDITIONAL SHEETS IF NECESSARY

I declare that the above information is true and correct.

Signature

Date

INFORMATION AND INSTRUCTIONS

The Ethics in Government Act of 1987, as amended, imposes a financial disclosure filing requirement on State employees who earn in excess of the job rate of Civil Service SG-24 (currently \$66,140) and who have not been exempted. The State Ethics Commission established in its Advisory Opinion No. 90-15 a financial disclosure filing process to govern individuals serving in academic titles at the State University of New York. By its Advisory Opinion No. 93-6, the Commission adopted as final a two-step filing system for certain academic employees. Individuals serving in academic titles are not exempt from filing, but must submit this short-form financial disclosure in place of the statutorily prescribed Statement. Individuals serving in the following titles need not file:

Assistant Librarian 08	Librarian
Assistant Librarian 08 (AY)	Librarian (AY)
Assistant Librarian 08 (CY)	Librarian (CY)
Associate Librarian	Senior Assistant Librarian
Associate Librarian (AY)	Senior Assistant Librarian (AY)
Associate Librarian (CY)	Senior Assistant Librarian (CY)
Associate Director Libraries	Graduate Assistant
	Teaching Assistant

You do **NOT** have to report your position in an organization if the sole purpose of the organization is religious, social (e.g., boy or girl scouts, athletic groups, alumni or other school associations), political, civic, school associations or self-help (e.g., Alcoholic Anonymous, Neighborhood Watchdog) unless the organization, during the reporting year, received or applied for funds from the State of New York, nn4 you held such an office during the reporting year. You do **NOT** have to report your position in a union or employee organization which represents employees in your State agency. Do **NOT** list uncompensated honorary positions.

FILING ASSISTANCE: If you have any questions concerning the completion of this form, you may write to the State Ethics Commission, 39 Columbia Street, 4th Floor, Albany, New York 12207, or call 1-800-87-ETHICS (1-800-8734442).

WHEN TO FILE: November 15, 2000, or within 30 days of hire or transfer into an academic position meeting the required filer criteria

RETURN TO: Your Campus Faculty Financial Disclosure Designee

VIOLATIONS: If you knowingly and willfully fail to file this form, or give information which you know to be false on the statement, you shall be subject to a civil penalty in an amount not to exceed \$10,000. The State University of New York may impose disciplinary action for failure to file or false filing and may refer individual cases of failure to file or false filing, or conflicts of interest presented by the information supplied, to the State Ethics Commission for investigation and disposition.

STEPHAN KASS
ASSISTANT VICE PRESIDENT
FOR HUMAN RESOURCES

MEMORANDUM

TO: The HSCB Community

FROM: Stephan Kass

DATE: March 13, 2000

SUBJECT: Reminder of Required Reports of Travel Expenses and Honoraria

Please be reminded that all covered employees who have not sought prior approval for the receipt of honoraria or for payments for travel expenses unrelated to their official duties are required by the Ethics Commission to make an annual report of these payments by April 1, 2000. The report must cover any such payments received between April 1, 1999 and April 1, 2000. Reporting forms and memoranda detailing the reporting requirements may be

Office, the Office of Academic Affairs, the Medical Research Library, or the Office of the Senior Vice President for Administration. Completed forms should be submitted to the office of Ivan Lisnitzer, Senior Vice President for Administration, Basic Sciences Building, Room #1-67, Box 106.

SUNY Counsel's Office has advised that, as in past years, all faculty are exempt from these requirements with respect to honoraria and travel expenses received for speeches, publications or conferences within their disciplines. Most other state officers and employees are covered by the regulations.

Any inquiries regarding these requirements may be addressed to Michael Brennan, Deputy Director for Labor Relations, at Extension 3023, or to the Ethics Commission at (800) 87-ETHICS.



STEPHAN KASS
ACTING ASSISTANT VICE PRESIDENT
FOR HUMAN RESOURCES

MEMORANDUM

TO: The HSCB Community

FROM: Stephan Kass

DATE: May 29, 1990

SUBJECT: Ethics Commission Regulations on Travel Expenses

The New York State Ethics Commission has issued regulations on the acceptance of travel expenses or reimbursements (hereinafter referred to as "travel expenses") by State employees. These regulations took effect April 11, 1990 and have just been received by HSCB. The regulations restrict the receipt of travel expenses, set up procedures for obtaining approval to receive such payments, and impose special reporting requirements for these payments.

A full statement of the rules affecting employees is contained in the regulations, which are available for your inspection in the Department of Human Resources, the Library, the Hospital Personnel Office, and the Academic Affairs office. These rules should be consulted prior to agreeing to or receiving any payment from entities other than HSCB. This memorandum summarizes some of the major features of the regulations.

Exempt and Covered Individuals

All faculty and those employees serving in the title series of Research Scientist, Cancer Research Scientist and Research Physician are exempt from these regulations with respect to travel expenses received for speeches, publications or conferences within their disciplines. All other state officers and employees are covered by these regulations, with certain exceptions applicable to members of boards and councils.

Restrictions

The regulations divide travel expenses into two categories--those that are not related to official duties and those that are related to official duties. The applicable rules differ depending on the category of travel expense.

TRAVEL EXPENSES UNRELATED TO OFFICIAL DUTIES

Absolute Prohibition

Travel expenses that are not related to official duties may never be accepted by covered employees if the payment is from organizations that do business with, regularly negotiate with or attempt to influence the Health Science Center.

For a full explanation of the restrictions on these types of travel expenses, please consult the text of the regulations.

Travel Expenses Unrelated To Official Duties Which State Employees Are Permitted to Receive

Covered employees may receive these travel expenses if the payment is from organizations that do not do business with, regularly negotiate with or attempt to influence the Health Science Center.

Approval Process

Employees may obtain approval from HSCB prior to acceptance of a travel expense in this category. Employees who obtain such approval are not subject to the special reporting requirements explained in the paragraph immediately below. An employee who seeks approval must write to the President's designee, Peter B. French, Senior Vice President for Administration and Finance. Approval requests should be made via a form which may be obtained from the office of the Senior Vice President, and must indicate that the travel payment does not violate any of the applicable restrictions which are delineated in the regulations. This form must be accompanied by statements of support from the individual's Department Chair/Unit Head and divisional Vice President. HSCB cannot approve the receipt of travel payments that are prohibited to employees by the regulations.

Special Reporting Requirements

Covered employees who do not seek prior written approval for receipt of travel expenses unrelated to duties must file an annual report by July 1 of 1990 (for 1989) and by April 1 of each succeeding year with Senior Vice President French. Forms will be circulated for this purpose. HSCB is required to submit all such reports to the New York State Ethics Commission.

TRAVEL EXPENSES RELATED TO OFFICIAL DUTIES

Absolute Prohibition

Covered employees may not accept travel expenses for activities related to official duties from non-State organizations if:

- o The travel expense is from organizations that do business with, regularly negotiate with or attempt to influence the Health Science Center; or
- o The travel expense could not be paid by HSCB according to its reimbursement procedures; or
- o The travel expense is at a rate greater than the rate at which HSCB would reimburse the employee; or
- o The travel expense is for a person other than the employee; or
- o The travel expense is for a period longer than the time the employee is required to be present at the particular event.

For a full statement of those travel expenses which employees may accept, please consult the regulations.

Travel Expenses Related To Official Duties Which Employees Are Permitted to Receive

Covered employees may accept travel expenses for activities related to official duties from non-State organizations if:

- o The travel expense is from organizations that do not do business with, regularly negotiate with or attempt to influence the Health Science Center; and
- o The travel expense could be paid by HSCB according to its reimbursement procedures; and
- o The travel expense is at a rate no greater than the rate at which HSCB would reimburse the employee; and
 - The travel expense is for the employee only; and
 - The travel expense is only for the period that the

employee is required to be present at the particular event, and

- o The employee's participation is for an HSCB purpose and would be of benefit to HSCB; and
- o The travel expense has the prior approval of HSCB.

For a full statement of the travel expenses an employee may accept, please consult the text of the regulations.

Approval Process

Employees must obtain prior written approval from the President's designee, Peter B. French, Senior Vice president for Administration and Finance, before acceptance of a travel expense in this category. Approval requests should be made via a form which can be obtained from the office of the Senior Vice President, and must indicate that the travel expense does not violate any of the applicable restrictions which are delineated in the regulations. This form must be accompanied by statements of support from the individual's Department Chair/Unit Head and divisional Vice President. HSCB cannot approve the receipt of travel expenses that are prohibited to employees by the regulations.

FINANCIAL DISCLOSURE REQUIREMENTS

All state officers or employees who are required to file a financial disclosure statement with the Ethics Commission must report all travel expenses in excess of \$1,000 as part of the financial disclosure statement, whether the payment is related or unrelated to official duties. If more than one travel expense is received from a single source, and the total of the payments received from that source is greater than \$1,000, the payments from that source must be reported on the financial disclosure statement.

Any further inquiries may be addressed to Diana J. Goldwasser, Deputy Director for Labor Relations, at Extension 3019, or to the Ethics Commission at (800) 87-ETHICS.



STEPHAN KASS
ACTING ASSISTANT VICE PRESIDENT
FOR HUMAN RESOURCES

MEMORANDUM

TO: The HSCB Community

FROM: Stephan Kass

DATE: May 29, 1990

SUBJECT: Ethics Commission Regulations on Honoraria

The New York State Ethics Commission has issued regulations on the acceptance of honoraria by state employees. These regulations took effect April 11, 1990 and have just been received by HSCB. The regulations restrict the receipt of honoraria, set up procedures for obtaining approval to receive such payments, and impose special reporting requirements for these payments.

A full statement of the rules affecting employees is contained in the regulations, which are available for your inspection in the Department of Human Resources, the Library, the Hospital Personnel Office, and the Academic Affairs office. These rules should be consulted prior to agreeing to or receiving any payment from entities other than HSCB. This memorandum summarizes some of the major features of the regulations.

Exempt and Covered Individuals

All faculty and those employees serving in the title series of Research Scientist, Cancer Research Scientist and Research Physician are exempt from these regulations with respect to honoraria received for speeches, publications or conferences within their disciplines. All other state officers and employees are covered by these regulations, with certain exceptions applicable to members of boards and councils.

Absolute Prohibitions On Receipt Of Honoraria

Honoraria must never be accepted by covered employees under the following circumstances

- 0 If the honorarium is for services related to official duties, or

- o If the honorarium is from organizations that do business with, regularly negotiate with or attempt to influence the Health Science Center.

For a full statement of the restrictions on honoraria, please consult the text of the regulations.

Honoraria Which State Employees Are Permitted to Receive

- o If the honorarium is for services that are not related to official duties, and
- o If the honorarium is from organizations that do not do business with, regularly negotiate with or attempt to influence the Health Science Center.

For a full statement of those payments which employees may accept, please consult the regulations.

Approval Process

Employees may obtain approval from HSCB prior to acceptance of an honorarium. Employees who obtain such approval are not subject to the special reporting requirements explained in the paragraph immediately below. An employee who seeks approval must write to the President's designee, Peter B. French, Senior Vice President for Administration and Finance. Approval requests should be made via a form which may be obtained from the office of the Senior Vice President, and must indicate that the honorarium does not violate any of the applicable restrictions which are delineated in the regulations. This form must be accompanied by statements of support from the individual's Department Chair/Unit Head and divisional Vice president. HSCB cannot approve the receipt of honoraria that are prohibited to employees by the regulations.

Special Reporting Requirements

Covered employees who do not seek prior written approval for receipt of honoraria must file an annual report by July 1 of 1990 (for 1989) and by April 1 of each succeeding year with Senior Vice President French. Forms will be circulated for this purpose. HSCB is required to submit all such reports to the New York State Ethics Commission.

Financial Disclosure Requirements

All state officers or employees who are required to file a financial disclosure statement with the Ethics Commission must report any honorarium in excess of \$1,000 as part of the financial disclosure statement. If more than one honorarium is

received from a single source, and the total of the honoraria received from that source is greater than \$1,000, the payments from that source must be reported on the financial disclosure statement.

Any further inquiries may be addressed to Diana J. Goldwasser, Deputy Director of Labor Relations, at Extension 3019 or to the Ethics Commission at (800) 87-ETHICS.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

MEMORANDUM

TO: Vice Presidents, Deans, Department Chairs, Unit Heads and
ProjectDirectors

FROM: Stephan Kass

DATE: May 23, 2000

**SUBJECT: EXTRA SERVICE ACADEMIC YEAR
SEPTEMBER 1, 2000 THROUGH AUGUST 31, 2001**

As we are approaching the start of the new Academic Year, each Department should begin reviewing its anticipated Extra Service commitments for the period September 1, 2000 through August 31, 2001.

Extra Service requests should be submitted to the Department of Human Resources (DHR) at least **twelve (12) weeks** prior to the start of the requested assignment to allow sufficient time for completion of the Extra Service CADE approval process.

It is incumbent upon you to ensure that no employee begins an Extra Service assignment prior to the completion of the appropriate review and approval and Pre-Employment process.

Thank you for your cooperation.

cc: John C. LaRosa, M.D.

If you have any questions concerning this policy, please E-Mail Personnel Services: goeloe-alston@downstate.edu.

SUNY HEALTH SCIENCE CENTER AT BROOKLYN
EXTRA SERVICE POLICY AND PROCEDURES
FOR UUP ACADEMIC AND NON-TEACHING PROFESSIONAL STAFF
(Paid on State Payroll)

The following policy is applicable to the performance of service beyond than normally required by the professional obligation (for a Non-Teaching Professional, the professional obligation is defined by the individual's Performance Program or Position Description).

POLICY TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

Extra Service for Academic and Non-Teaching Professional staff of the State University of New York is defined in two ways:

1. Work performed by an Academic or Non-Teaching Professional employee on a campus other than the campus to which the employee is regularly assigned.
2. Special assignments performed by an Academic or Non-Teaching Professional employee at their own campus, which are substantially different from or in addition to an individual's professional responsibilities.

These special assignments must not interfere or conflict with the individual's regular professional responsibilities or regularly assigned working schedule. Such assignments may include service by those holding positions of other than Academic rank (i.e., Administrator and other Non-Teaching Professionals). These assignments may involve but are not limited to teaching, research, and public service. It must be clearly demonstrated that such research or other service exceeds that which is normally performed under the regular obligation. For Non-Teaching Professionals, an up-to-date Performance Program and/or Position Description, must be on file in the Department of Human Resources. To avoid any delay in approving the request for Extra Service, a copy of an updated Performance Program or Position Description should be included with the request for Extra Service for an Non-Teaching Professional. For Academic staff, a letter of justification describing the duties to be performed should be approved by the Department Chair requesting the Extra Service assignment. This request must be endorsed by the Academic employee's originating Department, attesting that the Extra Service duties to be performed are not considered part of the normally required professional obligation.

Compensation for Extra Service may not exceed an amount equal to 20 percent of the employee's base annual salary in any academic calendar year, beginning September 1, as appropriate. For example, a professional staff member earning a salary of \$25,200 may not be paid more than \$5,000 for Extra Service during the course of his or her annual professional obligation (i.e., September 1, 1987 through August 31, 1988).

No employee may engage in other employment which interferes with the performance of the employee's professional obligation. No full-time employee of the State University may assume another full-time position or obligation, either within or without the University, while receiving compensation from the University.

Extra Service compensation is not to be used in lieu of overtime for a professional employee deemed eligible under the Fair Labor Standards Act.

Additionally, all Extra Service activities must conform to the ethical Standards mandated by Section 74 of the Public Officer's Law, which states:

"A State employee"

May not have direct or indirect interest, financial or otherwise, in any transaction or activity which conflicts with the proper discharge of his duties in the public interest.

Shall not accept other employment which may impair his judgment in the exercise of his official duties.

Shall not accept other employment, or engage in any business or professional activity, which may require him to disclose confidential information which he has gained by reason of his state employment.

Shall not disclose confidential information acquired in the course of official duties, nor shall such information be used to further the state employee's personal interests.

Shall not use his official position to secure unwarranted privileges.

Shall not act as agent of the State with any firm in which he has direct or indirect financial interest which might tend to conflict with his official duties.

Shall not give the impression that he may be influenced or affected in any way in the proper performance of his duties."

WRITTEN APPROVAL FOR EXTRA SERVICE ASSIGNMENTS MUST BE OBTAINED PRIOR TO THE COMMENCEMENT OF THE SERVICE. SERVICE PERFORMED IN ADVANCE OF SUCH APPROVAL WILL NOT BE COMPENSATED WITHOUT ACCEPTABLE WRITTEN JUSTIFICATION.

PROCEDURE TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

The following procedure should be followed to initiate or renew Extra Service compensation for an Academic or Non-Teaching Professional employee, paid on the SUNY Health Science Center at Brooklyn State Payroll, whose Extra Service payments are to also be paid on the State Payroll.

1. The request for Extra Service must be initiated or renewed by the requesting department twelve (12) weeks prior to the performance of the Extra Service duties.
2. The Department Chair/Department Head requesting Extra Service must provide a letter of justification specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). This request must include the Department Account and dollar amounts that should be encumbered. A Campus Affirmation of Dual Employment (CADE) Form (copy attached) must also be completed.

3. The employee's Department Chair/Department Head must also endorse the request by signing the CADE Form, attesting that no conflict of the employee's normal work obligation will occur.
4. All requests for Extra Service Payment must be reviewed and approved by the appropriate Vice Presidential Area Fiscal Officer.

Extra Service Requests to be charged against the Academic Area must be reviewed and approved by the Office of Academic Affairs for funding.

Extra Service Requests to be charged against the University Hospital Area must be reviewed and approved by Hospital Administration for funding.

Extra Service Requests to be charged against the Administration Area must be reviewed and approved by the Office of Budget Administration for funding.

Extra Service Requests to be charged against Income Fund Reimbursable Accounts must be reviewed and approved by the Office of Budget Administration for funding.

EXTRA SERVICE PAYMENT CANNOT BE APPROVED IF DOLLARS HAVE NOT BEEN BUDGETED FOR THIS EXPENSE.

5. Upon approval of appropriate Vice Presidential Area Fiscal Officer, **the request for all Clinical Department Faculty members (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service Employees are **not** required to undergo Clinical Practice Review and will proceed directly to the next level reviewer.
6. Upon approval of the appropriate Vice Presidential Area Fiscal Officer and/or Office of Practice Plan Affairs, the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
7. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Department of Human Resources for review and recommendation to the Campus President.
8. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the appropriate Vice Presidential Area Fiscal Officer.
9. Upon receipt of an approved Notice of Determination, the requesting Department will proceed to have the employee begin the Extra Service assignment.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE FOR PROCESSING PAYMENT OF AUTHORIZED EXTRA SERVICE ASSIGNMENTS

1. In order to effect payment to the employee for the Extra Service assignment, bi-weekly Extra Service Payroll Vouchers (AC-873) will be submitted to the requesting department by the employee, listing the dates and hours worked for the bi-weekly pay period.
2. The voucher will be completed and approved by the requesting Department Chair/Department Head and submitted to the appropriate Vice Presidential Area Fiscal Officer for monitoring against the 20% limitation rule and approval of the Extra Service Voucher for payment.

NO EXTRA SERVICE PAYROLL VOUCHER WILL BE APPROVED FOR PAYMENT BY THE VICE PRESIDENTIAL AREA FISCAL OFFICER, WHERE THE PAYMENT REQUESTED EXCEEDS 20 % OF THE EMPLOYEE'S BASE ANNUAL SALARY IN ANY ACADEMIC CALENDAR YEAR, BEGINNING SEPTEMBER 1, AS REQUIRED BY THE UNIVERSITY.

IN THE EVENT AN EXTRA SERVICE PAYROLL VOUCHER WHICH WILL BE RETURNED TO THE REQUESTING DEPARTMENT BY THE VICE PRESIDENTIAL AREA FISCAL OFFICER WITH APPROPRIATE NOTIFICATION THAT PAYMENT CANNOT BE HONORED. THE DEPARTMENT WILL BE REQUIRED TO NOTIFY THE EMPLOYEE TO CEASE THE PERFORMANCE OF THE EXTRA SERVICE ASSIGNMENT.

3. Upon approval by the appropriate Vice Presidential Area Fiscal Officer for payment, the Extra Service Voucher will be processed to the Department of Human Resources for approval as to form and maintenance of the official Extra Service File.
4. Upon approval by the Department of Human Resources, the Extra Service Voucher will be forwarded to the Payroll Office for processing of payment.

