

BOARD OF REGENTS BRIEFING PAPER

1. AGENDA ITEM TITLE: Handbook Revision, Paid Family Leave

MEETING DATE: March 6 & 7, 2025

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

At the Board's December 12, 2023, special meeting, the Board amended the Board of Regents Handbook, Title 4, Chapter 3, Section 19 to align with AB 376 from the 2023 legislative session for NSHE's professional employees (now NRS 284.356). At that time, the State of Nevada, Department of Administration, Division of Human Resource Management ("DHRM") had not yet issued guidance, and no state regulations had been adopted interpreting NRS 284.356.

The purpose of these proposed revisions is to update the paid family leave policy for professional staff to align with guidance from DHRM, which is now available, and applies to state employees in the Executive Department.

- Current NSHE policy requires the employee to hold 40 hours of sick leave in reserve, but DHRM guidance indicates the employee is not required to hold 40 hours in reserve.
- Current NSHE policy requires the employee to exhaust paid leave except 40 hours of sick leave before using paid family leave. DHRM does not require exhaustion.
- Current NSHE policy requires employees to be at least 60% FTE to use paid family leave. DHRM does not reference FTE status.
- Current NSHE policy uses definitions of key terms from the FMLA. DHRM incorporates other definitions.

The proposed revisions align with guidance from DHRM.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Interim Chief Human Resources Officer for NSHE, Kelly Scherado requests approval of revisions to the NSHE Handbook, Title 4, Chapter 3, Section 19 Sick Leave to provide paid family leave in alignment with guidance from the State of Nevada, Department of Administration, Division of Human Resource Management implementing AB 376, passed in the 2023 Legislative Session. The proposed Handbook revision would align with the State's policy for other state employees.

4. IMPETUS (WHY NOW?):

The *Handbook* revisions presented herein are brought forward to align with state guidance from DHRM related to the provisions of AB 376 enacted during the 2023 session of the Nevada State Legislature and now codified at NRS 284.356.

5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- ☐ Access (Increase access to higher education)
- ☐ Success (Improve student success)
- ☐ Close Institutional Performance Gaps
- ☐ Workforce (Meet workforce needs in Nevada)
- ☐ Research (Increase solutions-focused research)
- ☐ Coordination, Accountability, and Transparency (Ensure system coordination, accountability, and transparency)
- ☒ Not Applicable to NSHE Strategic Plan Goals

6. INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

These proposed *Handbook* revisions do not directly relate to a specific strategic plan goal.

7. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

The proposed revisions will align NSHE policy with state policy for classified and unclassified state employees.

8. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

N/A

9. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Maintain the current provisions of NSHE *Handbook*, T. 4, Ch. 3, S. 19 (sick leave).

10. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

11. COMPLIANCE WITH BOARD POLICY:

- ☐ Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
X Amends Current Board Policy: *Title 4, Chapter 3, Section 19*
☐ Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
☐ Other: _____
X Fiscal Impact: Yes X No _____

Explain: Because paid family leave is paid at 50% salary and the professional staff member mat hold 40 hours sick leave in reserve to take paid family leave, there is a fiscal impact of allowing professional staff members to take paid family leave while holding onto sick leave. However, we cannot estimate the number of employees that will utilize paid family leave.

POLICY PROPOSAL
Title 4, Chapter 3, Section 19
Sick Leave

Additions appear in ***boldface italics***; deletions are [~~stricken~~ and bracketed]

Section 19. Sick Leave

1. Full-time professional staff members on an "A" or "B" contract shall be granted sick leave as required, up to 30 working days at full salary, available at any time during the initial 12 months of service. Part-time professional staff members on an "A" or "B" contract shall be granted a pro rata amount as required.
2. Beginning one year after the starting date of his or her initial contract, each full-time staff member will begin to accrue additional sick leave at the rate of two days for each full month of paid service, to be added to any remaining balance of unused sick leave from the first 12 months of service. Sick leave may be accrued from year to year not to exceed 96 working days. Part-time staff members will earn a pro rata amount of sick leave for each calendar month worked. Paid sick leave shall not be granted in excess of sick leave earned except as provided in paragraph 9. The employee shall not be paid for any unused sick leave upon termination of employment.
3. A professional staff member is entitled to use accumulated sick leave for personal illness; disability; medical, optometry, or dental service or examinations; child bearing or temporary disability, upon approval of the appointing authority. The appointing authority may require a staff member to provide medical certification from a medical practitioner for absences of more than five consecutive days or if abuse is suspected.

If an eligible employee is using leave, with or without pay, in a manner which would qualify under the Family Medical Leave Act (FMLA), the appointing authority shall designate the leave as FMLA and shall provide written notice to the employee wh~~o~~^{ich} details the obligations of the employee and the effects of using the leave. While in FMLA status, all available paid leave, ***except Paid Family Leave pursuant to subsection 8***, must be used before leave without pay.