DEPARTMENT OF HUMAN RESOURCES
REISSUED AS OF AUGUST 1988

SUNY HEALTH SCIENCE CENTER AT BROOKLYN
EXTRA SERVICE POLICY AND PROCEDURES
for Research Foundation Employees Compensated
for Extra Service on the State Payroll

POLICY TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

A Research Foundation professional employee is eligible to perform Extra Service with the State, provided the same criteria is met as is specified in the aforementioned Policy Statement, for employees "**Paid on State Payroll.**"

Please note that a request to compensate a part-time employee paid on the Research Foundation payroll against the State payroll, is not considered Extra Service for these purposes and is, therefore, not affected by this policy statement. Such employees are considered to be Dual State and Research Employees and are subject to the normal SUNY/Health Science Center at Brooklyn appointment process.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

1. The request for Extra Service must be initiated by the requesting Department twelve (12) weeks prior to performance of the Extra Service duties.
2. The Department Chair/Department Head requesting Extra Service **must** provide a letter of justification specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). This request must include the Account number(s) and dollar(s) amount(s) that should be encumbered. A request for approval of Extra Service for Research Foundation Professional employees (UP-8 Form) (copy attached); a Campus Affirmation of Dual Employment (CADE) Form (copy attached); a UP-1 Form and a UP-4 form must also be completed and forwarded with the letter of justification. **Extra Service payments cannot be approved if dollars have not been budgeted for this expense.**
3. The employee's Research Foundation Project director must also endorse the request, attesting that no conflict of the employee's normal work obligation will occur.

4. The letter of justification must be reviewed and approved by the appropriate Vice Presidential Area Fiscal Officer. **(See aforementioned Procedure for employees "Paid on State Payroll - Part I.)**

EXTRA SERVICE PAYMENT CANNOT BE APPROVED IF DOLLARS HAVE NOT BEEN BUDGETED FOR THIS EXPENSE.

5. Upon approval of the appropriate Vice Presidential Area fiscal Officer, **the request for all Clinical Department Faculty members (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service employees are **not** required to undergo Clinical Practice Plan Review and will proceed directly to the next level reviewer.
6. Upon approval of the appropriate Vice Presidential Area Fiscal Officer and/or Office of Practice Plan Affairs, the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
7. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Office of Research Administration for review. All requests for **dual salaried payments (State and Research)** will be forwarded by the Office of Research Administration to the Department of Human Resources for their review and approval.
8. Upon completion of the necessary reviews, the request will be forwarded by the Department of Human Resources to the President for his determination.
9. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the employee by the Department of Human Resources on all Extra Service requests funded through the State Payroll. Copies will also be forwarded to Department Chair/Department Head requesting the Extra Service assignment; to the employee's Department Chair/Department Head; to the appropriate Vice Presidential Area Fiscal Officer; and to the appropriate vice President or University Hospital Executive Director.
10. Upon receipt of an approved Notice of Determination, the requesting Department will proceed to have the employee begin the Extra Service assignment.

EXTRA SERVICE ASSIGNMENTS PERFORMED PRIOR TO RECEIPT OF A NOTICE OF DETERMINATION WILL NOT BE HONORED FOR PAYMENT.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE FOR PROCESSING PAYMENT OF AUTHORIZED EXTRA SERVICE ASSIGNMENTS

(See **Aforementioned Procedure Statement for Employees "Paid on State Payroll - Part I"**).

SUNY HEALTH SCIENCE CENTER AT BROOKLYN
DUAL EMPLOYMENT

EMPLOYEES REGULARLY ASSIGNED TO A DIFFERENT PAYROLL
AGENCY COMPENSATED FOR EXTRA SERVICE AT
SUNY/HEALTH SCIENCE CENTER AT BROOKLYN

POLICY TO INITIATE OR REVIEW SERVICE APPROVAL

An Academic or Non-Teaching Professional employee regularly assigned to a different City or State Payroll Agency, is eligible to receive Extra Service on the SUNY/Health Science at Brooklyn State Payroll provided the same criteria is met as is specified in the aforementioned Policy Statement, for employees "**Paid on State Payroll**".

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AND EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE TO INITIATE OR RENEW EXTRA SERVICE

1. The request for Extra Service must be initiated by the requesting department twelve (12) weeks prior to performance of the Extra Service duties.
2. The Department Chair/Department Head requesting Extra Service **must** provide a letter of justification specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, dollar amount(s) that should be encumbered. An authorization from the employee's primary agency approving the employee to perform Extra Service (form must be obtained by employee from their primary agency as different agencies use different forms); a Campus Affirmation of Dual Employment (CADE) Form (copy attached; a UP-1 and UP-4 Form must also be completed and forwarded with the letter of justification.
3. All requests for Extra Service Payment must be reviewed and approved by the appropriate Vice Presidential Area Fiscal Officer. (See aforementioned Procedure Statement for employees "**Paid on State Payroll - Part I**).

EXTRA SERVICE PAYMENT CANNOT BE APPROVED IF DOLLARS HAVE NOT BEEN BUDGETED FOR THIS EXPENSE.

4. Upon approval of the appropriate Vice Presidential Area Fiscal Officer, the **request for all Clinical Department Faculty members (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service employees are **not** required to undergo Clinical Practice Review and will proceed directly to the next level reviewer.

5. Upon approval of the appropriate Vice Presidential Area Fiscal Officer and/or Office of Practice Plan Affairs, the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
6. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Department of Human Resources for review.
7. Upon completion of the necessary reviews, the request will be forwarded by the Department of Human Resources to the President for his determination.
8. Upon approval/disapproval by the campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the appropriate Vice Presidential Area Fiscal Officer; and to the appropriate Vice President or University Hospital Executive Director.
9. Upon receipt of an approved Notice of Determination, the requesting Department will proceed to have the employee begin the Extra Service assignment.

EXTRA SERVICE ASSIGNMENTS PERFORMED PRIOR TO RECEIPT OF A NOTICE OF DETERMINATION WILL NOT BE HONORED FOR PAYMENT.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

(See **aforementioned Procedure Statement for employees "Paid on State Payroll - Part I"**).

DEPARTMENT OF HUMAN RESOURCES
REISSUED AUGUST 1988

SUNY HEALTH SCIENCE CENTER AT BROOKLYN
DUAL EMPLOYMENT
SUNY/HEALTH SCIENCE CENTER AT BROOKLYN
STATE PAID UUP EMPLOYEES
COMPENSATED FOR EXTRA SERVICE AT A DIFFERENT PAYROLL AGENCY

POLICY TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

An Academic or Non-Teaching Professional employee (paid on the SUNY/Health Science Center at Brooklyn State Payroll), is eligible to perform Extra Service with a different Payroll Agency, provided the same criteria is met as is specified in the aforementioned Policy Statement for employees "**Paid on State Payroll**".

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE TO INITIATE OR RENEW EXTRA SERVICE APPROVAL

1. The request for Extra Service **must** be initiated by the requesting employee **prior** to performance of the Extra Service duties.
2. The request to perform Extra Service **must** provide the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). A request for the approval of Extra Service for UUP employees (UP-8 Form) (copy attached); and a Campus Affirmation of Dual Employment (CADE) Form (copy attached) must also be completed and forwarded with the letter of justification.
3. The employee's Department Chair/Department Head must endorse the CADE form attesting that no conflict of the employee's normal work obligation will occur.
4. Upon approval of the appropriate Department Chair/Department Head, the request will be forwarded to the appropriate Office of the Vice President or Office of Hospital Administration for review and approval.
5. Upon approval of the appropriate Office of the Vice President or Office of the Hospital Administration **the request for all Clinical Department Faculty member (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service employees are **not** required to undergo Clinical Practice Plan Review and will proceed directly to the next level reviewer.

6. Upon approval of the appropriate Office of the Vice President and/or Office of Practice Plan Affairs, the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
7. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Department of Human Resources for review and recommendation to the Campus President.
8. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the appropriate Vice President or University Hospital Executive Director.
9. Upon receipt of an approved Notice of Determination, the employee is authorized to begin the Extra Service assignment at the different Payroll Agency.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD OF NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

SUNY HEALTH SCIENCE CENTER AT BROOKLYN
(STATE PAID UUP EMPLOYEES COMPENSATED FOR EXTRA SERVICE
ON RESEARCH FOUNDATION PAYROLL)

POLICY

An Academic or Non-Teaching Professional employee (paid on the State Payroll), is eligible to perform Extra Service with the Research Foundation, provided the same criteria is met as is specified in the aforementioned Policy Statement for employees "**Paid on State Payroll**".

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

(Please note that a request to compensate a part-time employee paid on the State Payroll against the Research Payroll, is not considered Extra Service for these purposes and is, therefore, not affected by this Policy Statement. Such employees are considered to be Dual employees and are subject to the normal SUNY/Health Science Center at Brooklyn appointment process).

PROCEDURE

1. The request for Extra Service **must** be initiated by the requesting Department twelve (12) weeks **prior** to performance of the Extra Service duties.
2. The Research Foundation Project Director requesting Extra Service **must** provide a letter of justification specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). This request must include the grant number(s) and dollar amount(s) that should be encumbered. A request for the approval of Extra Service for UUP employees (UP-8R Form) (copy attached); a Campus Affirmation of Dual Employment (CADE) Form (copy attached); and a personnel Appointment Form (P form) (copy attached) must also be completed and forwarded with the letter of justification.
3. The employee's Department Chair/Department Head must also endorse the request, attesting that no conflict of the employee's normal work obligation will occur.
4. All requests for Extra Service payment must be reviewed and approved by the appropriate Office of the Vice President or Hospital Administration Office. (See aforementioned Procedure Statement for employees "**Paid on State payroll - Part I**").

EXTRA SERVICE PAYMENTS ARE CONTINGENT UPON THE AVAILABILITY OF GRANT FUNDS AND THE RULES AND REGULATIONS OF THE INDIVIDUAL SPONSORED AGREEMENTS.

5. Upon approval of the appropriate Office of the Vice President or Hospital Administration Office, **the request for all Clinical Department Faculty member (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service employees who are **not** required to undergo clinical Practice Review will proceed directly to the next level reviewer.
6. Upon approval of the appropriate Office of the Vice President and/or the Office of Practice Plan Affairs, the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
7. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Department of Human Resources for review and approval.
8. Upon approval of the Department of Human Resources, the request will be forwarded to the Office of Research Administration for review and recommendation to the Campus President.
9. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the employee by the Office of Research Administration on all Extra Service requests funded through the Research Foundation. Copies will also be forwarded to the Research Foundation Project Director; to the Department Chair/Department Head requesting the Extra Service assignment; to the employee's Department Chair/Department Head; and to the appropriate Vice President or University Hospital Executive Director.
10. Upon receipt of an approved Notice of Determination, the employee is authorized to begin the Extra Service assignment at the different Payroll Agency.

EXTRA SERVICE ASSIGNMENTS PERFORMED PRIOR TO RECEIPT OF A NOTICE OF DETERMINATION WILL NOT BE HONORED FOR PAYMENT.

PROCEDURE FOR PROCESSING PAYMENT OF AUTHORIZED EXTRA SERVICE ASSIGNMENTS.

(See aforementioned Procedure Statement for employees "Paid on State Payroll - Part I").

**RESEARCH ADMINISTRATION
REISSUED AS OF AUGUST 1988**

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN
EXTRA SERVICE POLICY AND PROCEDURES
RESEARCH FOUNDATION PROFESSIONAL EMPLOYEES**
(Paid on the Research Payroll)

The following policy is applicable to performance of service beyond that normally required by the employee's professional obligation. (for a Non-Teaching Professional, the professional obligation is defined by the individual's Position Description).

POLICY

WRITTEN APPROVAL FOR EXTRA SERVICE ASSIGNMENTS MUST BE OBTAINED PRIOR TO THE COMMENCEMENT OF THE SERVICE. SERVICE PERFORMED IN ADVANCE OF SUCH APPROVAL WILL NOT BE COMPENSATED WITHOUT ACCEPTABLE WRITTEN JUSTIFICATION,

Extra Service for professional staff of The Research Foundation of the State University of New York is defined in two ways:

1. Work performed by an Academic or Non-Teaching professional employee on a campus other than the campus to which the employee is regularly assigned.
2. Special assignments performed by an Academic or Non-Teaching Professional employee at their own campus, which are substantially different from or in addition to an individual's professional responsibilities.

These special assignments must not interfere or conflict with the individual's regular professional responsibilities or regularly assigned working schedule. Such assignments may include service by those holding positions of other than Academic rank (i.e., administrator and other Non-Teaching Professionals). These assignments may involve but are not limited to teaching, research and public service. It must be clearly demonstrated that neither such research nor other service exceeds that which is normally performed under the regular obligation. For Non-Teaching Professionals, an up-to-date Position Description must be on file in the Office of Research Administration. To avoid any delay in approving the request for Extra Service Compensation a copy of an updated Position Description should be included with the request for Extra Service for any Non-Teaching Professional.

For Academic staff a letter of justification describing the duties to be performed must be approved by the Project Director and Department Chair requesting the Extra Service assignment. This request must be endorsed by the Academic employee's originating Department, attesting that the Extra Service duties to be performed are not considered part of the normally required professional obligation.

Compensation for Extra Service may not exceed an amount equal to 20 percent of the base annual salary in any calendar year beginning July 1, as appropriate. For example, a professional staff member earning a salary of \$25,000 may not be paid more than \$5,000 for Extra Service during the course of his or her annual professional obligation (i.e., July 1, 1987 through June 30, 1988).

No employee may engage in other employment which interferes with the performance of the employee's professional obligation. No full-time employee of the Research Foundation may assume another full-time position or obligation, either within or without the University, while receiving compensation from the Research Foundation.

Extra Service compensation is not to be used in lieu of overtime for a professional employee deemed eligible under the Fair Labor Standards Act.

**EXTRA SERVICE
RESEARCH FOUNDATION ACADEMIC AND NON-TEACHING
PROFESSIONAL STAFF
(PAID ON THE RESEARCH PAYROLL)**

PROCEDURE

The following procedure should be followed to request extra service compensation for an Academic or Non-Teaching Professional employee whose Extra-Service payments are to be paid on the Research Foundation Payroll.

1. The request for Extra Service Compensation **must** be initiated by the requesting department six (6) weeks prior to performance of the Extra Service duties.
2. The Project Director requesting Extra Service must provide a letter of justification endorsed by the Department Chair/Department Head specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). This request must include the grant number(s) and dollar amount(s) that should be encumbered. A Campus Affirmation of Dual Employment for (CADE) (copy attached) must also be completed.
3. The employee's Project Director and Department Chair/Department Head must also endorse the request by signing the CADE form, attesting that no conflict of the employee's normal work obligation will occur.
4. All requests for Extra Service must be reviewed and approved by the appropriate Vice Presidential Fiscal Officer.

EXTRA SERVICE PAYMENTS ARE CONTINGENT UPON THE AVAILABILITY OF GRANT FUNDS AND THE RULES AND REGULATIONS OF THE INDIVIDUAL SPONSORED AGREEMENTS.

5. Upon approval of the appropriate Vice President, the requests will be forwarded to the Office of Research Administration for review and recommendation to the Campus President.
6. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the employee by the Office of Research Administration. Copies will also be forwarded to the Project Director requesting the extra service assignment; to the employee's Project Director and Department Chair/Department Head; and to the Vice President.

EXTRA SERVICE ASSIGNMENTS PERFORMED PRIOR TO RECEIPT OF A NOTICE OF DETERMINATION WILL NOT BE HONORED FOR PAYMENT.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN
(STATE PAID UUP EMPLOYEES COMPENSATED FOR
EXTRA SERVICE ON RESEARCH FOUNDATION PAYROLL)**

POLICY

An Academic or Non-Teaching Professional employee (paid on the State Payroll), is eligible to perform Extra Service with the Research Foundation, provided the same criteria is met as is specified in the aforementioned Policy Statement for employees "**Paid on State Payroll**".

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

(Please note that a request to compensate a part-time employee paid on the State Payroll against the Research Payroll, is not considered Extra Service for these purposes and is therefore not affected by this policy statement. Such employees are considered to be Dual employees and are subject to the normal SUNY/Health Science Center at Brooklyn appointment process).

PROCEDURE

1. The request for Extra Service **must** be initiated by the requesting Department twelve (12) weeks **prior to** performance of the Extra Service duties.
2. The Research Foundation Project Director requesting Extra Service **must** provide a letter of justification specifying the duties that the employee will be performing; the approximate number of hours to be worked; and the duration of the Extra Service (i.e., days, weeks, months). This request must include the grant approval of Extra Service for UUP Employees (UP-8R form) (copy attached); a Campus Affirmation of Dual Employment (CADE) form (copy attached); and a Personnel Appointment form (P form) (copy attached) must also be completed and forwarded with the letter of justification.
3. The employee's Department Chair/Department Head must also endorse the request attesting that no conflict of the employee's normal work obligation will occur.
4. All requests for Extra Service payment must be reviewed and approved by the appropriate Office of the Vice President or Hospital Administration Office. (See aforementioned Procedure Statement for employees "**Paid on State Payroll - Part I**").

EXTRA SERVICE PAYMENTS ARE CONTINGENT UPON THE AVAILABILITY OF GRANT FUNDS AND THE RULES AND REGULATIONS OF THE INDIVIDUAL SPONSORED AGREEMENTS.

5. Upon approval of the appropriate Office of the Vice President or Hospital Administration office **the request for all Clinical Department Faculty member (M.D., D.D.S., and D.O.) will be forwarded to the Office of Practice Plan Affairs for review and approval.** Reviews for all other Professional Service Employees will

(be forwarded to the) undergo Clinical Practice Review and will proceed directly to the next level reviewer.

6. Upon approval of the appropriate Office of the Vice President and/or the Office of Practice Plan Affairs the request will be forwarded to the appropriate Vice President or University Hospital Executive Director for review and approval.
7. Upon approval of the appropriate Vice President or University Hospital Executive Director, the request will be forwarded to the Department of Human Resources for review and approval.
8. Upon approval of the Department of Human Resources, the request will be forwarded to the Office of Research Administration for review and recommendation to the Campus President.
9. Upon approval/disapproval by the Campus President, a **Notice of Determination** as to whether or not the Extra Service request has been approved, will be forwarded to the employee by the Office of Research Administration on all Extra Service requests funded through the Research Foundation. Copies will also be forwarded to the Research foundation Project Director; to the Department Chair/Department Head; and to the appropriate Vice President or University Hospital Executive Director.
10. Upon receipt of an approved Notice of Determination, the employee is authorized to begin the Extra Service assignment at the different Payroll Agency.

EXTRA SERVICE ASSIGNMENTS PERFORMED PRIOR TO RECEIPT OF A NOTICE OF DETERMINATION WILL NOT BE HONORED FOR PAYMENT.

EXTRA SERVICE ASSIGNMENTS WILL BE APPROVED FOR A PERIOD NOT TO EXCEED ONE (1) ACADEMIC CALENDAR YEAR. IN ORDER TO EXTEND OR RECERTIFY AN EXTRA SERVICE ASSIGNMENT, NEW DOCUMENTATION WILL BE REQUIRED.

PROCEDURE FOR PROCESSING PAYMENT OF AUTHORIZED EXTRA SERVICE ASSIGNMENTS (See aforementioned Procedure Statement for employee's "Paid on State Payroll - Part 1").

**RESEARCH FOUNDATION OF
STATE UNIVERSITY OF NEW YORK**

**UP-8R REQUEST FOR APPROVAL OF EXTRA SERVICE FOR RESEARCH FOUNDATION PROFESSIONAL
EMPLOYEES**

**INSTRUCTIONS: Part I of this form is to be completed by the employee in triplicate and submitted
for approval prior to commencing extra service.**

I. TO BE COMPLETED BY EMPLOYEE

Name _____ College _____

Address _____ Title _____

_____ Current Salary _____

Grant # _____

I request approval to render extra service on a

_____ at _____ for the period _____ through _____
(name of university) (location of employment) (part-time) (full-time)

_____ for the purpose of _____
(brief description of work to be performed)

**Total compensation for this additional work will not exceed \$
This extra service will not interfere with my normal obligations to the
University.**

(date)

(signature of employee)

II. ACTION BY CHIEF ADMINISTRATIVE OFFICER

Approved

Disapproved

Approved with the following limitations:

(date)

(Signature of Chief Administrative Officer)

Distribution:

**Office of Research Administration
Chief Administrative Office
Employee Copy**

**STATE UNIVERSITY OF NEW YORK
OFFICE OF EMPLOYEE RELATIONS AND PERSONNEL
ALBANY, N.Y. 12246**

UP-8 REQUEST FOR APPROVAL OF EXTRA SERVICE FOR UUP (BU—08) EMPLOYEES

INSTRUCTIONS: Part I of this form is to be completed by the employee in an original plus two copies, and submitted to the Chief Administrative Officer of his campus for approval prior to commencing extra service. One copy should be forwarded to Audit & Control to implement payment with all records of the transaction being kept at the campus.

I. TO BE COMPLETED BY EMPLOYEE

Name _____ College _____

Address _____ Title _____

_____ Current Salary _____

I request approval to render extra service on a _____ basis to the
(part-time) (full-time)
_____ at _____ for the period of _____ through
(name of state agency) (location of employment)

for the purpose of
(brief description of work to be performed)

Total compensation for this additional work will not exceed \$ _____.
This extra service will not interfere with my normal obligations to the University.

(date) (Signature of employee)

II. ACTION BY CHIEF ADMINISTRATIVE OFFICER

Approved Disapproved
 Approved with the following limitations:

(date) (Signature of Chief Administrative Officer)

Distribution: Payroll Audit Unit, Dept. of Audit & Control
 Chief Administrative Officer
 Employee Copy

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN
CAMPUS AFFIRMATION OF DUAL EMPLOYMENT FORM**

Employee Campus _____ **Extra Service Campus** _____

Name of Employee _____ **Employee State/RF Salary** _____

Employee Title _____ **Extra Service Account Code** _____

Employee Line #/Grant # _____ **Period of ES Assignment** _____

Employee Account Code _____ **Appvd. Hourly Compensation Rate** _____

20% Maximum Allowable _____ **Annual Compensation Not To Exceed** _____

	<u>Approved</u>	<u>Disapproved</u>	
_____	[]	[]	_____
Date			Dept. Chair/Head Requesting Extra Service
_____	[]	[]	_____
Date			Employee's Dept. Chair/Head
_____	[]	[]	_____
Date			Vice Presidential Area Fiscal Officer
_____	[]	[]	_____
Date			Clinical Practice Plan Administrator
_____	[]	[]	_____
Date			Dean, College of Medicine
_____	[]	[]	_____
Date			Vice President for Academic Affairs
_____	[]	[]	_____
Date			V.P. Hosp. Affairs & Executive Director
_____	[]	[]	_____
Date			Project Director Requesting Extra Service
_____	[]	[]	_____
Date			Research Foundation Administrator
_____	[]	[]	_____
Date			Human Resources Administrator
_____	[]	[]	_____
Date			Campus President

Employee applicable Procedure Statement to determine approvals required for each type of Extra Service Request.

**SCB-CADE
Revised (6/95)**

**RESEARCH FOUNDATION OF
STATE UNIVERSITY OF NEW YORK**

UP-8R REQUEST FOR APPROVAL TO PERFORM EXTRA SERVICE ON RESEARCH FOUNDATION PAYROLL

INSTRUCTIONS: Part I of this form is to be completed by the employee in triplicate and submitted for approval prior to commencing extra service.

I. TO BE COMPLETED BY EMPLOYEE

Name _____ College _____

Address _____ Title _____

_____ Current Salary _____

Grant # _____

I request approval to render extra service on a

_____ (part-time) (full-time)
_____ at _____ for the period

_____ through
(name of university) (location of employment)

_____ for the purpose

of _____
(brief description of work to be performed)

Total compensation for this additional work will not exceed

\$ _____

This extra service will not interfere with my normal obligations to the University.

(date)

(signature of employee)

II. ACTION BY CHIEF ADMINISTRATIVE OFFICER

Approved

Disapproved

Approved with the following limitations:

(date)

(Signature of Chief Administrative Officer)

Distribution:

Office of Research Administration

Chief Administrative Office

Employee Copy

MEMORANDUM

TO: All HSCB Employees

FROM: Stephan Kass

**SUBJECT: Employees' Rights Under the Family and Medical
Leave Act**

DATE: October 3, 1997

For your information, the attachment to this memo contains a notice summarizing your rights under the federal Family and Medical Leave Act ("FMLA").

To apply for FMLA leave, you should submit a written request to your supervisor within one or two workdays after you recognize the need for such leave. The request should indicate the date(s) and the reason for leave and specify that it is being taken under the provisions of FMLA. If the leave is for your own serious health condition or that of a family member, your supervisor may request medical documentation on a form that he or she will provide to you for this purpose.

There are two ways you may submit medical documentation for FMLA leave:

- I. You can submit this documentation to your supervisor in a sealed envelope marked "Confidential". The supervisor will then advise Labor Relations of his/her written opinion as to whether the leave falls within the provisions of FMLA and forward the documentation in an envelope marked "Confidential" to Labor Relations for final review. If the supervisor does not approve, Labor Relations will review the documentation again and make the final decision. Labor Relations will forward the medical documentation to HSCB-EHS ("Employee Health Service") for retention in a confidential file; or
- II. You may submit your medical documentation directly to Labor Relations, Box 1224, in an envelope marked "Confidential". After its review, Labor Relations will inform the supervisor and the employee whether or not FMLA leave should be granted and then forward the medical documentation to HSCB-EHS for retention in a confidential file.

In no case will the supervisor or Labor Relations make copies of this documentation for retention in their files.

Any questions regarding this memo should be directed initially to your supervisor. You may also consult the Department of Human Resources/Labor Relations Unit at Extension 3019. Questions regarding health care and other benefits may be addressed to the Benefits Office at Extension 3014.

YOUR RIGHTS
UNDER THE
FAMILY AND MEDICAL LEAVE ACT OF 1993

Under FMLA New York State provides up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons each calendar year. Employees are eligible if they have worked for the State for at least one year, and for 1,250 hours over the previous 12 months.

REASONS FOR TAKING LEAVE: *Unpaid leave must be granted for any of the following reasons:*

- *to care for the employee's child after birth, or placement for adoption or foster care;*
- *to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or*
- *for a serious health condition that makes the employee unable to perform his/her job.*

At the employee's option, use of leave credits may be substituted for unpaid leave for any absences for which the employee would otherwise be allowed to charge leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: *The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.*

- *The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."*
- *HSCB may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at HSCB's expense) and a fitness for duty report to return to work.*

JOB BENEFITS AND PROTECTION:

- *For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan," if the employee wishes to continue it. If you contribute to any benefit provided by the State which you wish to continue while on FMLA leave, you must contact the Benefits Office.*
- *Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.*
- *The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.*

UNLAWFUL ACTS BY EMPLOYERS: *FMLA makes it unlawful for any employer to:*

- *interfere with, restrain, or deny the exercise of any right provided under FMLA;*
- *discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.*

ENFORCEMENT:

- *The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.*
- *An eligible employee may bring a civil action against an employer for violations.*

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION: *Contact Labor Relations at X3019 for further information.*

ATTACHMENT B

QUESTIONS FOR SUPERVISORS TO ASK WHEN FMLA LEAVE IS REQUESTED

1. What is the reason for requesting leave?
2. How long will you be out?
3. Will the leave be taken in one continuous block or intermittently?
4. When did you learn about the need to take this leave?
5. Will the leave be paid or will you be charging your accruals?

In addition, the employee should be required to bring in medical documentation ([Attachment D](#)) when there is an objective reason to believe the leave request is not legitimate or for long-term absences of thirty days or more. A supervisor may reasonably believe a leave request is not legitimate when:

- medical documentation is submitted which is incomplete
- the supervisor knows of other facts that call the veracity of the request into question, e.g., a prior request for time off was denied
- the leave request is to extend a previously approved leave
- the employee is on Time and Attendance Watch or has a record of poor attendance

ATTACHMENT C (revised 10/97)

MEMORANDUM

TO: _____
(employee's name)

FROM: _____
(Name of appropriate Department Head)

SUBJECT: REQUEST FOR FAMILY/MEDICAL LEAVE

DATE: _____

=====

On _____, you notified us of your need to take leave under the Family and Medical Leave Act (FMLA) due to:

- The birth of a child, or the placement of a child for adoption or foster care; or
- A serious personal health condition; or
- A serious health condition affecting your spouse, child, parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _____ and that you expect the leave to continue until on or about _____.

Leave under the FMLA may be granted for up to 12 weeks of paid/unpaid leave each calendar year for the reasons listed above. Your health benefits must be maintained during any period of unpaid FMLA leave under the same conditions as would apply if you continued to work and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you will be required to reimburse the State for the share of health insurance premiums paid on your behalf during your FMLA leave.

Any absence attributable to this medical reason will be considered FMLA designated during the 12 week period to which you are entitled.

This is to inform you that: (check boxes where appropriate)

1. (a) ***You are qualified to request leave under the FMLA.***
 (b) ***You are not qualified to request leave under the FMLA because _____***
_____.
2. (a) ***The requested leave will be counted against your annual FMLA entitlement. As of _____ you will have used _____ weeks of your 12-week annual entitlement for calendar year _____.***
 (b) ***The requested leave will not be counted against your annual FMLA entitlement because _____.*** ***Please go directly to item number 9.***
3. (a) ***You will be required to furnish medical certification of a serious health condition. We are currently making a preliminary designation of FMLA leave. However, final approval is contingent upon receipt of satisfactory medical certification (enclosed) which you must furnish by _____ (must be 15 days after you are notified of this requirement) or:***
 We may delay the commencement of your leave until the certification is submitted.
 We may disapprove your absence.
 (b) ***You will not be required to furnish medical certification of a serious health condition.***
4. ***You may choose to substitute accrued paid leave for unpaid FMLA leave. Provisions set forth in the Attendance Rules and negotiated agreements continue to govern your use of any paid leave. Please contact _____ at _____ to discuss use of credits.***
5. (a) ***If you normally pay a portion of the premiums for your health insurance, these payments must be made during the period of FMLA leave. If you remain on the payroll, your premium deductions will automatically continue. If you are on leave without pay, information on continuing premium payments will be sent to you by the Employee Benefits Division, NYS Department of Civil Service, after we have notified the Division of your FMLA leave. If you make direct premium payments while on unpaid FMLA leave, you have a 30-day grace period in which to make payment. If payment has not been made timely, your group health insurance will be canceled.***
The State will not pay your share of the premiums for your health insurance while you are on leave.
 (b) ***The State will continue to pay the full share premium cost for your dental and vision coverages while you are on FMLA leave.***
 (c) ***If you wish to continue paying the premium for your life and/or accident and sickness coverage while on unpaid FMLA leave, contact your Health Benefits Administrator for information.***
6. (a) ***You will be required to present a fitness-for-duty certificate prior to being restored to employment. If such certificate is not received, your return to work may be delayed until such certification is provided. You must submit the certification to HSCB-EHS, and indicate that it is in support of your FMLA application.***

- (b) *You will not be required to present a fitness-for-duty certificate prior to being restored to employment.*
7. (a) *You will be required to furnish us with periodic reports of your status and intent to return to work every 30 days while on FMLA leave.*
- (b) *You will not be required to furnish us with periodic reports of your status and intent to return to work every 30 days while on FMLA leave.*
8. (a) *Since your absence is due to a serious health condition, you will be required to furnish medical recertification every 30 days confirming continuation of the condition.*
- (b) *You will not be required to furnish medical recertification every 30 days relating to the serious health condition.*
9. *Although your request was not approved as FMLA leave, you may be eligible for leave under the Attendance Rules. Contact the Personnel Office to discuss your situation.*

cc: *Payroll
Personnel File
Labor Relations*

QUESTIONS AND ANSWERS

I. GENERAL INFORMATION ABOUT FMLA

1- What is the **Family Medical Leave Act** ("FMLA")?

The Family and Medical Leave Act is intended to balance the demands of the workplace with the needs of families. The FMLA gives **eligible employees** of a covered employer the right to take unpaid leave, or paid leave charged to appropriate leave credits for a period of up to 12 work weeks in a 12-month period.

2- When does the FMLA become effective?

The FMLA became effective for employees covered under collective bargaining agreements on February 5, 1994 and for non-represented employees on August 5, 1993. (Non-represented employees include Managerial/Confidential employees not assigned to bargaining units.)

3- What is considered to be a "**serious health condition**"?

A **serious health condition** means an illness, injury, impairment or physical or medical condition that involves:

- a. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or
- b. Any period of incapacity requiring absence from work, school or other regular daily activities of more than three calendar days, that also involves continuing treatment by (or supervision of) a health care provider; or
- c. 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 result in a period of incapacity of more than three calendar days; or
- d. Ongoing prenatal care and treatment.

4- What notice does an employee have to give an employer when the need for family leave arises?

FMLA requires that when the need for leave is foreseeable, for example in cases of birth, placement for foster care or adoption or planned medical treatment, the agency may **request** that the employee provide 30 days' advance notice prior to the commencement of leave.

When the need for FMLA leave is not foreseeable, for example in the case of medical emergencies or change in circumstances, the FMLA requires notification to the employer "as soon as practicable," which is defined as within one or two workdays of the employee's knowledge of the need for leave. However, nothing exempts the employee from following the normal agency call-in procedures to report his/her absence, separate and apart from the time limits which apply to requesting FMLA leave.

II. LENGTH OF LEAVE

5- Must the 12 weeks of leave be taken as one continuous block of time, or may leave be taken intermittently?

Under certain circumstances, FMLA leave may be taken on a continuous or an intermittent basis.

- o The 12 weeks of FMLA leave may be taken on a continuous or an intermittent basis, for both personal illness and illness of covered family members based on the medical necessity for the absence. However, leave in connection with child care following childbirth, adoption and foster placement is continuous, unless agency permission is granted to take such leave on an intermittent basis.
- o Whenever leave is taken on an intermittent basis, it may be used in units as small as 1/4 hour. When counting leave taken on an intermittent basis, agencies need to count in hours and equate these to portions of a workweek.
- o If the absence falls entirely within one calendar year, the employee is entitled to 12 weeks minus any FMLA leave already used within that year. If the period of absence spans two calendar years, the employee must be granted the remaining balance for the current year and may access the next year's full 12-week entitlement as soon as that year begins.

III. TYPES OF LEAVE

6- Under what circumstances are employers required to grant a family or medical leave to eligible employees?

Leave may be requested under FMLA for the following reasons:

1. For the birth, adoption or foster placement of a child.
2. For personal illness resulting from a **serious health condition** that makes the employee unable to perform the functions of his or her job. (This includes a serious health condition that results from on-the-job injury.)
3. To care for an employee's spouse, parent, son or daughter with a serious health condition.

7- Is leave under FMLA paid or unpaid?

Employees have the option of requesting leave with pay charged to appropriate accruals or leave without pay and must indicate the chosen option at the time request for leave is made.

FMLA leave is unpaid except where employees exercise their option to substitute use of appropriate leave credits. The FMLA does not require an employer to authorize the use of paid sick leave in any circumstance when it would not otherwise authorize it.

IV. ELIGIBILITY

8- Who are **eligible employees**?

An eligible employee is one who has been employed for at least 12 cumulative months (52 cumulative weeks) and has performed a minimum of 1250 hours of service during the 12 consecutive months immediately preceding the date the leave is requested to begin.

9- Are routine physical exams included as a "serious health condition?"

No.

10- How is the 12 month period calculated?

For NYS employees, the 12 month period is a calendar year. Since New York State is to be treated as a single employer for purposes of determining whether an employee meets the service requirements for establishing eligibility under FMLA, service in any combination of agencies is to be counted.

Once it has been determined that an employee has worked the 12 cumulative months, that eligibility criterion has been met for the remainder of the individual's career. However, supervisors need to determine if an employee meets the 1250 hours of service requirement each time the employee requests or is placed on FMLA leave. Supervisors can request this information from Time & Attendance.

When counting the number of hours necessary to meet these minimum hourly requirements, Time & Attendance must include all hours the employee was paid and:

- o worked (his/her schedule, extra hours outside the schedule or overtime);
- o charged leave credits (except donated leave credits);
- o was absent on paid leave (e.g. jury leave, military leave, any type of workers' compensation leave);
- o was absent to sick leave at half-pay;
- o was absent on short-term disability;
- o was absent on Voluntary Reduction time.

11- Can employees request to use time after leave is granted, i.e., retroactively?

Once employees have returned to work from the designated FMLA absence, generally no retroactive designation can be made.

12- Can a father and mother both take family leave?

A husband and wife who are employed by NYS are only entitled to take a combined total of 12 weeks for birth, adoption or foster care placement of a child.

V. MEDICAL CERTIFICATION

13- Does HSCB require an employee to provide medical certification to support an FMLA leave request?

HSCB supervisors should request medical certification for leave only where there is an objective reason to believe the leave request is not legitimate under FMLA and for long-term absences, such as those of 30 days or more. A record of poor attendance can support the supervisor's effort to check the request more carefully. **Where medical documentation is requested, the employee should be instructed to forward it to Labor Relations in an enveloped marked confidential. The supervisor should not obtain or keep a copy.**

However, requests for documentation of any kind may **not** be requested for adoptions or related proceedings.

Each time a new basis is offered to support a request for FMLA leave the supervisor may in conformance with the above guidelines request medical certification.

14- To whom does an employee submit medical documentation when requesting FMLA leave?
Submit all medical documentation for FMLA to Labor Relations.

15- **Are medical FMLA medical notes treated as confidential documents?**

Yes. Labor Relations may discuss the request with persons who need to know, but all documents will be treated confidentially. When a final action is taken on a leave request, the documentation will be forwarded to HSCB-EHS where it will be filed as a confidential medical record.

16- If an employee presents medical documentation for an FMLA request which I told the employee to send to Labor Relations, should I keep a copy of FMLA medical documentation submitted to Labor Relations?

No. In order to maintain confidentiality, do NOT keep a copy. Labor Relations will **work with the supervisor to determine the merit of the leave request. After review, Labor Relations will** forward the FMLA medical documentation to HSCB-EHS **for safekeeping**

17- Under what circumstances can a supervisor request subsequent recertification of medical conditions to support a leave request?

Supervisors may request recertification at any reasonable interval but not more often than every thirty (30) days.

More frequent certification may be requested if the employee requests an extension of leave, the circumstances in the original medical certification have significantly changed, the supervisor has information that casts doubt on the validity of the certification, or the employee is unable to return to work following the granting of FMLA leave.

Where medical documentation is necessary, the employee should be instructed to submit the recertification information to Labor Relations in an envelope marked confidential. The supervisor should not keep or obtain a copy.

18- What actions may supervisors take to determine whether an employee intends to return to work after FMLA leave?

Supervisors may require an employee on FMLA leave to report periodically on their own, or the employee's ill family member's, health status and intent to return to work, **although medical documentation, if requested, must be forwarded to Labor Relations.**

19- May the supervisor require an employee to submit a medical certification that the employee is able to return to work after his/her own "serious health condition"?

Where an FMLA leave has exceeded thirty days or where the illness is a "serious health condition," the supervisor should uniformly require medical documentation prior to an employee's returning to work from FMLA leave. The fitness-for-duty certification may be requested only in regard to the "serious health condition" and may merely be a statement of an employee's ability to work. Hospital employees must also report to HSCB-EHS for return to duty. [NOTE: See Hospital Policy & Procedure No. Hum. Res. – 2, which instructs that EHS examine employees when they return if deemed necessary by Infection Control or the EHS physician. A copy of the attending physician's clearance letter must be given to EHS. If EHS agrees as to the fitness of the employee, a clearance slip will be issued to the employee to be presented to the supervisor. If the supervisor believes that the employee is not ready to return EHS will make an assessment.]

Any medical information submitted with an FMLA request must be treated in a confidential manner in accordance with agency procedures and the Americans With Disabilities Act ("ADA"), and must be stored in HSCB-EHS files. **All medical documentation should be submitted by the employee to Labor Relations.**

UUP employees are not required to submit medical documentation to their supervisors under their collective bargaining agreement. Labor Relations should be notified to request documentation from the employee. The employee will submit the documentation to **Labor Relations**, not the supervisor.

If an employee fails to provide medical clearance slip from HSCB-EHS, consult with Labor Relations about denying the employee restoration to duty until such documentation is provided.

VI. BENEFITS WHILE ON FMLA LEAVE

20- Does health coverage continue while on FMLA leave?

Employees are entitled to continuation of health insurance provided the employee pays his or her share of the premium during this period of leave.

VII. LENGTH OF LEAVE

21- How much time is an employee entitled to?

An eligible employee is entitled to take up to 12 weeks of FMLA leave during the 12-month period, which is the calendar year for NYS employees.

22- When leave is taken for the birth, adoption, or foster care placement of a child, when must the leave be commenced and concluded?

FMLA leave for birth or placement of a child expires 12 months after the birth or placement.

VIII. RETURNING FROM FMLA LEAVE

23- Must an employee be restored to the same position upon return from FMLA leave?

An employee is entitled to be returned to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Collective bargaining agreements may require reinstatement to the identical position previously held. Check with Labor Relations.

Placement on FMLA leave does not continue employment beyond the point it would otherwise have terminated by operation of law, rule or regulation.

IX. EMPLOYEE RIGHTS

24- What are the posting obligations on employers under the FMLA?

Employers are required to post notices in conspicuous places on their premises describing the provisions of the FMLA and providing information concerning the process for filing complaints of violations of the Act with the Wage and Hour division. Agency handbooks and other written material including internal department books and forms, must be updated to include information about the FMLA.

25- May an employer transfer an employee taking intermittent or reduced leave to a different position?

If an employee requests intermittent leave or a reduced work schedule to care for a seriously-ill family member or for the employee's own serious health condition, and the need for leave is foreseeable based on planned medical treatment, the employer may temporarily transfer the employee to an available alternative position with equivalent pay and benefits if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job.

26- Must an employee's request for FMLA leave specifically reference his/her rights under the FMLA in order to qualify for FMLA leave?

No, but if we, the employer, do not identify it as FMLA leave and notify the employee as soon as possible, then it may not be chargeable as FMLA leave, to our detriment. .

27- May HSCB supervisors question the validity of the medical certification submitted by an employee?

Supervisors may have the request reviewed by the NYS Employee Health Service. The employee's request should be submitted to Labor Relations along with a **draft of Form PS-707, Agency Request For Medical Examination.** PS-707 Forms can be obtained from Labor Relations.

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| IMPACT OF FMLA ON DEPARTMENT ADMINISTRATORS/ |
| UNIT HEADS/CHAIRPERSONS/SUPERVISORS |
+-----+

- 1- The FMLA became effective for employees covered under collective bargaining agreements on February 5, 1994 and for non-represented employees on August 5, 1993. (Non-represented employees include Managerial/Confidential employees not assigned to bargaining units.)
- 2- Employees bear primary responsibility for requesting FMLA leave. When the need for FMLA leave is not foreseeable, for example in the case of medical emergencies or a change in circumstances, the FMLA requires notification "as soon as practicable," which is defined as within one or two workdays of the employee's knowledge of the need for leave. Otherwise, employees may be requested, but not required, to give 30 days' advance notice where practicable. In any case, more than thirty (30) days notice may not be requested.
- 3- Supervisors will question the FMLA request and seek medical documentation only where there is an objective reason to believe the leave request is not legitimate under FMLA and for long-term absences, such as those of 30 days or more. A record of poor attendance can support the supervisor's effort to check the request more carefully. A sample list of questions supervisors should ask employees is contained in Attachment A.

Each time an employee requests leave for 30 calendar days or more, or there are circumstances making the leave questionable, the department must:

- (a) Verify with the Time & Attendance Unit the amount of FMLA leave the eligible employee can be granted for this period of absence. **Share this information with Labor Relations in writing.**
- (b) Determine whether the circumstances of the employee's absence constitute a qualifying FMLA event based on the verbal or written information the employee provides. **If the determination cannot be made without medical documentation, follow the procedure in paragraph 4 below so that medical documentation will be submitted**

to Labor Relations.

- (c) Keep a written record of **any employee requests** for FMLA leave. Notify Labor Relations if employee is on Time & Attendance Watch, has been served with a Notice of Discipline for time abuse, or has been counseled for time abuse within the previous two years.
- (d) Ensure compliance with the following notification procedures. Whenever an employee requests FMLA leave or the agency designates a period of absence as FMLA leave, within two days, the department provides written notice to the employee describing all the employee's rights and obligations under the FMLA. **This should be accomplished after consulting Labor Relations and receiving its recommendation. The department provides notification to the employee when no medical documentation is submitted; Labor Relations provides notification to the employee when medical documentation is provided.** (See attached copy of the letter to be sent to employees in Attachment C.)
- (e) Employees have the option of requesting leave with pay charged to appropriate accruals or leave without pay and must indicate the option chosen at the time request for leave is made. If the request for FMLA leave is in writing, the employee should specify the requested option. **This information should be forwarded to Labor Relations if medical documentation will be submitted to Labor Relations.**

- 4- **If the supervisor determines that medical documentation should be requested to support the request for leave, the supervisor should provide the employee the form for medical documentation (See link here) and instruct the employee to submit the form to Labor Relations. Instruct employees to forward medical notes to Labor Relations.** In order to maintain confidentiality, do not **obtain or** keep a copy of the medical documentation.

Request medical recertification **be sent to Labor Relations** every 30 days if:

- o the employee requests an extension of leave;
- o the circumstances described in the original medical certification have significantly changed;
- o the employer has information that casts doubt on the validity of the certification;
- o the employee is unable to return to work following the granting of FMLA leave;
- o other rules require it, e.g., 1/2 pay sick leave.

- 5- If an employee has filed a request for FMLA leave for the employee's own illness and the supervisor **or Labor Relations, after review of the medical documentation, has reason to** question the validity of the request, the request may be reviewed by the NYS-EHS. Any fees will be paid by the department.

If the supervisor wishes to initiate the NYS-EHS review, he or she should obtain the PS-707 Form from Labor Relations. Complete a draft of the form and forward it to Labor Relations. If the basis for the request is a family member's medical condition, the supervisor may request via Labor Relations that NYS-EHS render an opinion following review of the medical documentation submitted.

Based upon available medical documentation and/or examination results, the NYS-EHS physician or NYS-EHS consultant physician will render an opinion as to whether the medical criteria for FMLA leave are met. **NYS-EHS will notify Labor Relations of its finding. Labor Relations will notify the supervisor of EHS' opinion. The supervisor will then take the necessary action to implement the EHS recommendation, including notifying the employee.**

Labor Relations will also notify the employee and supervisor whether the employee must be examined by HSCB-EHS prior to returning to duty.

- 6- Disability absences in connection with a job-related accident, which also meet the definition of a serious health condition under FMLA, should be designated as FMLA leave and employees will be so notified by Labor Relations. This type of absence, although attributable to Workers' Compensation, may also be chargeable to FMLA, if the injury qualifies under FMLA. The supervisor is required to notify the employee and Labor Relations of absences that are attributable to both FMLA and Workers' Compensation. When Labor Relations learns that an employee has been absent from work on Workers' Compensation leave for more than three days, or if the employee's condition qualifies as a "serious health condition" under FMLA, Labor Relations is required to notify the employee and supervisor that Workers' Compensation leave is designated as FMLA leave. Although the medical certification form used for other FMLA absences is still appropriate for agency use, the employee and his/her health care provider must continue to submit all required State Insurance Fund and Workers' Compensation Board forms pursuant to NYS Workers' Compensation Law. All the above rules must then be followed.
- 7- Departments will submit copies of any internal forms, policies, books, etc., which they change to reflect FMLA, to Labor Relations for determination if notice to unions is required.
- 8- Post notices in conspicuous places in each department describing the provisions of the FMLA and providing information concerning the process for filing complaints of violations of the Act with the Wage and Hour Division.
- 10- Generate appropriate "C" or "UP" forms promptly.
- 11- If Time & Attendance advises the supervisor to review and/or re-designate an absence as FMLA, i.e., whether it is charged to sick leave, family sick leave, annual leave, or leave without pay, then the supervisor should determine the correct designation. Any modification should be noted and signed on the timesheet, and the employee should be notified in writing by the supervisor.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu
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The Holiday Schedule for calendar year 2000 is attached. Although this list will vary from year to year with the calendar, it is generally representative of the holidays that the State designates as official observances. However, supervisors should take note of several quirks in applying holiday rules.

1. Supervisors should double-check to ensure the specific day that the holiday is being observed each year. Do not assume that, if it falls on a Saturday, the State will designate the following Monday as the observance.
2. An employee must earn the holiday before it is charged to accruals. Therefore, an employee cannot charge a holiday that falls on a Saturday the Friday before it occurs.
3. The Civil Service Commission sets the dates for holidays in late summer/early fall each year, and then Downstate must negotiate with at least one union on floating holidays. Therefore, certain holidays may not appear on the calendar on the same date others may observe them.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu



**SUNY
DOWNSTATE**
Medical Center

University Hospital of Brooklyn

College of Medicine

School of Graduate Studies

College of Nursing

College of Health Related Professions

**Stephan Kass
Assistant Vice President
For Human Resources**

MEMORANDUM

TO: Vice-Presidents, Deans, Department Chairs and Unit Heads, and UUP Employees

FROM: Stephan Kass

SUBJECT: HOLIDAY SCHEDULE FOR 2000-2001 ACADEMIC YEAR

DATE: August 16, 2000

The State of New York has designated the following twelve (12) dates as holidays in the 2000-2001 academic year.

Labor Day	Monday	September 4, 2000
Columbus Day	Monday	October 9, 2000
Election Day	Tuesday	November 7, 2000
Veterans' Day	Saturday	November 11, 2000
Thanksgiving Day	Thursday	November 23, 2000
Christmas Day	Monday	December 25, 2000
New Year's Day	Monday	January 1, 2001
Martin Luther King Day	Monday	January 15, 2001
Lincoln's Birthday	Monday	February 12, 2001
Washington's Birthday	Monday	February 19, 2001
Memorial Day	Monday	May 28, 2001
Independence Day	Wednesday	July 4, 2001

Eligible part-time employees are entitled to observe only those holidays that fall on their normal workdays.

Employees eligible to observe holidays will receive a compensatory day off for holidays scheduled on a pass day if they are not assigned to work. Employees eligible to observe holidays who are required to work on a holiday will receive a compensatory day off (one and one-half compensatory days for Thanksgiving and Christmas). Compensatory days off shall be scheduled at times mutually convenient to the employee and the University, and must be used within one year of accrual or forfeited.

Election Day and Lincoln's Birthday have been designated as floating holidays. Employees must obtain prior supervisory approval to observe these holidays or alternative days. Any alternative day selected must be used within one year.

If additional information is needed, please call Michael Brennan, Deputy Director, Labor Relations, at extension 3019.

State University of New York Downstate Medical Center

450 Clarkson Avenue, Box 53, Brooklyn, NY 11203-2098 . Phone 718 270-3019



SUNY
DOWNSTATE
Medical Center

University Hospital of Brooklyn
College of Medicine
School of Graduate Studies
College of Nursing
College of Health Related Professions

Stephan Kass
Assistant Vice President
For Human Resources

MEMORANDUM

TO: Vice-Presidents, Deans, Department Chairs and Unit Heads, Management Confidential, CSEA and PEF Employees

FROM: Stephan Kass

RE: **Holiday Schedule for 2001**

DATE: August 16, 2000

The State of New York has designated the following twelve (12) dates as holidays in 2001:

New Year's Day	Monday	January 1, 2001
Martin Luther King Day	Monday	January 15, 2001
Lincoln's Birthday	Monday	February 12, 2001
Washington's Birthday	Monday	February 19, 2001
Memorial Day	Monday	May 28, 2001
Independence Day	Wednesday	July 4, 2001
Labor Day	Monday	September 3, 2001
Columbus Day	Monday	October 8, 2001
Election Day	Tuesday	November 6, 2001
Veterans' Day	Monday	November 12, 2001
Thanksgiving Day	Thursday	November 22, 2001
Christmas Day	Tuesday	December 25, 2001

The State has designated Lincoln's Birthday as a floating holiday. Another 2001 floating holiday may be designated in the future. We will notify you if such a designation is made.

M/C, CSEA and PEF employees eligible to observe holidays will receive compensatory time off for holidays scheduled on a pass day or Saturday if they are not assigned to work. CSEA and PEF employees eligible to observe holidays who are required to work on a holiday will receive additional compensation, or, if they have elected to waive such additional compensation, compensatory time off. M/C employees eligible to

observe holidays who are required to work on a holiday will receive a compensatory day off. Compensatory days off shall be subject to applicable rules governing the granting of annual leave, and, where specified by the applicable collective bargaining agreement, shall be forfeited unless used within one year of the date the compensatory time is accrued.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

State University of New York Downstate Medical Center
450 Clarkson Avenue, Box 53, Brooklyn, NY 11203-2098 Phone 718 270-3019

June 15, 1987

TO: Vice Presidents
Executive Director University Hospital
Deans, Department Chairs and Unit Heads

FROM: Stephan Kass

SUBJECT: IMMIGRATION REFORM AND CONTROL ACT OF 1986

On September 30, 1996, President Clinton signed into law massive immigration reform legislation entitled the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996"(IIRIRA).

The new law is divided into six titles. Provisions of the law concerning reforms to the asylum system, employer sanctions process, new requirements for state-issued identity documents, impact on the institution's hiring practices and retention of employees awaiting extensions/renewals of visas and/or work authorization.

Background

On November 6, 1986, President Reagan signed the Immigration Reform and Control Act of 1986 ("IRCA"). A great deal of publicity was generated by the negotiation and passage of this new law, particularly concerning those provisions that impose employer sanctions and grant amnesty to aliens unlawfully residing in this country prior to January 1, 1982.

The IRCA law contains two major new provisions, affecting all Public and Private sector employers, which will require significant changes in personnel procedures at SUNY campuses. Specifically:

- **The law imposes civil and criminal penalties on employers who knowingly hire aliens who are not authorized to work in the United States.**
- **The Law requires all employers to sign and retain work authorization verification forms for every employee including United States citizens hired after November 1986.**

To Whom IRCA Applies

Work authorization verification must be performed for all individuals hired after November 6, 1986. The law affects all employees whether full-time or part-time, including U.S. citizens. Students who are employed by the campus, i.e., work-study

students, Teaching Assistants and Graduate Assistants, are also included.

Visa Categories Authorized for Employment

In general, aliens who are authorized to work may be placed in three categories:

1. Those authorized for employment as an incident to status: In this category are permanent resident aliens, refugees and asylees.
2. Those whose employment authorization is restricted and limited as to employer or work place. The following visa statuses are included in this category:
 - Non-immigrant visitor for business - (B-1 Visa);
 - Non-immigrant students approved for part-time, on campus employment only, unless Immigration and Naturalization Services (INS) permission is obtained to authorized otherwise - (F-1 Visa);
 - Temporary/specialty worker - Time and employer-limited (H1-B Visa);
 - Exchange visitor - Program and time-limited (J-1 Visa);
 - Non-immigrant with extraordinary ability (O-1 Visa).
3. Those who may apply for and receive work authorization from the INS. The following visa statuses may be found in this category:
 - Non-immigrant students - Time-limited (F-1 Visa);
 - Alien spouse of an exchange visitor - Time-limited (J-2 Visa);
 - Alien who has properly filed an application for adjustment of status to permanent resident alien.

Since aliens with these visas may have employer or time-restricted work authorization, we must ensure when hiring an alien in any of these categories that their employment is consistent with any time and work place restrictions. Reverification requirements make this information particularly important.

If an employee's work authorization is time-limited (i.e.H-1B Visa, Employment Authorization Document(EAD), J-1, O-1, etc.), a new Immigration and Naturalization Form (I-9) evidencing an extension of work authorization must be completed prior to expiration of the visa. [See Appendix A, copy attached].

<p>If you have any questions concerning this policy, please E-Mail Personnel Services: goeloealston@downstate.edu.</p>

Employer Sanctions

Since November 6, 1986, it has been unlawful for any employer to hire an alien, knowing that the alien is not authorized to work in the United States. On May 31, 1987, the designated "education period" ended, after which time the Department of Immigration began initiating proceedings against employers who violate this law and began imposing penalties. Commencing June 1, 1987, and for the subsequent 12 months, employers were given warnings for first violations of the law. After June 1, 1988, civil penalties ranging from \$250 to \$10,000 per violation assessed against violators based upon the number of times the employer has been found to be in violation of the new law and the seriousness of the violation. Criminal penalties have also been established for employers who engage in a "pattern or practice" of hiring unauthorized aliens.

IRCA Procedural Requirements

The law requires that all employers establish procedures for examining official documents evidencing the employee's authorization to work. The employer must attest on the I-9 form that the **original** documents were presented to and examined by the employer. The employee must also sign the I-9 form stating that the employee is a citizen or national of the U.S., a permanent resident alien, or otherwise authorized to work. The law lists certain documents which must be produced in **original** form to demonstrate employment authorization and identity. The I-9 verification form must be retained on file by the employer for three years after hire or one year after termination of employment, whichever is later. Verification forms may be subject to post audit.

Changes in Health Science Center Procedures For Appointments Effective On or After June 1, 1987

In order to effectively implement the mandates of the law and avoid the civil and criminal liability for its violation, **all offers of employment for new hires, except Faculty members, will continue to be made by the Department of Human Resources.**

Deans and Department Chairmen will continue to make the offer of employment to faculty candidates. However, the Deans and Department Chairman are strongly advised to include in their letter of Offer of Employment to each new faculty appointee (a copy of which must be attached to the appointment package) a statement that the offer of employment is: (1) subject to and in accordance with the laws of the State of New York and the Policies of the Board of Trustees; (2) subject to medical clearance (where appropriate) by the Department of Student/Employee Health Service; and (3) contingent upon the new appointee producing original documentation demonstrating employment authorization and identity prior to the effective date of the appointment, but not later than three (3) work days after the effective date of hire. Enclosed please find a sample letter of Offer of Employment which may be utilized to make a faculty Offer of Employment (see Appendix B attached).

The Department of Human Resources will make or confirm the offer of employment for Faculty, Non-Teaching Professionals and Classified Employees and will contact all new hires and advise them that they must produce original documented proof of U.S. citizenship or authorization to work prior to the effective date of hire.

Prior to the effective date of employment, Department of Human Resources staff will contact the prospective employee to schedule them to report on a specified date, convenient to both the prospective employee and Department of Human Resources staff, for Pre-employment processing.

During the Pre-Employment processing the employee will be given an Employee Withholding Allowance Certificate (W-4 form) and the oath of office and emergency reference cards. **At that time the employee will be required to submit proof of citizenship, authorization to work and complete the I-9 form.** The employee will also be scheduled for a new employee orientation, medical examination and will receive approval to obtain a SUNY/HSCB Identification card.

The employee must provide the required documentation within the first three (3) business days from the effective date of hire. Federal law specifies that the employer must remove the employee from the payroll after three (3) days if he/she has not produced documentary evidence of work authorization or an INS approved receipt evidencing application for such documents. A receipt for replacement of an acceptable document may not be accepted if the receipt is for the employee's first period of employment authorization for their first extension of an expiring employment authorization. In the event an employee is removed from the payroll, the Dean or Department Chair will be notified accordingly.

To effect compliance, all appointment forms must be received by the appropriate Vice President or the Executive Director of University Hospital sufficiently in advance of the effective date of employment to allow for the necessary reviews and approvals and the securing of documentary evidence of citizenship or authorization to work.

Attached is a listing of the document flow process for each category of appointment and a listing of the documents which need to be appended to the appointment form in order to expedite the appointment process (see Appendix C and D).

APPENDIX A

DOCUMENTATION OF AUTHORIZATION TO WORK

In order to comply with the new law the appointing authority or his designee must examine any one of the documents listed in Item A or any of the combination of documents listed in Items B and C. **All offers of employment will be contingent on the individual producing the required documents.** Please note that at this time the following are only documents authorized by the INS to be used to establish identity and employment authorization. Many institutions anticipate problems inherent in the limited listing. We will keep you informed of all future developments on this issue.

List A - Single Documents - Documents establishing both authorization and identity:

Documents that establish both identity and employment eligibility

1. U.S. Passport (unexpired or expired)
2. Unexpired foreign passport, with I-551 stamp or attached INS Form I-94 indicating unexpired employment authorization
3. Alien Registration Receipt Card with photograph (INS Form I-151 or I-551)
4. Unexpired Temporary Resident Card (INS Form I-688)
5. Unexpired Employment Authorization Card (INS Form I-688A)
6. Unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-6888B or I-766)

List B - Documents that Establish Identity

1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U. S. Coast Guard Merchant Mariner card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

For persons under age 18 who are unable to present a document listed above:

10. School record or report card
11. Clinic, doctor, or hospital record
12. Day-care or nursery school record

List C - Documents that Establish Employment Eligibility

1. U.S. Social Security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal document
5. U.S. Citizen ID card (INS form I-197)
6. ID card for use of Resident Citizen in the United States (INS Form I-179)
7. Unexpired employment authorization document issued by the INS (other than those listed under List A)

NOTE: Individuals residing in states where photo I.D. and/or driver's license with photograph are not issued, may use Notice of Discharge from U.S. Armed Forces or a document evidencing active duty or reserve status in the U.S. Armed Forces in place of driver's license or photo I.D. card.

You can find the U.S. Department of Justice Employment Eligibility Verification form (I-9) in the Department of Human Resources located in the Administration Building located at 151 East 34th Street, Room AF 103. This form will be completed by the employee and a designated staff member of the Department of Human Resources and/or other appropriate HSCB designee subsequent to receipt of the Appointment package, but prior to the date of initial appointment.

APPENDIX B

DOCUMENTS REQUIRED TO ACCOMPANY ALL FACULTY APPOINTMENT PACKAGES

All appointments for faculty must include:

1. SUNY/Notification of Initial Professional Appointment Form (UP).
2. SUNY/Professional Appointment Vita Form (UP4) (2 copies).
3. Affirmative Action Search Process Report Form (AS-2).
4. Resume.
5. Clinical Practice Management Plan Total Compensation Schedule Form, (Completed form signed by employee and Department Chair) if applicable.
6. Verification of Credentials - a copy of required degree, license or certificate.
7. Prior Service Memorandum - up to a maximum of three years of prior service may be waived in total or in part at the employee's request. This request must be made at the time of the initial appointment.

DOCUMENT FLOW PROCESS

1. Appointment package prepared by College, Department or Unit.
2. Appointment package approved by Dean, Department Chair or Unit Head.
3. Appointment package submitted to appropriate Vice President or Executive Director University Hospital.
4. Appointment package reviewed and approved by Affirmative Action Office.
5. Appointment package returned to appropriate Vice President or Executive Director University Hospital, where required.
6. Appointment package reviewed and approved by IFR Management and budget Office, if applicable.
7. Appointment package reviewed and approved by the Clinical Practice Management Plan Office, if applicable.
8. Appointment package returned to appropriate Vice President or Executive Director University Hospital for approval.
9. Appointment package submitted to Department of Human Resources, approval and submission to the President.
10. Appointment package returned to Department of Human Resources for preparation of appointment letter.

APPENDIX C

DOCUMENTS REQUIRED TO ACCOMPANY ALL NON-TEACHING PROFESSIONAL APPOINTMENTS

All appointments for non-teaching professionals must include:

1. SUNY/Notification of Initial Professional Appointment Form (UP1).
2. SUNY/Professional Appointment Vita Form (UP4) (2 copies).
3. Affirmative Action Search Process Report Form (AA-2).
4. Resume.
5. Personnel Requisition (approved copy) Form (P10).
6. Position Description Non-Teaching Professional Form (CC-20).
7. Performance Program Non-Teaching Professional Form (502).
8. Verification of Credentials - a copy of required degree, license or certificate.
9. Prior Service Memorandum - up to a maximum of three years of prior service may be waived in total or in part at the employee's request. This request must be made at the time of the initial appointment.

DOCUMENT FLOW PROCESS

1. Appointment package prepared by College, Department or Unit.
2. Appointment package approved by Dean, Department Chair or Unit Head.
3. Appointment package submitted to appropriate Vice President or Executive Director University Hospital.
4. Appointment package reviewed and approved by Affirmative Action Office.
5. Appointment package returned to appropriate Vice President or Executive Director University Hospital, where required.
6. Appointment package reviewed and approved by IFR Management and Budget Office, if applicable.
7. Appointment package returned to appropriate Vice President or Executive Director University Hospital for approval.
8. Appointment package submitted to Department of Human Resources for review and approval and submission to the President (where applicable).
9. Department of Human Resources for preparation of appointment letter.

APPENDIX D

DOCUMENTS REQUIRED TO ACCOMPANY ALL CLASSIFIED SERVICE APPOINTMENTS

All appointments for Classified Service must include:

1. Classified Personnel Transaction Form (C).
2. Affirmative Action Search Process Report Form (AA-2).
3. HSCB Employment Application.
4. Personnel Requisition (approved copy) Form(P10).
5. Verification of Credentials - a copy of required degree, license or certificate.

DOCUMENT FLOW PROCESS

1. Appointment package prepared by College, Department or Unit.
2. Appointment package approved by Dean, Department Chair or Unit Head.
3. Appointment package submitted to appropriate Vice President or Executive Director University Hospital.
4. Appointment package reviewed and approved by Affirmative Action Office.
5. Appointment package returned to appropriate Vice President or Executive Director University Hospital, where required.
6. Appointment package reviewed and approved by IFR Management and Budget Office, if applicable.
7. Appointment package returned to appropriate Vice President or Executive Director University Hospital for approval.
8. Appointment package submitted to Department of Human Resources for review.
9. Department of Human Resources to prepare Appointment letter.

MEMORANDUM

TO: CSEA Employees and Supervisors
FROM: Stephan Kass
SUBJECT: **ARTICLE 36.1 RESIGNATIONS**
DATE: October 1, 2000

Please find attached, pursuant to Article 36 of the "AGREEMENT BETWEEN THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. AND THE STATE OF NEW YORK, a restatement of the Health Science Center at Brooklyn's Job Abandonment Program.

Cc: Department and Unit Heads
Christine Jackson

HSCB JOB ABANDONMENT PROCEDURES FOR CSEA EMPLOYEES

1. THE MONITORING PROCESS

After the first instance that an employee covered under the Agreement between the State of New York and CSEA is absent without authorization (i.e., one no call/no show) the supervisor should immediately report the absence to the Office of Labor Relations. It is the supervisor's responsibility to ensure that the employee did not contact the facility and was not scheduled to be absent that day and to furnish Labor Relations with any knowledge of employee's whereabouts. Conversely, it is the employee's responsibility to personally contact the supervisor if (s)he is going to be absent or late.

Within the first seven days of the Office of Labor Relations being notified of the unauthorized absence by the department, they will send written notification to the employee at his/her last official address on record by certified mail, return receipt requested, informing the employee that he/she is in violation of Article 36. The CSEA Local President will also be contacted by certified mail, return receipt requested, that the employee's absence is considered unauthorized and is deemed to constitute resignation pursuant to Article 36. A copy will also be sent to the supervisor. In the event the employee either contacts the Office of Labor Relations or returns to work, he/she may be subject to disciplinary action.

Within 15 calendar days commencing from the 15th consecutive day of the employee's absence from work without authorization, the employee can submit an explanation concerning his or her absence, to the Office of Labor Relations. The burden of proof shall be upon the employee to establish that it was not possible for him or her to report to work or notify the Office of Labor Relations of the reason for his or her absence. Within five days of Labor Relations receiving the explanation, a short response will be sent to the employee and the Local CSEA President. Depending on management's response, the employee's resignation may be rescinded or enforced.

2. LABOR RELATIONS STANDARD FOR PROCESSING REFERRALS

While the above criteria generally will result in a Job Abandonment letter being issued, in some instances the employee may also be served a Notice of Discipline for time and attendance abuse, insubordination, ect.

Should you have any questions with regard to the above referenced matter, please contact Leonzo Cuiman, Deputy Director, Labor Relations, at extension 3019.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

LEAVE DONATION PROGRAM

This program enables M/C, UUP, PEF, CSEA, NYSCOPBA and C82 employees to donate ***vacation*** credits to employees who have exhausted all their leave credits or sick leave at half-pay (where applicable). The program provides for donations both within and across bargaining units. In order for an employee to be eligible he/she must have completed one cumulative year of State service (C82 and UUP employees only), must be absent due to a non-occupational personal illness or disability for which medical documentation satisfactory to management is submitted as required, must have exhausted all leave credits and must be expected to be absent for at least two biweekly payroll periods following exhaustion of leave credits or sick leave at half pay (where applicable). The employee must not have had any disciplinary actions or unsatisfactory performance evaluations within his/her last three years of State employment. Donations shall not cause the donor employee to have fewer than ten days of vacation credits standing to his/her credit upon making such donation. Employees may not donate vacation credits which would otherwise be forfeited.

Further details concerning this program and application forms, can be obtained from the Office of Labor Relations, 420 Lenox Road, Extension 3019, or any of the union offices.

If you have any questions concerning this section, please E-Mail Labor Relations: laborrelations@downstate.edu

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
THE STATE OFFICE BUILDING CAMPUS . ALBANY, NEW YORK 12239**

MEMORANDUM

TO: State Departments and Agencies

FROM: Joseph A.F. Valenti

SUBJECT: Child Care Leave for Adoptive Parents

DATE: March 11, 1982

On January 28, 1982, I issued a memorandum to State agencies concerning leave for pregnancy, childbirth and child care. Consistent with that memorandum, I am extending entitlement to leave without pay for child care to adoptive parents in the same manner and to the same extent that such leave is available to natural parents. This memorandum applies to all eligible State employees, except that where an Agreement between the State and an employee organization entered into pursuant to Article 14 of the Civil Service Law (the Taylor Law) provides for a different leave benefit, the provisions of the Agreement shall control. However, nothing in the Agreements precludes appointing authorities from extending the benefits provided by this policy on a discretionary basis.

State employees, regardless of gender, are entitled to a maximum of seven months of leave without pay for child care in connection with the adoption of a child in accordance with the provisions of Article 7 of the Domestic Relations Law. Entitlement to such leave without pay shall be for a period of up to seven months. The employee may take leave for this purpose starting at any time from the date the adoptive child is placed with the family to the effective date of the adoption.

In general, the guidelines for leave of absence for child care for adoptive parents are the same as those governing leave for child care for natural parents.

During a period of leave for child care, employees shall be permitted, upon request, to use annual leave, personal leave and overtime credits before being granted

leave without pay for child care. The seven month period of such leave is not extended by the use of accrued leave credits.

An adoptive parent who requests a leave of absence for child care purposes of less than seven months is entitled to have such leave extended, upon request, to the seven month maximum.

If both adoptive parents are State employees, one parent may elect to take the entire leave, or the parents may choose to divide the leave time with each entitled to one continuous period of leave as long as it does not exceed a combined total of seven months of leave.

Agencies may, in their discretion, approve other arrangements for shared leave and may as a matter of discretion extend leave for child care for adoptive parents beyond the seven months to which this new policy entitles them. Furthermore, while one parent is absent on leave for child care, agencies continue to have the discretion to approve requests from the other parent for periods of vacation or personal leave, or for family sick leave in accordance with Sections 21.3(f) and 28.3(f) of the Attendance Rules.

The State's policy on leave for child care for adoptive parents shall not be construed to require extension of any employment beyond the time it would otherwise terminate.

Questions concerning the State's policy on leave for child care for adoptive parents should be referred to the Division of Program Evaluation and Development of this Department (Telephone 518 457-2295).

President, Civil Service Commission

cc: Personnel Officers

CENTRAL OFFICE DISTRIBUTION ONLY

Issued: 3/11/82

Reissued: 9/2000 (DHR)

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

**STATE OF NEW YORK
GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS
AGENCY BUILDING NO. 3
ALBANY, NEW YORK 12229**

APPENDIX A-12

December 21, 1982

Dr. Nuala McGann Drescher
President, United University
Professions, Inc.
159 Wolf Road, 2nd Floor
Albany, New York 12205

Dear Nuala:

This is to confirm our understanding that the attached State policy entitled "Leave for Pregnancy, Childbirth and Childcare" is applicable to members of the Professional Services Negotiating Unit.

Sincerely,

Meyer S. Frucher

Issued: 12/21/82

Reissued: 5/90 (DHR)

Leave for Pregnancy, Childbirth and Child Care Professional Services Negotiating Unit

Pregnant employees may be asked or encouraged to report the existence of pregnancy, but they may not be required to do so. Where, in the opinion of the Chief Administrative Officer or designee, the nature of the duties performed may be particularly hazardous or burdensome during pregnancy, this should be pointed out in the letter of appointment and such employees should be urged to advise their supervisors of any pregnancy. In any case where the Chief Administrative Officer or designee believes the employee is unable to perform the duties of the position because of pregnancy, the employee may be required to undergo a medical examination, at the expense of the campus, by a physician designated by the campus. A pregnant employee who is determined to be medically disabled from the performance of job duties must be treated the same as any other employee similarly disabled insofar as disability leave benefits are concerned.

Sick leave may be used only during a period of medical disability. Under this policy, disabilities arising from pregnancy or childbirth are treated the same as other disabilities in terms of eligibility for or entitlement to sick leave with and/or without pay and extended sick leave. Generally, the period of such disability is deemed to commence approximately four weeks prior to delivery and to continue for six weeks following delivery. While doctor's certificates may be required for any period of disability, campuses should request detailed medical documentation whenever disability is claimed to commence prior to or to extend beyond the period of disability described above.

A Chief Administrative Officer or designee may approve an employee's request for leave without pay during pregnancy and prior to the onset of any medical disability as a matter of discretion. Absences during pregnancy and following childbirth may be charged to vacation, irrespective of whether the employee is disabled. While the use of annual leave prior to the onset of medical disability is discretionary with the Chief Administrative Officer, employees must be permitted to use these accruals during a period of medical disability after sick leave with pay has been exhausted.

Employees, regardless of sex, are entitled to leave without pay for child care for up to seven months following the date of delivery.¹ For purposes of computing the seven month period of mandatory leave, periods during which the employee was absent for "disability" or use of leave credits are included: the mandatory seven month period is not extended by the granting of disability leave or the use of accrued

leave. During a period of leave for child care, employees shall be permitted, upon request, to use annual leave before being granted leave without pay. As is the case with other mandatory leaves without pay (e.g., military leave), the University shall not require that employees exhaust all appropriate leave credits prior to being granted leave without pay for child care. Sick leave may be used only during a period of medical disability. Except in the case of continuing medical disability, any leave of absence beyond the seventh month following childbirth shall be at the discretion of the Chief Administrative Officer. An employee who requests a leave for child care of less than seven months is entitled to have such leave extended, upon request, up to the seven month maximum and may, at the discretion of the Chief Administrative Officer or designee, have such leave extended beyond the seventh month. In certain situations, an employee may not be permitted to return from such leave until the expiration of the period that such employee requested and was granted. Generally, such restrictions on early return are limited to situations where such return would be disruptive of a project or where the termination of a replacement would occur.

During the seven-month period following childbirth, the granting of leave for child care is mandatory upon request from either parent. If both parents are State employees, leave for child care is mandatory for one parent at a time and the parents may elect to split the mandatory seven month leave into two separate blocks of leave with each parent entitled to one continuous period of leave but not to exceed a combined total of seven months of leave and not to extend beyond seven months from the date of delivery.

Campuses may, in their discretion, approve other arrangements for shared leave including concurrent leave and may, as a matter of discretion, extend leave for child care beyond the mandatory seven months. Furthermore, while one parent is absent on leave for child care, campuses continue to have the discretion to approve requests from the other parent for periods of vacation, pursuant to Paragraph 23.4 (d) (4) of the 1999-2000 Agreement between the State of New York and United University Professions.

Temporary and probationary employees without any permanent status are entitled to leave with full pay and/or without pay as described above. However, these employees are not eligible for leave beyond that date when their employment would otherwise terminate. In general, the State's policy on leave for pregnancy, childbirth and child care shall not be construed to require extension of any employment beyond the time it would otherwise terminate.

¹In cases of legal adoption under Article 7 of the Domestic Relations Law leave for child-rearing purposes shall be granted where the adoptive child is required to reside with the adoptive parents for at least six months prior to an order of adoption being made. In such cases, leave for child-rearing purposes shall be granted for six months commencing

from the date the adoptive child begins actual full-time residence with the adoptive parents. Additional leave for child-rearing purposes may be granted in the discretion of the Chief Administrative Officer; provided, however, child-rearing leave shall not exceed a period of two years cumulatively. Any request for leave under FMLA should be treated as concurrent leave within the constraints of the above provisions.

Issued: 12/21/82

Reissued: 2/2000 (DHR)

If you have any questions concerning this section, please E-Mail Labor Relations: laborrelations@downstate.edu

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN
SUPERVISOR'S MANUAL**

SECTION 21 O

December 1, 2000

TO: Provost, Senior Vice President, Vice President, Deans,
Department Chairmen, Unit Heads, All Employees

FROM: Stephan Kass
Assistant Vice President for Human Resources

SUBJECT: Nepotism Policy

The following policy statement was adopted by SUNY Health Science Center at Brooklyn (HSCB) in 1982 and is being circulated for your information and guidance. Questions concerning this policy may be addressed to me.

HSCB does not preclude the employment of two or more members of the same family (defined as mother, father, spouse, sibling, children and including members of the same household). However, an employed family member cannot directly supervise another family member. Similarly, a family member can neither approve nor recommend for another employed member of the same family, promotions, salary increases, performance evaluations or other changes in the appointment status.

Where such family supervisory relationships exist at HSCB at the time this policy becomes effective, every effort will be made to reassign supervisory responsibility for the people involved, where it is possible to do so.

In conformity with this policy, Department Chairs, Directors and Unit Heads should not recommend appointments of individuals where direct supervisory relationships will result between members of the same family.

SK:jb

cc: Adriana Conde-Billy

_Issued: 12/21/82 _
_Reissued: 5/90 (DHR) _
_Reviewed: 12/00 _

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN SECTION 21 P
SUPERVISOR'S MANUAL**

November 9, 1988

MEMORANDUM

TO: University Hospital Department and Unit Heads

FROM: Stephan Kass

SUBJECT: BI-WEEKLY NTP REPORT OF ON-CALL/RECALL SERVICES

This is a follow-up to my October 11, 1988 memorandum to you (see attached) regarding the 1988/91 Agreement between the State of New York and UUP and its effect on On-call/Recall compensation. Subsequent to the October 11, 1988 memorandum, the SUNY Office of Employee Relations (OER) provided the Health Science Centers with interpretations of contract language that alter the way in which payable On-call/Recall is calculated.

These interpretations are as follows:

ON-CALL

Prior to the 1988/91 State/UUP Agreement, on-call was compensated at \$18 per shift. An employee who was recalled at any time during an on-call shift was not entitled to any on-call payment for that shift, irrespective of the number of on-call hours served. For example, if an employee was recalled from 4-6 a.m. during an on-call shift of 12 midnight - 8 a.m., the employee would be entitled to 4 hours recall compensation (the minimum payment) at time and a half, but no on-call compensation, even though the employee had been on-call from 12 midnight - 4 a.m. and remained on-call from 6 - 8 a.m. Under the 1988/91 State/UUP Agreement, the employee would be entitled, effective August 15, 1988, to receive four hours of on-call payment at \$2.25 (8 hours on-call less 4 hours which are compensated at the recall rate of time and a half). If the hours of recall in this example had been 4-8 a.m. or 2-8 a.m., the employee would be entitled to 4 hours and 2 hours of on-call compensation respectively. In other words, the employee is entitled to compensation for all hours served on-call during a scheduled shift, less the total number of hours compensated (although not necessary worked) as recall.

RECALL

Prior to the latest interpretations, if an individual was recalled during the first half of an 8 hour on-call shift for a period of less than 4 hours and then recalled again during the second half of the same 8 hour on-call shift for a period of less than 4 hours, the individual was entitled to pay at time and a half for a minimum of 4 hours, or the actual number of hours worked, whichever was greater. For example, if an employee scheduled for a 12 midnight - 8 a.m. on-call shift was recalled from 1 - 3 a.m. and then again from 5 - 7 a.m., that employee was entitled to only 4 hours of recall pay. Under the latest interpretations, that employee is entitled to 4 hours minimum recall pay for the 2 hours worked in the first half of the on-call shift (12 midnight - 4 a.m.), and another 4 hours minimum recall pay for the 2 hours worked in the second half of the on-call shift (4 - 8 a.m.). In no instance, however, may an employee earn more than 8 hours recall pay in any 8 hour on-call shift. Further, an employee cannot earn more than 4 hours recall pay in either the first or second half of an on-call shift, irrespective of how many times an employee may be recalled in any given half.

Finally, on-call may be compensated in 15 minute components. For example, an employee who serves on-call for 2 hours and 15 minutes can receive 1/4 of \$3.50 for the final 15 minutes.

The recently revised On-Call/Recall Form enables employees to document the information required to appropriately compensate them under the new contract interpretations. However, the instructions do need to be modified.

The revised instructions are attached and are to be used now in filling out the On-call/Recall Form.

APPENDIX A-16

Dr. William F. Scheuerman, President
United University Professions
159 Wolf Road
Albany, New York 12205

Dear Dr. Scheuerman:

This is to confirm our mutual understanding that employees in the titles and services on the following list shall be eligible for recall and on-call pay as provided in Section 20.17 and 20.18 of the Agreement.

Upon mutual agreement between the State and UUP, changes to the titles on the list may be made; provided, however, that matters of reclassification and carrying out mandates of Federal Law with respect to the Fair Labor Standards Act shall not be subject to approval by UUP.

Anesthesiology

T.H. C.T.S. Anesthesia Specialist
T.H. C.T.S. Anesthesia Associate

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Biomedical Engineering

T.H. Medical Instrumentation Specialist
T.H. Medical Instrumentation Associate
T.H. Medical Instrumentation Sr. Specialist
T.H. Associate Director Biomedical Engineering
T.H. Senior Biomedical Engineer
T.H. Biomedical Engineer
T.H. Biomedical Engineering Service Manager
T.H. Biomedical Engineering Senior Technician
T.H. Biomedical Engineering Technician

Clinical Laboratories

T.H. Associate Technical Director Clinical
Laboratory
T.H. Clinical Laboratory Technologist I, II, III,
IV

Clinical Technical Services

T.H. C.T.S. EEG Senior Specialist
T.H. C.T.S. EEG Specialist
T.H. C.T.S. EEG Associate

Dialysis

T.H.. Administrator for Pediatric Hemodialysis
T.H. Senior Biomedical Engineer
T.H. Biomedical Engineer
T.H. Biomedical Engineer, Senior Technician
T.H. Biomedical Engineering Technician
T.H. C.T.S. Vascular Specialist
T.H. C.T.S. Vascular Assistant
T.H. C.T.S. Vascular Associate
T.H. Medical Instrumentation Specialist
T.H. Medical Instrumentation Senior Specialist
T.H. Medical Instrumentation Associate

Emergency Medical Services

T.H. C.T.S. Emergency Medical Services
Specialist
T.H. C.T.S. Emergency Medical Services
Associate

Histocompatibility Transplant

T.H. C.T.S. Transplant Specialist
T.H. C.T.S. Senior Transplant Specialist
T.H. Associate Technical Director of Clinical
Laboratory
T.H. Clinical Laboratory Technologist I, II, III

Infection Control

T.H. Nurse Epidemiologist

Midwifery

T.H. Clinical Nurse Specialist
T.H. Assistant Director of Nursing
T.H. Midwifery Director
T.H. Midwife I, II

Department of Nursing

T.H. Nurse Administrator
T.H. Assistant Director of Nursing
T.H. Associate Director of Nursing
T.H. Clinical Nurse Specialist

Operating Room

T.H. Associate Nursing Director
T.H. Assistant Nursing Director
T.H. Nurse Administrator
T.H. C.T.S. Burn Specialist
T.H. C.T.S. Burn Associate
T.H. Operating Room Specialist
T.H. Operating Room Associate

Perfusion

T.H. Assistant Open Heart Perfusionist
T.H. Open Heart Perfusionist
T.H. Chief Open Heart Perfusionist
T.H. C.T.S. Cardiology Specialist
T.H. C.T.S. Cardiology Associate
T.H. C.T.S. Cardiology Assistant
T.H. C.T.S. Chief Transplant Organ Perfusionist
T.H. C.T.S. Transplant Organ Perfusionist

Pharmacy

T.H. Associate Director of Pharmacy
T.H. Senior Pharmacist
T.H. Pharmacist
T.H. Pharmacy Assistant
T.H. Senior Staff Associate

Physicians Assistant

T.H. Physician Assistant I, II

Radiology

T.H. Radiation Therapy Senior Dosimetrist
T.H. Radiation Therapy Dosimetrist
T.H. Radiation Therapy Assistant Dosimetrjst
T.H. Medical Radiography Associate Director
T.H. Medical Radiography Assistant Director
T.H. Medical Radiographer I, II, III
T.H. Radiation Therapist I, II
T.H. Associate Director Radiation Therapy
T.H. Assistant Director Radiation Therapy
T.H. Medical Instrumentation Technician
T.H. Senior Biomedical Engineer
T.H. Biomedical Engineer

Respiratory Therapy

T.H. Senior Staff Associate
T.H. Associate Director Respiratory Therapy
T.H. Respiratory Therapist I, II, III

Social Work

T.H. Senior Staff Associate
T.H. Associate Director of Social Services
T.H. Social Worker I, II, III
T.H. Social Worker Assistant

Other

C.T.S. Pulmonary Function Specialist Associate
C.T.S. Pulmonary Function Assistant
Nurse Practitioner

Sincerely,
S/Linda Angello, Labor Relations
Governor's Office of Employee Relations

S/William F. Scheuerman, President
United University Professions

If you have any questions concerning this policy, please E-Mail Personnel Services: goeloe-alston@downstate.edu.

December 20, 1991

MEMORANDUM

TO: Vice Presidents, Deans, Department Chairs, Unit Heads

FROM: Stephan Kass

SUBJECT: **PROMOTION AND SALARY INCREASE POLICY (PSIP)**

The attached Promotion and Salary Increase Policy (PSIP) is being distributed to familiarize all administrators with local policies and practices as they pertain to NTP and M/C personnel.

As the document states, each salary increase or promotion request must be accompanied by documentation that justifies the action proposed. Such documentation enables the Health Science Center to assure maintenance of equitable standards in the classification and compensation of positions and fulfills SUNY post-audit requirements. Failure to adequately document such requests could result in undue delays in the approval and processing of such transactions.

For additional information or clarification of the issues discussed, please contact the Classification and Compensation Unit at Extension 3022.

SN: psa
attch.

DHR: As of December 19, 1991

PROMOTION AND SALARY INCREASE POLICY

The following salary administration policy is promulgated to promote the award of salary increases that are congruent with SUNY practices and equitable with regard to prevailing market rates and existing levels of compensation for comparable positions within SUNY HSCB.

This policy pertains exclusively to the award of promotions and salary increases to Non-Teaching professional (NTP) employees (inclusive of those designated as Management/Confidential (M/C) for the: 1] assumption of additional duties and responsibilities within the same title and rank; 2] promotion to a higher level title and salary rank. It does not apply to across-the-board or discretionary salary increase processes.

A. SALARY INCREASE POLICY

1. PERMANENT AND SIGNIFICANT INCREASED DUTIES AND RESPONSIBILITIES

Employees who are assigned a permanent and significant increase in their duties and responsibilities, but whose total responsibilities fall within the scope of the title and salary rank held, will retain their same title and salary rank. Those employees will be eligible to receive a salary increase (subject to the availability of funding) as compensation for their assumption of the additional duties and responsibilities.

Requests for salary increases associated with a permanent and significant increase in duties and responsibilities must be submitted through the appropriate chain of command and must be endorsed by the respective Vice President (or designee). The salary increase package must include the following documents to be consistent with all SUNY, local and regulatory agency requirements:

- o A Position Description which details both the existing and the new duties and responsibilities assigned to the employee.
- o A letter of justification attesting to the employee's assumption of the duties, the value of those duties to departmental operations, and the amount of compensation requested.
- o A UP-2 Form to effect processing of the actual increase.

2. SHORT-TERM TEMPORARY INCREASED DUTIES AND RESPONSIBILITIES

As part of an employee's professional obligation, the employee may be required to assume new duties and responsibilities on a short-term, temporary basis (not to exceed sixty [60] calendar days) related to a special projects; pending a new recruitment or the return of another employee from a leave, etc. No additional remuneration should be requested for the assumption of such short-term additional duties.

In the event the short-term temporary increased duties and responsibilities exceed the sixty (60) day period cited above, the employee will be eligible to receive a temporary salary increase (subject to the availability of funding).

Requests for salary increases associated with a short term temporary increase in duties and responsibilities must be submitted through the appropriate chain of command and must be endorsed by the respective Vice President (or designee). The short-term temporary salary increase package must include the following documents to be consistent with all SUNY, local and regulatory agency requirements:

- o A Position Description which details both the existing and the new duties and responsibilities assigned to the employee.
- o A letter of justification attesting to the employee's assumption of the duties, the value of those duties to departmental operations, and the amount of compensation requested.
- o A UP-2 Form to effect processing of the actual increase.
- o A UP-2 Form to terminate the short-term temporary salary increase on completion of the employee's temporary assignment.

B. PROMOTIONS IN RANK

"Promotion" shall mean an increase in a professional employee's basic annual salary accompanied by movement to a higher salary level with a change in title resulting from:

- (1) a permanent and significant increase or a change in the employee's duties and responsibilities as a consequence of the movement from one position to another of greater scope and complexity of function;
- (2) a permanent and significant increase in the employee's duties and responsibilities as a consequence of a permanent increase in the scope and complexity of function of the employee's position.

Employees who are promoted to a higher level title and salary rank are eligible to receive an increase in annual salary (subject to the availability of funding) as compensation for their assumption of permanent and significant additional duties and responsibilities.

Criteria for Promotion

- (1) The criteria to be used in evaluating an employee for promotion should be directly related to the particular type of duties and responsibilities for which the employee is being considered: For example:
 - (a) Effectiveness in performance--as demonstrated, for example, by demonstrated success in carrying out assigned duties and responsibilities, efficiency, productivity, and relationship with colleagues. Satisfactory supervisory evaluations will be considered suitable documentation in establishing effectiveness.
 - (b) Mastery of specialization--as demonstrated, for example, by degrees, licenses, honors, awards, and reputation in professional field.
 - (c) Professional ability--as demonstrated, for example, by invention or innovation in professional, scientific, administrative, or technical areas; i.e., development or refinement of programs, methods, procedures, or apparatus.
 - (d) Effectiveness in University service--as demonstrated, for example, by such things as successful committee work, participation in local campus and University governance, and involvement in campus or University-related student or community activities.
 - (e) Continuing growth--as demonstrated, for example, by continuing education, participation in professional organizations, enrollment in training programs, and research.

The foregoing criteria and examples thereof are presented for descriptive and explanatory purposes only and are not intended to be exhaustive.

Requests for a promotion in rank and concurrent salary increase associated with a permanent and significant increase in duties and responsibilities must be submitted through the appropriate chain of command and must be endorsed by the respective Vice President (or designee). The salary increase package must include the following documents to be consistent with all SUNY, local and regulatory agency requirements:

- o An approved P-10 (Personnel Requisition)
- o A Position Description
- o An organizational chart that depicts the position's reporting relationship within the department/unit
- o A letter of justification for the increase in salary proposed for the employee

- o A UP-2 Form to effect processing of the proposed increase
- o Draft Performance Program detailing the duties and responsibilities of the incumbent.

C. SALARY INCREASE EXCEPTION POLICY

In addition to the documentation requested in the preceding sections, all salary increase requests that exceed 10% of the encumbent's annual salary should be accompanied by:

- o A salary survey of comparable positions in five to seven (5-7) comparable institutions. The name and contact person in the surveyed institution should be provided.
- o A letter describing the special skills/abilities the employee possesses and the role the employee will assume as a result of possessing such skills. An explanation of difficulties encountered in recruiting or retaining employees possessing requisite skills is also desirable.

All salary increase or promotion requests that do not comply with SUNY or local classification and compensation criteria will be returned to your respective Department/Vice Presidential area for reconsideration.

D. APPEALS PROCESS (UUP NTP'S ONLY)

A Memorandum of Understanding between the State University of New York (SUNY) and United University Professions (UUP) provides for an appeals mechanism (applicable to UUP Non-Teaching Professionals only) for promotion and/or salary increase requests denied at the organizational levels below the President. An elected College Review Panel will review appeals and make an appropriate recommendation to the President.

Questions concerning any of the above should be directed to the Department of Human Resources, Classification and Compensation Section, Box #53, at Extension 3022.

If you have any questions concerning this policy, please E-Mail Personnel Services: goeloe-alston@downstate.edu.

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN SECTION 21 R
SUPERVISOR'S MANUAL**

SUNY
DOWNSTATE
Medical Center

University Hospital of Brooklyn
College of Medicine
School of Graduate Studies
College of Nursing
College of Health Related Professions

Office of the President

MEMORANDUM

TO: SUNY Downstate Community

FROM: John C. La Rosa, M.D.
President

SUBJECT: **Anti-Discrimination Policies and Procedures**

DATE: October 2, 2000

I am pleased to reaffirm and share with you the Equal Employment Opportunity (EEO) and Affirmative Action Policies and Procedures for SUNY Downstate. These policies prohibit discrimination in the recruitment and education of students; in the recruitment, selection, hiring and all other terms and conditions of employment for faculty and staff; and in the operation of SUNY Downstate's programs and activities. In accordance with applicable federal and state mandates and SUNY regulations, our policies apply to all persons without regard to race, age, sex, sexual orientation, color, religion, national origin, disability, marital status, or status as a veteran of the Vietnam Era or a disabled veteran.

The designated coordinator for compliance with all of SUNY Downstate's policies for EEO and Affirmative Action is Ms. Adriana Conde-Billy, Affirmative Action Officer. She can be reached by calling (718) 270-1738, the number for the Office of Opportunity and Diversity (OOD). OOD is a good resource for advice and guidance and serves both employees and students. It is located in the Administrative Facility Trailer, on 151 East 34th Street, and is accessible to persons with disabilities.

Employees and students who are disabled should also be aware that they may be entitled to reasonable accommodation pursuant to the Americans with Disabilities Act. For students, the primary contact is Dr. Lorraine Terracina, Dean of Student Affairs, at (718) 270-2187. For employees, the primary contact is Ms. Grace Callender, Reasonable Accommodation Officer, at (718) 270-1738.

I urge each of you to become familiar with the respective policies and to follow them both in letter and in spirit. They constitute a critical foundation for good employee relations and genuine fairness in our working environment. SUNY Downstate has long been committed to maintaining a respectful, fair working and learning environment, free from discrimination or harassment. We seek to prevent discrimination from occurring and to provide an effective means of raising and promptly resolving complaints. I would urge any SUNY Downstate employee or student who feels that (s)he has not been treated fairly for reasons related to illegal discrimination to report formally to the OOD. The Office of Opportunity and Diversity is ready and able to respond to these issues and resolve them where possible. We will continue to take affirmative steps to support and advance these principles.

State University of New York Downstate Medical Center

450 Clarkson Avenue, Box 1, Brooklyn, NY 11203-2098 • Phone 718 270-2611 Fax 718 270-4732

*STATE UNIVERSITY OF NEW YORK
HEALTH SCIENCE CENTER AT BROOKLYN*

*AFFIRMATIVE ACTION OFFICE OF
OPPORTUNITY AND DIVERSITY*

*EQUAL EMPLOYMENT OPPORTUNITY
AND
AFFIRMATIVE ACTION
POLICIES AND PROCEDURES*

*STATE UNIVERSITY OF NEW YORK
HEALTH SCIENCE CENTER AT BROOKLYN*

*EQUAL EMPLOYMENT OPPORTUNITY
AND
AFFIRMATIVE ACTION
POLICIES AND PROCEDURES*

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**REAFFIRMATION OF
EQUAL OPPORTUNITY/AFFIRMATIVE ACTION POLICY**

SUNY Health Science Center at Brooklyn is committed to equal opportunity/affirmative action on the basis of race, sex, color, religion, age, national origin, disability, marital status, status as a disabled veteran or a veteran of the Vietnam era, or sexual orientation in the recruitment and treatment of students; recruitment, selection, hiring, training, promotion, termination and other working conditions, such as benefits, compensation and transfers for faculty and staff; or the operation of any of SUNY Health Science Center at Brooklyn's programs and activities. It is the intention of SUNY Health Science Center at Brooklyn to develop and expand the programs set out in this Affirmative Action Plan which will strengthen these policies.

POLICY STATEMENT: EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

SUNY Health Science Center at Brooklyn is an Equal Opportunity/Affirmative Action campus which subscribes to and complies with all federal, state and SUNY laws and regulations. SUNY Health Science Center at Brooklyn is committed to equal opportunity/affirmative action in all terms and conditions of employment and in all educational activities and programs and does not discriminate on the basis of race, sex, sexual harassment, color, religion, age, national origin, disability, marital status, status as a disabled veteran or veteran of the Vietnam era, or sexual orientation.

Compliance with the laws referred to below is within the scope of responsibilities of the Affirmative Action Office/ Office of Opportunity and Diversity:

- **Title VI of the Civil Rights Act of 1964 as amended**
Prohibits discrimination on the basis of race, color, religion, or national origin in admissions, access to courses or programs, and student policies;
- **Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972)**
Prohibits discrimination on the basis of race, color, religion, sex(including sexual harassment) or national origin in any term, condition or privilege of employment;
- **Title IX of the Educational Amendments of 1972**
Prohibits exclusion from participation in or denial of benefits, or subjection to discrimination on the basis of sex in any education program or activity receiving federal financial assistance;
- **Executive Order 11246 (as amended by Executive Order 11375)**
Requires Affirmative Action Programs by all Federal contractors and subcontractors and requires that organizations with contracts over \$50,000 and 50 or more employees develop and implement written programs;
- **Equal Pay Act of 1963**
Requires all employers subject to the Fair Labor Standards Act (FLSA) to provide **equal pay** for **men and women** performing work that requires equal skill, effort, and responsibility under similar working conditions in the same establishment;
- **Section 503 of the Vocational Rehabilitation Act of 1973, as amended**
Prohibits discrimination on the basis of **physical or mental handicap** in any federally assisted program or activity and requires employers with federal contracts or subcontracts of more than \$10,000 to provide equal job opportunities and affirmative action for qualified individuals with disabilities;
- **Age Discrimination in Employment Act**
Prohibits discrimination against employees or applicants for employment who are between 40 and 70 years of age. Prohibits discrimination on the basis of **age** in programs or activities receiving federal

federal financial assistance;

- **Vietnam Era Veterans Assistance Act of 1974 (38USC4212) and Veterans Employment Assistance Act of 1998**
Requires that employers with federal contracts or subcontracts of \$10,000 or more provide equal opportunity and affirmative action in the employment and advancement of **Vietnam and special disabled veterans of all wars**. In 1998 this was extended to “other eligible veterans” that includes (1) those who served on active duty during a war or (2) served in a campaign or expedition for which a campaign badge was authorized.
- **Americans with Disabilities Act of 1990 (Titles II-V)**
Prohibits discrimination on the basis of **disability** in public service and public transportation; public accommodations; telecommunications; and miscellaneous provisions;
- **Executive Order No. 28** prohibits discrimination based on **sexual orientation** in any matters pertaining to employment or the provision of any services or benefits;
- **Immigration Reform and Control Act of 1986**
Requires employers to maintain certain records pertaining to the **citizenship status** of new employees.

If you have any questions concerning this section, please E-Mail the Office of Opportunity and Diversity: conde-billy@downstate.edu.

**STATEMENT OF POLICY REAFFIRMATION
REHABILITATION ACT OF 1973
AMERICANS WITH DISABILITIES ACT 1990**

SUNY Health Science Center at Brooklyn will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant is qualified. SUNY Health Science Center at Brooklyn agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship.

Employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the act.

SUNY Health Science Center at Brooklyn's designated administrator for compliance is Ms. Grace Callender, Reasonable Accommodation Officer. She may be reached at (718) 270-1738. The office is wheelchair accessible.

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If you have any questions concerning this policy, please E-Mail the Office of Opportunity and Diversity: conde-billy@downstate.edu.

POLICY ON RELIGIOUS ACCOMMODATION

SUNY Health Science Center at Brooklyn does not discriminate in employment on the basis of religion.

All managers will make reasonable accommodations for an employee's religious observance or practice if it does not inflict undue hardship on the conduct of business. Employees should request religious accommodations directly from their supervisors.

Additionally, faculty members need to be aware of State Education Law S224-a and its applicability to students. Under State Education Law S224-a:

- 1) No person shall be expelled from or be refused admission as a student to an institution of higher education for the reason that (s)he is unable, because of his/her religious beliefs, to attend classes or to participate in any examination, study or work requirements on a particular day or days.
- 2) Any student who is unable, because of his/her religious beliefs, to attend classes on a particular day or days shall, because of such absence on the particular day or days, be excused from any examination or any study or work requirements.
- 3) It shall be the responsibility of the faculty and of the administrative officials to make available to each student who is absent from school, because of religious belief, an equivalent opportunity to make up any examination, study or work requirement which (s)he may have missed because of such absence. No fees of any kind shall be charged.
- 4) If classes, examinations, study or work requirements are held on Friday after four o'clock post meridian or on Saturday, similar or makeup classes, examinations, study or work requirements shall be made available on other days, where it is possible and practicable to do so. No fees of any kind shall be charged.
- 5) It is the duty of the faculty and of the administrative officials to exercise the fullest measure of good faith. No adverse or prejudicial effects shall result to any student because of availing him/herself of the provisions of this law.

If you have any questions concerning this section, please E-Mail the Office of Opportunity and Diversity: conde-billy@downstate.edu.

STATE UNIVERSITY OF NEW YORK HEALTH SCIENCE CENTER AT BROOKLYN

POLICY ON SEXUAL HARASSMENT

Colleges and universities have a dual responsibility in the prevention of sexual harassment. As employees, we must meet the obligations imposed by the 1980 guidelines issued by the Equal Employment Opportunity Commission (EEOC). In addition, institutions of higher education also must provide protection from and access to redress for sexual harassment against students, as recommended in Title IX of the 1972 Educational Amendments. SUNY Health Science Center at Brooklyn, as employer and as educator, remains committed to providing an environment free from harassment for its employees and students.

I. POLICY

It is the policy of SUNY Health Science Center at Brooklyn, in keeping with efforts to establish an environment in which the dignity and worth of all members of our community are respected, that sexual harassment of employees and students is unacceptable conduct and will not be tolerated. Sexual Harassment situations that are brought to management's attention will be dealt with immediately, and appropriate corrective action will be taken promptly. Sexual Harassment may involve the behavior of a person of the opposite or same sex, when that behavior falls within the definition outlined below.

II. DEFINITION

Sexual harassment of employees and students at SUNY Health Science Center at Brooklyn is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status as a student;
- B. submission to or rejection of such conduct is used as the basis for decisions affecting the employment or academic status of that individual; or
- C. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience, or creates an intimidating, hostile or offensive work or educational environment. A hostile environment is created by, but not limited to, discriminatory intimidation, ridicule or insult. It need not result in an economic loss to the affected person.

These guidelines define sexual harassment and recognize it as a violation of Title VII of the Civil Rights Act of 1964. There are many types of conduct that could constitute sexual harassment. Some examples include, but are not limited to, demanding sexual favors in exchange for a promotion or raise, changing performance expectations after a subordinate refuses repeated requests for a date, comments about body parts or sex life, leering, offensive e-mail, off-color jokes, touching inappropriately, gestures, suggestive pictures, and/or personal gifts.

III. COMPLAINT PROCEDURES

Persons who feel that they have been sexually harassed under the definition described above and wish further information, or assistance in filing a complaint, should contact the SUNY Health Science Center at Brooklyn Office of Opportunity and Diversity (O.O.D.), (718) 270-1738, 151 East 34 Street. Recipients of sexual harassment also have the option to contact the Office of Labor Relations at extension 1972 during regular business hours. Those persons who feel physically threatened or are the victims of a crime must contact University Police/Public Safety at extension 2626. Complaints will be kept confidential to the extent possible.

Filing a complaint internally does not preclude an employee or student from filing a complaint with the appropriate external agency. More information is available in the O.O.D.

For those who have a complaint concerning sexual harassment that they wish to make **during off-hours** (5:00 p.m. – 9:00 a.m.), the following procedures are available:

- a. For incidents that take place *within University Hospital*, employees or students or members of the public may contact University Police/Public Safety at extension 2626 to notify them of the complaint. A University Police/Public Safety Supervisor will arrange to take the complaint and will simultaneously notify the Hospital Administrator on Duty (A.O.D.) or the Nursing Supervisor on Duty. The A.O.D. or the Nursing Supervisor will have the responsibility to take any immediate steps that may be necessary to protect the complainant until the next business day, when the Office of Opportunity and Diversity (O.O.D.) initiates contact with the complainant. University Police/Public Safety and the A.O.D. will transmit the information to O.O.D. by hand by 9:00 a.m. the next business day.
- b. If, for any reason, the complainant chooses not to report the incident(s) to University Police/Public Safety (if, for example, the alleged harasser may be a member of that Department), then the complainant should call extension 2121, the Page Operator, and page the Hospital Administrator on Duty (A.O.D.), or, in the A.O.D.'s absence, the Nursing Supervisor on Duty. The A.O.D. or the Nursing Supervisor will respond by contacting the

complainant, meeting with her/him and taking a brief statement. In this instance, the A.O.D. or the Nursing Supervisor will be solely responsible for an administrative response that protects the complainant until the O.O.D. initiates contact with the complainant and has an opportunity to investigate. The A.O.D. or the Nursing Supervisor will transmit the report to O.O.D. at 9:00 a.m. the next business day.

- c. For incidents that occur *outside* University Hospital proper [for example, in the Basic Science Building or the Health Science Education Building, or a satellite clinic], persons should contact University Police/Public Safety at extension 2626 to report any complaint of sexual harassment. A University Police/Public Safety Supervisor will respond, take the complaint and have the responsibility to take any immediate steps that may be necessary to protect the complainant until the next business day, when the Office of Opportunity and Diversity (O.O.D.) initiates contact with the complainant and has an opportunity to investigate. University Police/Public Safety will transmit the report to O.O.D. at 9:00 a.m. the next business day.
- d. The person who believes that she/he has experienced sexual harassment may also leave a telephone message at extension 1738, the Office of Opportunity and Diversity (O.O.D.), if the caller believes an administrative response to the report can wait until the next day. The caller should leave a clear message as to how to contact her/him the next morning. O.O.D. will respond to the complaint during the next business day.
- e. The person who believes she/he has experienced sexual harassment is strongly encouraged to promptly give a *written* statement to the Office of Opportunity and Diversity. This procedure provides a better opportunity to investigate and expeditiously remedy any misconduct.
- f. Retaliation of any kind will not be tolerated. This prohibition includes any retaliation against a person who has filed a complaint of sexual harassment as well as anyone who assists in an investigation or in good faith provides information on behalf of a party.

To effect this policy, every student and employee should consider it a civic and moral obligation to report knowledge of any illegal discrimination to the Office of Opportunity and Diversity.

Therefore, we strongly encourage students and employees to offer support to anyone who believes he or she is a recipient of illegal discrimination. Part of that support should consist of urging the person to report such an incident to the Office of Opportunity and Diversity, to one's supervisor, to Labor Relations or, if appropriate, to University Police/Public Safety.

Recent decisions of the United States Supreme Court make it clear that aggrieved persons may forfeit their opportunity to successfully litigate cases if they unreasonably fail to bring matters of discrimination to the attention of the in-house officer responsible for investigating those matters. SUNY Health Science Center at Brooklyn's Office of Opportunity and Diversity stands ready to thoroughly and objectively examine every formal complaint which is brought to its attention.

Revised September 2000 (SUNY Health Science Center at Brooklyn)

If you have any questions concerning this section, please E-Mail the Office of Labor Relations: laborrelations@downstate.edu

**STATEMENT OF POLICY REAFFIRMATION
VIETNAM ERA VETERANS ASSISTANCE ACT OF 1974
AND
VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998**

SUNY Health Science Center at Brooklyn will not discriminate against any employee or applicant for employment because (s)he is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. SUNY Health Science Center at Brooklyn agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship.

Employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the act.

SUNY Health Science Center at Brooklyn's designated administrator for compliance is Ms. Adriana Conde-Billy, Affirmative Action Officer. She may be reached at (718) 270-1738. The office is wheelchair accessible.

Please consult The State University of New York Health Science Center Brooklyn Personnel Recruitment and Appointment Guide for information on recruitment procedures.

If you have any questions concerning this section, please E-Mail Personnel Services: goeloe-alston@downstate.edu.

**OFFICE OF THE VICE PRESIDENT FOR ACADEMIC AFFAIRS AND
AN OF THE COLLEGE OF MEDICINE**

September 19, 1988

MEMORANDUM

TO: Deans and Department Chairmen
FROM: Richard H. Schwarz, M.D.
SUBJECT: Sabbatical Leave Policy

Provided below is the State University of New York Health Science Center at Brooklyn's Sabbatical Leave Policy which is based on the SUNY Board of Trustees Policies and should be shared with all academic staff to ensure compliance with these requirements:

- HSCB Policy: Subject to the President's approval, Sabbatical Leaves for professional development may be made available to members of the Faculty who meet the requirements set forth below. The objective of such leave is to increase a faculty members value to the Medical Center and thereby improve and enrich its programs.
- Purpose: Sabbatical Leaves shall be granted for planned travel, study, formal education, research, writing or other experience of professional value.
- Eligibility: Faculty members having continuing (tenured) appointments who have completed at least six consecutive years of service within the University or who, if they previously have had a Sabbatical Leave, have completed at least six consecutive years of service within the University from the date of return from their last Sabbatical Leave, shall be eligible for Sabbatical Leave. In computing consecutive years of service for the purpose of this section, periods of vacation leave, and periods of sick leave with salary shall be included; periods of leaves of absences, other than vacation and sick leave with salary, and periods of part-time service shall not be included, but shall not be deemed an interruption of otherwise consecutive service

- o Terms and Conditions: Sabbatical Leaves may be granted for periods of one year at rates not to exceed one-half basic annual salary or for periods of one-half year at rates not to exceed full basic annual salary. Eligible employees on Sabbatical Leave may, with the prior approval of the President, accept fellowships, grants-in-aid, or earned income to assist in accomplishing the purposes of their leaves. In such cases, the President may adjust the Sabbatical Leave salaries to reflect such income, either prior to or during the periods of such leaves, provided, however, that in no case shall a Sabbatical Leave salary be reduced if total earnings are less than full salary.
- o Applications: Applications for Sabbatical Leave shall be submitted to the Supervisor/Department Head/Dean and Vice President for Academic Affairs as far in advance as possible of the requested effective date of the leave, but in no event shall it reach the President later than six months in advance of such date. Requests processed to the President on an untimely basis must be accompanied by a letter of justification explaining the reason for the late submittal. Each application must include a statement outlining the program to be followed while on sabbatical Leave, any prospective income, and a statement that the applicant will continue as a member of the faculty for a minimum of one year upon his/her return from Sabbatical Leave. The application must also state that upon return from Sabbatical leave, the applicant will submit a detailed report of his/her professional activities and accomplishments while on Sabbatical Leave to the Supervisor/Department Head/Dean and Vice President for Academic Affairs for subsequent submission to the President.

If during the course of the approved Sabbatical Leave there is to be a change in professional activities performed, the employee must notify their Supervisor/Department Head in writing of this proposed change as soon as possible, who in turn will submit same to the Dean/Vice President for subsequent submission to the President.

- o Leave Credits: Vacation leave and sick leave credits shall not be accrued or used during Sabbatical Leave.

Any request or action that deviates from the above policy **must be** appropriately justified, In writing, and will be subject to Presidential review and approval.

Your cooperation in advancing this policy to all concerned will be appreciated. If you have any questions, please call Ms. Helen Volonakis at Extension 3042.

RHS:evg
cc: Dr. Scheri
Mr. Kass

<p>If you have any questions concerning this policy, please E-Mail Personnel Services: goeloe-alston@downstate.edu.</p>
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STANDARD OPERATING PROCEDURE

S.O.P. No. 5-1OSA

SUNY - Health Science Center at Brooklyn

Page 1 of 1

Facilities Management & Development

Date: June 1990

SUBJECT:

Reviewed: August 1995

Campus-wide Smoking Policy and Regulation

Prepared By:

D. L. Bejasa

TO BE USED FOR/BY:

Approved By:

All Departments

I. Lisnitzer

1.0OBJECTIVE

- 1.1 To control smoking in HSCB buildings in order to protect our employees , patients, students, and visitors from the harmful effects of tobacco smoke.
- 1.2 To control ignition sources in hazardous locations as required by interim life safety code, building code and fire regulation.
- 1.3 To comply with the New York State regulation on smoking, Article 13E of the Public Health Law.

2.0POLICY STATEMENT

Smoking is prohibited in indoor areas of the Health Science Center at Brooklyn, and outdoors where flammable substances, oxygen, and combustible materials are used or stored in, or where special fire safety precautions are being taken due to the nature of activities in the area (trash compacting, etc.).

2.1 The University Hospital including all its off-campus facilities is a smoke-free environment. Refer to UHB Policy SAF-4 for more details.

2.1.1 Exceptions:

a. For psychiatric inpatients, smoking may be allowed upon approval by the Director.

b. Limited exceptions may be granted based on physician's orders for patients who meet certain medical criteria.

Patients' cigarettes and lighters are kept at the Nursing Station and patients may smoke in

designated enclosed areas with staff supervision.

2.2 The Health Science Education Building at 395 Lenox Road is a smoke-free environment.

2.3 In other buildings, i.e., Basic Science Building, Administration Facilities Building, etc., smoking may be allowed in work areas occupied solely by smokers, provided, such areas are enclosed or separated by partition from smoke-free areas.

2.4 Outdoor areas where smoking is prohibited

2.4.1 Loading platforms in BSB-UHB service yard

2.4.2 Bulk oxygen storage facility

2.4.3 Fuel oil storage, filling and venting areas

3.0IMPLEMENTATION

- 3.1This policy is part of the rules and regulations applicable to employees, students, visitors and patients. Any violation of this policy is considered a serious matter.
- 3.2Administrative staff shall ensure that their employees are aware of this policy.

4.0ENFORCEMENT

- 4.1Every employee has a responsibility to adhere to this policy under all circumstances.
- 4.2It is the responsibility of all supervisory staff to enforce this policy and ensure compliance in their area of jurisdiction.
- 4.3If necessary, assistance from Public Safety may be requested for handling non-compliant visitors.

5.0VIOLATIONS

- 5.1Violations by employees shall be resolved at the department level. If informal counselling by the employee's supervisor is unsuccessful, administrative action will be taken consistent with collective bargaining agreements, HSCB policies, and statutory and regulatory requirements.
- 5.2Visitors who do not wish to comply with the smoking policy will be requested to leave the premises.
- 5.3Patients in violation may be imposed penalties, such as, confiscation of smoking articles, or other restrictions in conformity with patient's rights.
- 5.4A student who violates the smoking policy shall be referred to the college Dean for disposition.

6.0EFFECTIVE DATE

This policy has been in effect since August 1, 1992.

<p>If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu</p>

**STATE UNIVERSITY OF NEW YORK
HEALTH SCIENCE CENTER AT BROOKLYN**

**POLICY ON SUPERVISORY RESPONSIBILITY IN REPORTING
ALLEGATIONS
OF SEXUAL HARASSMENT**

This policy is intended to clarify the supervisor's role when (s)he becomes aware of a possible sexual harassment situation and to assist the supervisor in the resolution and prevention of sexual harassment in his/her work area.

When a HSCB supervisor receives a written or oral complaint of sexual harassment from a subordinate or suspects that a situation of sexual harassment exists in his/her department, the supervisor should conduct an initial inquiry of the complaint as soon as possible. The supervisor should obtain the facts of the situation, including asking the complainant a) whether the behavior was unwelcome b) whether the unwelcome behavior was sexual in nature. The delicate nature of this subject requires that the supervisor approach the complainant in a sensitive, yet non-judgmental manner. Supervisors may need to take interim corrective action pending a full review of the complaint; in such cases the Office of Labor Relations of the Department of Human Resources (DHR) must be consulted.

Complex issues, such as confidentiality, may arise. While the institution is sympathetic to the complainant's fear of exposure and ridicule and is cognizant of protecting, to the extent possible, the names and reputation of the parties involved, the supervisor must not guarantee absolute confidentiality. A supervisor may assure the complainant that every effort will be made to protect confidentiality, but the seriousness of the allegations and the institution's commitment to the elimination of sexual harassment require the recording and reporting of the allegations.

Upon completion of his/her initial inquiry, the supervisor must orally report the complaint or situation of sexual harassment within one business day to Ms. Adriana Conde-Billy, Affirmative Action Officer, of the Office of Opportunity and Diversity, at extension 1738, for further assessment and possible investigation, intervention and referral to the Office of Labor Relations of the Department of Human Resources. Written referral must follow within two (2) business days of the oral report. Allegations of sexual assault (e.g. sexual misconduct, sexual abuse and rape) must be orally reported immediately to Mr.

William Bowler, Assistant Director of Public Safety, at extension 3277 or to the main office of the Department of Public Safety, at extension 2626, for further assessment and possible investigation, intervention and referral to Labor Relations.

The supervisor, upon initial notification of the allegations of sexual harassment, may also determine that potential disciplinary issues exist and may refer the matter simultaneously to Labor Relations at X3019.

Failure of a supervisor to report allegations of sexual harassment to the Office of Opportunity and Diversity and of sexual assault to the Campus Police/Public Safety may result in disciplinary action against the supervisor, up to and including termination from State service.

Any employee or student bringing a sexual harassment complaint that is not knowingly or maliciously false, or assisting in the investigation of such a complaint, will not be adversely affected in term or conditions of employment or academic status, or be discriminated against or discharged from employment or expelled from an academic program because of the complaint or assistance in an investigation. Further, any supervisor who reports allegations of sexual harassment to the appropriate authorities will not be subject to retaliation. Complaints of such retaliation will be promptly investigated and corrective measures will be taken. Any individual who retaliates against any person who testifies, assist or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint may be subject to disciplinary action up to and including termination from State service. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

To effect this policy, every student and employee should consider it a civic and moral obligation to report knowledge of any illegal discrimination to the Office of Opportunity and Diversity.

Therefore, we strongly encourage students and employees to offer support to anyone who believes he or she is a recipient of illegal discrimination. Part of that support should consist of urging the person to report such an incident to the Office of Opportunity and Diversity, to one's supervisor, to Labor Relations or, if appropriate, to University Police/Public Safety.

Recent decisions of the United States Supreme Court make it clear that aggrieved persons may forfeit their opportunity to successfully litigate cases if they unreasonably fail to bring matters of discrimination to the attention of the in-house officer responsible for investigating those matters. HSCB's Office of Opportunity and Diversity stands ready to thoroughly and objectively examine every formal complaint which is brought to its attention.

Revised September 2000

MEMORANDUM

TO: CSEA Employees and Supervisors

FROM: Stephan Kass

SUBJECT: **ATTENDANCE MONITORING PROGRAM**

DATE: May 1, 1997

=====

Please find attached, pursuant to Article 33.5 of the "AGREEMENT BETWEEN THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. AND THE STATE OF NEW YORK", a restatement of the Health Science Center at Brooklyn's Time and Attendance Monitoring Program for CSEA employees. The institution would appreciate your careful attention to all program elements.

cc: Department and Unit Heads
Eleanor Robinson
James Woods

HSCB ATTENDANCE MONITORING PROGRAM FOR CSEA EMPLOYEES

1. **The Monitoring Process**

After the first instance that an employee covered under the Agreement between the State of New York and CSEA is absent without authorization (e.g., no call/no show), the supervisor should orally counsel the employee and caution that any further unauthorized absences may subject them to disciplinary charges. A notation that the employee was orally counselled and cautioned should be memorialized on the employee's timesheet and the Labor Relations Unit should be contacted. After the second instance of an unauthorized or unscheduled absence the employee should be counselled in writing. After the third instance, the employee should be referred to the Labor Relations Unit to be placed on time and attendance watch. At this point Labor Relations may issue a notice of discipline. Should a notice of discipline be issued the proposed penalty shall be determined by the time and attendance penalty schedule delineated in §33.5 (a) of the "AGREEMENT BETWEEN THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. AND THE STATE OF NEW YORK".

2. **The Attendance Monitoring Program Criteria***

Employees who continue to manifest unsatisfactory attendance patterns (e.g., excessive unscheduled absences/lateness, calling in sick before/after scheduled days off) after being formally counselled about their time and attendance abuse, should be referred to the Labor Relations Unit. The following criteria should serve as a guide to supervisors in determining whether an employee should be required to submit documentation (e.g., medical notes) for all unscheduled absences and/or referred for discipline:

ATTENDANCE PROBLEM

Lateness

Unscheduled/Unauthorized
absences

Unscheduled absences before
or after day off, holiday or
pay day, or an identifiable
abuse pattern

No call/No show

Other unusual attendance
problems for which
counseling/cautioning has
occurred, e.g., sick call on
a day denied off

FREQUENCY

Three or more times in three
months

Three consecutive workdays or
less

Three workdays or less

Three workdays or less

One repetition after
counseling/cautioning

* Please refer to the Time and Attendance Disciplinary Penalty schedule contained in Article 33.5 of the "AGREEMENT BETWEEN THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. AND THE STATE OF NEW YORK", and the local agreement between CSEA and SUNY/HSCB dated April 2, 1997 (Attached).

3. Labor Relations Unit's Standards for Processing Referrals

While the above criteria generally will result in a medical documentation requirement, it is within the sole discretion of Labor Relations to impose the requirement or to serve a notice of discipline. In making this determination, Labor Relations may also consider past attendance records or other objective data. Additional information regarding the HSCB's Time and Attendance Program can be found in the HSCB's Supervisors' Manual or you can contact the Labor Relations Unit at extension 3019.

4. Probationary Employees

Departments should continue to be alert to attendance problems exhibited by new employees during their crucial probationary period. Counseling and attendance watches may be used to correct the behavior of provisional, temporary, or probationary employees; however, they do not limit the supervisor's authority to recommend the end of a provisional, temporary, or probationary appointment.

<p>If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu</p>

STEPHAN KASS
ACTING ASSISTANT VICE PRESIDENT
FOR HUMAN RESOURCES

MEMORANDUM

TO: Provost, Vice Provost, Vice Presidents, Deans, Department
Chairs, and Unit Heads

FROM: Stephan Kass

SUBJECT: Temporary Suspension of Quarterly Time and Attendance Reporting
Requirement

DATE: July 20, 1992

As a result of the New York State fiscal crisis, the Department of Human Resources ("DHR") has experienced staff reductions that will require us to eliminate, effective July 31, 1992, the central review component of the Attendance Monitoring Program. Accordingly, departments will no longer be required to submit quarterly reports of time and attendance to DHR. However, the attendance criteria listed in the attendance monitoring program remain in effect. A description of those criteria is attached.

DHR will continue to review employees' eligibility for time and attendance watch notices upon request. Once an employee has been placed on attendance watch, DHR will continue to review the employee's time to determine if a further period of time and attendance watch is warranted. As in the past, time and attendance watch requirements will not be imposed unless the employee's attendance meets the attached criteria and the employee previously has been notified that s/he must improve time and attendance. Such notice may be through a counseling session, a previous time and attendance watch notice, or a previous notice of discipline.

As always, control of absenteeism remains an important responsibility of departments and supervisors. As always, supervisors must continue to play an active role in the monitoring of employees' time and attendance by providing early intervention through counseling, referral for time and attendance watch and/or notice of discipline.

Please distribute this memorandum to all supervisors within your jurisdiction. Should you have any questions concerning this memorandum, please contact Leonzo Cuiman, Personnel Associate, at Extension 3019.

STATE UNIVERSITY OF NEW YORK HEALTH SCIENCE CENTER AT BROOKLYN
450 CLARKSON AVENUE, BOX 53, BROOKLYN, NY 11203-2098 .
(718) 270-3018

NEW OR REVISED MATERIAL February 1993

ATTENDANCE MONITORING PROGRAM CRITERIA

1. Those employees whose attendance records reveal that the criteria listed below have been met (see item two, "Attendance Problem/Frequency") or exceeded and who have been counseled for attendance problems or subjected to a medical documentation requirement within the last 18 months, or who have received an attendance notice of discipline within the last 24 months will be required to submit medical documentation for all absences without prior approval for a three-month period.

2. <u>Attendance Problem</u>	<u>Frequency</u>
Lateness	Three or more times one month
Unscheduled absence without medical note	Six or more in three months
Unscheduled absence before or after day of if, holiday or pay day	Three or more in three months
Dock notices	Two or more in one month
Where an employee has been counseled for attendance problems within the last three months	Two or more unauthorized absences since the date of counseling
Other unusual attendance problem for which counseling has occurred, <u>e.g.</u> , sick call on a day denied off	One repetition after counseling

3. While these criteria generally will result in a medical documentation requirement, Labor Relations has the discretion to impose the requirement or to decline to do so. In making this determination, Labor Relations will consider past attendance records or other objective data.
4. Although these criteria are the institutional standards for a medical documentation requirement, departments may counsel employees for other attendance deficiencies, particularly those that have an adverse effect on the efficient operation of HSCB. Also, departments should continue to be alert to attendance problems exhibited by new employees during their crucial probationary period. Counseling and attendance watch may be used to correct the behavior of temporary or probationary employees; however, they do not limit the supervisor's authority to recommend the end of a temporary or probationary appointment.

NEW OR REVISED MATERIAL February 1993

MEMORANDUM

TO: All State Employees

FROM: Stephan Kass
Assistant Vice President for Human Resources

SUBJECT: VOLUNTARY SELF-IDENTIFICATION OF
SPECIAL DISABLED VETERANS, VIETNAM ERA VETERANS
AND OTHER ELIGIBLE VETERANS

DATE: November 13, 2000

The State University of New York (SUNY) is a federal contractor. As such, we are required to report on the number of veterans in the workforce in the above-referenced categories. Recently, the Veterans Employment Opportunities Act (VEOA) public law 105-339 of 1998 extended affirmative action to an additional group of veterans: "Other Eligible Veterans."

"Other Eligible Veterans" is defined as those veterans who: (1) served on active duty during a war, or (2) served in a campaign or expedition for which a campaign badge has been authorized. The current list of military engagements from the U.S. Office of Personnel Management is attached to identify changes in expeditions.

In an effort to comply with federal regulations and to take affirmative action to employ and advance in employment qualified members of protected class veterans, we encourage you to complete the enclosed voluntary self-identification form. Please complete it by checking **any of the three categories** that apply to you [(1) Vietnam Era Veteran, (2) Special Disabled Veteran, (3) Other Eligible Veteran]. The form should be returned at your earliest convenience but no later than close **of business, Friday, December 15, 2000**, to:

Office of Opportunity and Diversity (OOD)
Box #1220

If you should have any questions, please feel free to contact OOD at extension 1738.

Cc: John C. La Rosa, M.D.



**SELF-IDENTIFICATION OF SPECIAL DISABLED VETERANS, VIETNAM ERA
VETERANS,
AND OTHER ELIGIBLE VETERANS**

The State University of New York is a government contractor subject to Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 which requires government contractors to take affirmative action to employ and advance in employment qualified special disabled veterans and Vietnam Era Veterans. The Veterans Employment Opportunities Act (VEOA) of 1998 extends affirmative action to: "Other Eligible Veterans."

SUNY is required to report annually to the Federal government the number of Vietnam Era Veterans, Other Eligible Veterans, and Special Disabled Veterans in its workforce and the total number of each group hired during the year.

If you are a Special Disabled Veteran and/or a Vietnam Era Veteran or Other Eligible Veteran covered by this program, you are invited to identify yourself by checking the appropriate **box(es)** below and completing this form. Submission of this information is voluntary, and failure to provide it will not subject you to discharge or disciplinary treatment.

A "Vietnam Era Veteran" is a person who served more than 180 days of active military, naval or air service, any part of which was during the period August 5, 1964 through May 7, 1975 and who was discharged or released therefrom with other than a dishonorable discharge, or was discharged or released from active duty because of a service-connected disability.

VIETNAM ERA VETERAN

A "Special Disabled Veteran" is defined as a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans Administration for a disability rated at 30 percent or more; or rated at 10 or 20 percent in the case of a veteran who has been determined under section 1506 of Title 38, U.S. Code, to have a serious employment handicap; or a person who was discharged or released from active duty because of a service-connected disability.

The term "significant employment handicap" means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

SPECIAL DISABLED VETERAN

(See Reverse)

An "Other Eligible Veteran" is a person who served on active duty during a war, campaign, or expedition for which a campaign badge has been authorized. To identify campaigns or expeditions, that meet these criteria, SEE APPENDIX A attached.

OTHER ELIGIBLE VETERAN

(See Reverse)

I understand that the above disclosure will be kept confidential. The only use of this information will be to provide annual statistics to the U.S. Government. However, supervisors and managers may be informed regarding restrictions on the work duties or necessary accommodations of

“Special Disabled Veterans.” First aid personnel will be informed, where appropriate, if a condition might require emergency treatment or special treatment in case of an emergency.

NAME (Please Spell)

TITLE OF POSTION

SIGNATURE

DEPARTMENT

DATE

If you are a Special Disabled Veteran and you have a disability which might affect your performance or create a hazard to yourself or others in connection with the job, please complete the following:

1. Listed below are accommodations which would enable you to perform the job properly and safely, such as: special equipment; changes to physical layout; elimination of certain tasks relating to the job; or other accommodations. (Such accommodations must be reasonable and feasible for the State University of New York to make.)

2. The following are special skills I have learned, procedures I intend to use and individual assistance I may need, in order to perform the duties of the job.

U.S. Office of Personnel Management

***Appendix A: Wars,
Campaigns and Expeditions
of the Armed Forces' Since
WW II Which Qualify for
Veterans' Preference***

War Service Creditable for Veterans' Preference. In the absence of statutory definition for "war" and "campaign or expedition," OPM considers to be "wars" only those armed conflicts for which a declaration of war was issued by Congress. The title 38, U.S.C., definition of "period of war," which is used in determining benefits administered by the Department of Veterans Affairs, includes the Vietnam Era and other armed conflicts. That title 38 definitions **NOT** applicable for civil service purposes.

Thus the last "war" for which active duty is qualifying for veterans' preference is World War II. The inclusive dates for World War II service are December 7, 1941, through April 28, 1952.

Non-combat operations that are not qualifying for veterans' preference. Many medals are awarded for non-combat operations. These medals are not a basis for preference and include the following:

- The Medal of Merit for meritorious service in World War II.
- The Medal of Freedom for meritorious achievements or meritorious service to the United States on or after December 7, 1941, in the war against an enemy outside the continental limits of the United States.
- The Antarctica Service Medal for participating in a scientific, direct support, or exploratory operation on the Antarctic Continent.
- The National Defense Service Medal for honorable service between June 27, 1950 and July 27, 1954 or January 1, 1961 and August 14, 1974; or for the period between August 2, 1990, and November 30, 1995.
- The Armed Forces Service Medal for participation in a United States military operation deemed to be a significant activity for which there was no treat of encounter of foreign armed opposition or imminent threat of hostile action.
- The Armed Forces Reserve Medal for 10 years of honorable service in a Reserve component or active duty service in a Reserve component on or after August 1, 1990; or volunteer service for active duty on or after August 1, 1990.

Military Operations Since 1937 for Which a Campaign or Expeditionary

Medal Has Been Awarded, Except for Operations Occurring During a Declared War

Military personnel receive many awards and decorations. To help agencies make decisions concerning entitlement to veterans' preference and other benefits, the following list identifies those awards that are campaign and expeditionary medals. Any Armed Forces expeditionary Medal, whether listed here or not, is qualifying for veterans' preference. The Department of Defense, not OPM, determines who is entitled to receive a medal, and under what circumstances. The list below is derived from DoD 1348.33-M, Manual of Military Decorations and Awards.

DD 214, Certificate of Discharge or Separation from Active Duty, or other official documents issued by the branch of service are required as verification of eligibility for veterans' preference. ***(Note that this documentation requirement refers to eligibility for veterans= preference in federal employment but not to the determination of Other Veterans status for VETS-100 reporting.)***

Campaigns and Expeditions Which Qualify For Veterans' Preference

<i>Campaign or Expedition</i>	<i>Inclusive dates</i>
Armed Forces Expeditionary Medal (AFEM) A veteran's DD Form 214 showing the award of any Armed forces Expeditionary Medal is acceptable proof. The DD form 214 does not have to show the name of the theater or country of service for which that medal was awarded.	
Berlin	August 14, 1961, to June 1, 1963
Bosnia (Operations Joint Endeavor, Joint Guard, and Joint Forge)	November 20, 1995 to December 20, 1996; December 20, 1996 to present; June 21, 1998 to present
Cambodia	March 29, 1973, to August 15, 1973
Cambodia Evacuation (Operation Eagle Pull)	April 11 - 13, 1975
Congo	July 14, 1960, to September 1, 1962, and November 23, 1964
Cuba	October 24, 1962, to June 1, 1963
Dominican Republic	April 28, 1965, to September 21, 1966
El Salvador	January 1, 1981, to February 1, 1992
Grenada (Operation Urgent Fury)	October 23, 1983, to November 21, 1983
Haiti (Operation Uphold Democracy)	September 16, 1994, to March 31, 1995
Iraq (Operation Northern Watch)	January 1, 1997 to present
Korea	October 1, 1966, to June 30, 1974
Laos	April 19, 1961, to October 7, 1962
Lebanon	July 1, 1958, to November 1, 1958, and June 1, 1983, to December 1, 1987
Mayaguez Operation	May 15, 1975
Operations in the Libyan Area (Operation Eldorado Canyon)	April 12 - 17, 1986
Panama (Operation Just Cause)	December 20, 1989, to January 31, 1990
Persian Gulf Operations (Operation Earnest Will)	July 24, 1987, to August 1, 1990
Persian Gulf Operation (Operation Southern Watch)	December 1, 1995, to present
Persian Gulf Operation (Operation Vigilant Sentinel)	December 1, 1995 to February 1, 1997

<i>Campaign or Expedition</i>	<i>Inclusive dates</i>
Persian Gulf Operation (Operation Desert Thunder)	November 11, 1998 to December 22, 1998
Persian Gulf Operation (Operation Desert Fox)	December 16, 1998 to December 22, 1998
Persian Gulf Intercept Operation	December 1, 1995, to present
Quemoy and Matsu Islands	August 23, 1958, to June 1, 1963
Somalia (Operation Restore Hope)	December 5, 1992, to March 31, 1995
Taiwan Straits	August 23, 1958, to January 1, 1959
Thailand	May 16, 1962, to August 10, 1962
Vietnam Evacuation (operation Frequent Wing)	April 29, 1975, to April 30, 1975
Vietnam (including Thailand)	July 1, 1958, to July 3, 1965

Navy expeditionary Medal and Marine Corps Medal for these Operations:

<i>Campaign or Expedition</i>	<i>Inclusive dates</i>
Cuba	January 3, 1961 to October 23, 1962
Indian Ocean/Iran	November 21, 1979, to October 20, 1981
Iranian/Yemen/Indian Ocean	December 8, 1979 to June 6, 1979
Lebanon	August 20, 1982 to May 31, 1983
Liberia (Operation Sharp Edge)	August 5, 1990 to February 21, 1991
Panama	April 1, 1980 to December 19, 1986 and February 1, 1990 to June 13, 1990
Persian Gulf	February 1, 1987 to July 23, 1987
Rwanda (Operation Distant runner)	April 7 - 18, 1994
Thailand	May 16 - August 10, 1962

Other Campaign and Service Medals Qualifying for Preference:

<i>Campaign or Expedition</i>	<i>Inclusive dates</i>
Army Occupation of Austria	May 9, 1945 to July 27, 1955
Army Occupation of Berlin	May 9, 1945 to October 2, 1990
Army Occupation of Germany (exclusive of Berlin)	May 9, 1945 to May 5, 1955
Army Occupation of Japan	September 3, 1945 to April 27, 1952
Chinese Service Medal (Extended)	September 2, 1945 to April 1, 1957
Korean Service	June 27, 1950 to July 27, 1954
Navy Occupation of Austria	May 8, 1945 to October 25, 1955
Navy Occupation of Trieste	May 8, 1945 to October 25, 1954
Southwest Asian Service Medal (SWASM) (Operations Desert Shield and Desert Storm)	August 2, 1990 to November 30, 1995
Units of the Sixth Fleet (Navy)	May 9, 1945 to October 25, 1955
Vietnam Service Medal (VSM)	July 4, 1965 to March 28, 1973

If you have any questions regarding this policy, please E-Mail the Office of Opportunity and Diversity conde-billy@downstate.edu.

**STATE UNIVERSITY OF NEW YORK
HEALTH SCIENCE CENTER AT BROOKLYN**

**VOLUNTARY SELF-IDENTIFICATION
OF
HANDICAPPED STATUS**

STATEMENT OF POLICY

The State University of New York Health Science Center at Brooklyn will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Health Science Center at Brooklyn agrees to take affirmative action to employ, advance in employment and otherwise treat handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices including, but not limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

BASIS AND DEFINITION

The State University of New York Health Science Center at Brooklyn, as a Federal contractor, is subject to Section 504 of the Vocational Rehabilitation Act of 1973, Part 84- Non- discrimination on the Basis of Handicap.

The definition of handicapped is any person who (a) has a physical or mental impairment which substantially limits one or more major life activities, (b) has a record of such impairment, or (c) is regarded as having such an impairment. Physical or mental impairment is defined as (1) any – physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech, cardiovascular, reproductive, genito-urinary, digestive, hemic and lymphatic, skin and endocrine or (2) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

It is our hope that identification and exposition of the problems facing out disabled population will assist us in planning to eliminate all acts of discrimination which may have occurred and to make reasonable accommodation to the handicaps of current and future applicants and employees.

If this applies to you, please take a moment to fill out the questionnaire on the reverse side of this form and return it to Ms. Adriana Conde-Billy, Affirmative Action Officer, the Health Science Center's designated official for compliance, Box 1220. Ms. Conde-Billy can be reached at (718) 270-1738.

THE INFORMATION GATHERED AS A RESULT OF THIS QUESTIONNAIRE IS VOLUNTARY AND WILL BE KEPT STRICTLY CONFIDENTIAL. REFUSAL TO PROVIDE THIS INFORMATION WILL NOT SUBJECT THE APPLICANT OR EMPLOYEE TO ANY ADVERSE TREATMENT.

If you have any questions concerning this section, please E-Mail Labor Relations at laborrelations@downstate.edu

(CHECK IF APPLICABLE)

CONFIDENTIAL*

VIETNAM ERA VETERAN -----

DISABLED VETERAN -----

If you are a Disabled Veteran and you have a disability, which might affect your performance or create a hazard to yourself or others in connection with the job, please complete the following:

1. Listed below are accommodations, which would enable me to perform the job properly and safely, such as: special equipment; changes to physical layout; elimination of certain tasks relating to the job; or other accommodations. (Such accommodations must be reasonable and feasible to make.)

2. The following are special skills I have learned, procedures I intend to use and individual assistance I may need, in order to perform the duties of the job.

I understand that the above disclosure will be kept confidential. The only use of this information will be to provide annual statistics to the U.S. Government. However, supervisors and managers may be informed, with my consent, regarding restrictions on the work duties or necessary accommodations of Special Disabled Veterans. First aid personnel will be informed, where appropriate, if a condition might require emergency treatment or special treatment in the event of an emergency.

Signature _____ Date _____

Title of Position _____ Department _____

**PLEASE RETURN THIS VOLUNTRY SELF-IDENTIFICATION TO:
MS. ADRIANA CONDE-BILLY
AFFIRMATIVE ACTION OFFICER
BOX 1220
CONFIDENTIAL**

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN
SUPERVISOR'S MANUAL**

SECTION 21 Z

November 10, 1988

MEMORANDUM

TO: Provost, Senior Vice President, Vice Presidents, Acting Executive Director, University Hospital, Deans, Department Chairs, Unit Heads

FROM: Stephan Kass

SUBJECT: WORKWEEK/WORKDAY POLICY FOR CLASSIFIED SERVICE EMPLOYEES

The following is the Health Science Center at Brooklyn Time and Attendance Policy which restates the New York State Department of Civil Service Time and Attendance policies regarding the parameters of the normal workweek and workday.

NORMAL WORKWEEK

The normal workweek for full-time Classified Service employees, except in the case of shift operations, shall consist of five consecutive working days, Monday through Friday, with two consecutive days off. In the case of shift operations, the normal workweek for full-time Classified Service employees shall consist of five consecutive working days followed by two consecutive days off.

NORMAL WORKDAY

The normal workday for all Classified Service employees, except for those in the titles specified below, is 8 hours, plus a 1/2 to 1 hour meal period depending on departmental preferences (example: 8:00 a.m. to 4:30 p.m. including a 1/2 hour meal period or 8:00 a.m. to 5:00 p.m. including a 1 hour meal period). For those employees in the titles specified below, the workday is 7 1/2 hours, plus a 1/2 to 1 hour meal period depending on

departmental preference (example: 9:00 a.m. to 5:00 p.m. including a 1/2 hour meal period or 8:30 a.m. to 5:00 p.m. including a 1 hour meal period). Out and in times for meal periods must be recorded daily on the Bi-weekly Attendance and Leave Accrual Report.

The normal workday shall commence between 6:00 a.m. and 10:00 a.m. In the case of shift operations, the normal workday, wherever practical and consistent with program needs, shall commence as follows: Day shift - 6:00 a.m. to 8:00 a.m.; Evening shift - 2:00 p.m. to 4:00 p.m.; Night shift - 10:00 p.m. to 12 midnight.

INDIVIDUALIZED WORK SCHEDULES

Individualized work schedules may be arranged by employees with their department heads as long as the needs of the department are met and the total number of hours worked per week conforms to the total hours per week specified for the title. Please advise the Department of Human Resources (DHR), in writing, of individualized work schedules that are currently administered so that DHR may review such schedules for conformity with contractual and regulatory obligations. Further, any new individualized work schedules are subject to the review and approval of DHR prior to implementation.

BREAKS

In addition to meal periods, Department Heads may extend to employees two, non-contiguous breaks each day for a period not to exceed 15 minutes per break. These breaks are extended as a courtesy and privilege to enable employees to rest and/or take light nourishment. The 15 to 30 minutes each day cannot be saved, added to vacation, used to extend meal periods, to excuse tardiness or to justify early departures.

Timesheets must conform to the work schedules established by departments. The Time and Attendance Unit will return to the department of origin timesheets that do not conform to the norms or to approved individualized work schedules.

CLASSIFIED SERVICE PERSONNEL 37 1/2 HOUR WORK WEEK

Account Clerk, Principal, SG-14	Lab. Technician (Biochem), Sr., SG-
Accountant, Senior, SG-18	Lab. Technician (Micro), Sr., SG-12
Accountant, Associate, SG-23	Lab. Technician (Physio), Sr., SG-1
Admitting Clerk, Prin., SG-11	Laboratory Worker, SG-4
Artist Designer I, SG-8	Library Aide, SG-1
Assistant Research Scientist, SG-1	Library Clerk II, SG-9
Bacteriologist, SG-14	Library Clerk III, SG-14
Bacteriologist, Assc., SG-23	Licensed Practical Nurse, SG-10
Bacteriologist, Senior, SG-18	Mail and Supply Clerk, SG-5
Biochemist, SG-14	Mail and Supply Clerk, Prin., SG-1
Biochemist, Associate, SG-23	Mail and Supply Clerk, Senior, SG-
Biochemist, Senior, SG-18	Medical Illustrator, Senior, SG-18
Business Management Assistant, SG-14	Medical Illustrator/Photo., Assc. SG-22
Calculations Clerk I, SG-6	Medical Laboratory Technician I, SG
Calculations Clerk II, SG-9	Medical Laboratory Technician II, SG-12
Clerical Assistant, SG-4	Medical Records Clerk, Senior, SG-
Clerk I, SG-6	Mental Health Therapy Aide, SG-9
Clerk I, 55B, Sg-6	Nursing Station Clerk I, SG-7
Clerk II, SG-9	Offset Printing Machine Operator, SG-6
Clerk, Senior (Purchase), SG-7	Offset Print. Mach. Oper., Prin., SG-12
Clerk, Prin., SG-14	Offset Print. Mach. Oper., Senior SG-9
Clerk, Prin., (Personnel), SG-14	Operating Room Technician, SG-6
Credentials Assistant, SG-4	Operating Room Technician, Senior, SG-9
Data Entry Machine Operator, SG-6	Orthopedic Technician, SG-10
Data Entry Machine Operator, Senior, SG-9	Pathology Office Asst. I, SG-9
Data Entry Machine Oper. Prin., SG-	Pathology Office Asst. II, SG-12
Dictating Machine Transcriber, SG-4	Payroll Clerk III, SG-14
Dietician Aide, SG-6	Payroll Clerk IV, SG-18
Electrocardiograph Technician, SG-	Pharmacy Aide, SG-7
Electroencealograph Technician, SG-	Photographer I, SG-8
Computer Operator, SG-10	Photographer II, SG-11
Computer Oper., Sr., SG-14	Radiologic Technician, Senior, SG-
Computer Oper., Supv. SG-18	Rad. Tech. (Therapeutic), Senior, SG-12
Computer Oper., Chf, SG-23	Radiologic Technician, Prin., SG-1

Histology Technician, SG-9	Rehabilitation Counselor, SG-19
Histology Technician, Senior, SG-1	Research Scientist I, SG-18
Hospital Attendant I, SG-5	Research Scientist II, SG-22
Hospital Attendant II, SG-7	Secretary I, SG-11
Hospital Clinical Assistant II, SG	Secretary II, SG-15
Hosp. Pat. Svc. Clk, I, SG-7	Scientist, SG-18
Hosp. Pat. Svc. Clk, II, SG-9	Scientist, Junior, SG-14
Hospital O.T. Aide, SG-9	Scientist (Biology), SG-18
Hospital P.T. Aide, SG-9	Scientist (Physiology), SG-18
Internal Auditor, SG-14	Stenographer, Senior, SG-9
Keyboard Specialist I, SG-6	Stores Clerk I, SG-6
Keyboard Specialist II, SG-9	Stores Clerk II, SG-9
Keyboard Specialist III, SG-12	Stores Clerk, Principal, SG-12
Laboratory Aide, SG-5	Supply Assistant, SG-4
Laboratory Caretaker, SG-4	T.H. Sterile Supply Tech. II, SG-8
Laboratory Equipment Designer, SG-	T.H. Sterile Supply Tech. II, SG-8
Lab. Equipment Designer, Senior, SG-20	T&RCN I, SG-14
Laboratory Helper, SG-1	T&RCN II, SG-16
Laboratory Secretary, SG-11	T&RCSN, SG-18
Laboratory Technician, SG-9	T&RCN III, SG-20
Telephone Operator, Principal, SG-	Training Aide, SG-9

**If you have any questions concerning this sub-section, please E-Mail
Labor Relations: laborrelations@downstate.edu**