4. Up to fifteen days of earned sick leave per contract year may be used by the professional staff member to care for or assist family members, in-laws, or step relatives within the third degree of consanguinity or relationship, or members of the professional staff member's household for the following events: illness; injury, or medical, optometry or dental service or examination. Requests for use of additional earned sick leave days beyond the fifteen-day limitation may be made in writing to the appropriate appointing authority. Approval is at the discretion of the appropriate appointing authority. The fifteen-day limitation does not apply if the leave is approved under the FMLA.
5. Up to fifteen days of earned sick leave per contract year may be used by the professional staff member to address an essential need resulting from the military deployment to a foreign country of the staff member's spouse, parent, son, daughter, sibling, grandparent, or grandchild, including, without limitation, arranging for childcare or parental care during deployment, or representing the military family member at a federal, state or local event during deployment. Requests for use of additional earned sick leave days beyond the fifteen-day limitation may be made in writing to the appropriate appointing authority. Approval is at the discretion of the appropriate appointing authority. The fifteen-day limitation does not apply if the leave is approved under the FMLA as FMLA Qualifying Exigency Leave. The appointing authority may require a professional staff

member seeking to use sick leave pursuant to this section to present a copy of the family member's military orders or other substantial evidence pertaining to a qualifying military event. For purposes of this section, the terms "son" and "daughter" mean a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.

6. A professional staff member may take up to 10 working days of employee's earned sick leave, in the event of the death of a person listed in paragraph 4 above. Requests for use of additional earned sick leave days beyond the ten-day limitation may be made in writing to the appropriate authority. Approval is at the discretion of the appropriate appointing authority.
7. A professional staff member who qualifies under the FMLA is entitled to a total of 12 work weeks of leave during a "rolling" 12-month period. The period is measured backward from the date an employee uses ~~a qualifying F[amily]M[edical]L[ease]~~ **A leave**. To qualify, a staff member must have been employed by the NSHE for at least 12 months and have been in a paid status for a minimum of 60% FTE averaged over the 12-month period preceding the leave. While in FMLA status, all available paid leave must be used before leave without pay.

~~[Paid Family Leave During a Qualifying FMLA Period. A professional staff member on approved FMLA leave, including but not limited to FMLA Qualifying Exigency Leave, with a sick leave balance of 40 hours may choose to hold 40 hours of sick leave in reserve once all other available paid leave is exhausted. Once all other paid leave is exhausted, the employee may utilize the remaining 40 hours of sick leave or take paid family leave at 50% of their salary for up to eight (8) weeks as long as it is within the approved FMLA period. A professional staff member who qualifies for paid family leave is entitled to up to eight (8) weeks during a "rolling" 12-month period. Employees shall not be paid for any unused paid family leave upon termination of employment.]~~

A staff member may use FMLA leave for the birth of a child, and to care for a newborn child; for placement of a child with the staff member for adoption or foster care; to care for the staff member's spouse, parent or child with a serious health condition; or because the staff member is unable to perform one or more of the essential functions of his/her job due to a serious health condition. If a staff member must take unpaid leave under FMLA, the employer is required to maintain the staff member's health insurance coverage for the timeframe represented by the FMLA leave.

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

8. ~~Paid Family Leave without a Qualifying FMLA Event to Care for Sibling, Grandparent, Grandchild, and Son or Daughter Over 18 Only].~~ A professional staff member who has been employed by the NSHE for at least 12 months and has ~~been in a paid status for a minimum of 60% FTE averaged over the preceding 12-month period with a sick leave balance of 40 hours]~~ **had the opportunity to accrue 40 hours of sick leave** is eligible for eight (8) weeks of paid family leave at 50% of their salary
 - (a) *To bond with a newborn child of the employee or a newborn child of the domestic partner of the employee;*

(b) To bond with a newly adopted child of the employee;

(c) To recover from or undergo treatment for a serious illness;

(d) To care for a seriously ill member of the immediate family of the employee; or

(e) For a qualifying event resulting from the military deployment to a foreign country of an immediate family member of the employee.

~~[to care for a sibling, grandparent, grandchild, or son or daughter over the age of 18 whose care does not qualify for FMLA with a serious health condition after they have exhausted any remaining family sick leave allowed under section 4.]~~

After they have exhausted the family sick leave allowed under subsection 4 and have a sick leave balance of ***no more than*** 40 hours, the professional staff member may take up to eight (8) weeks of paid family leave during a “rolling” 12-month period. For purposes of this section, ***the terms*** ~~[“son” and “daughter” have the same meaning as set forth under subsection 5-]~~ ***“domestic partner,” “immediate family member,” “qualifying event,” and “serious illness” are defined in NRS 284.356(6).***

The professional staff member may not take more than eight (8) weeks of paid family leave in a single rolling 12-month period, regardless of the number of qualifying events in such 12-month period. Employees shall not be paid for any unused paid family leave upon termination of employment.

9. After 12 continuous months employment, where a physician certifies that a professional staff member is unable to resume duties after exhausting all accumulated sick and annual leave, the professional staff member may petition for, and may be granted, with the approval of the President extended salaried sick leave. Approval may be given only if the funding source permits payment of extended salaried sick leave. An additional three calendar months may be granted to employees continuously employed for more than twelve months and up to twenty-four months; an additional six calendar months may be granted to employees continuously employed for more than twenty-four months and up to thirty-six months; and an additional twelve calendar months plus one calendar month for each full year of employment with the NSHE may be granted to employees continuously employed for more than thirty-six months. An eligible employee may initially request less extended salaried sick leave than authorized under this policy or may be granted less than the maximum amount of time authorized. The lifetime maximum, which may be granted to an employee, is twelve calendar months plus one calendar month for each full year of employment with the NSHE. During extended salaried sick leave, no annual or sick leave shall be earned. If at the end of the extension period a physician certifies that the professional staff member is still unable to resume duties, the appointment shall be terminated. Where employment shall be terminated under these circumstances, the provision of Title 2, Chapter 6 of the Board of Regent’s Handbook, shall not apply.
10. If an employee has been employed for less than 12 consecutive months, the President may approve an employee request for unpaid sick leave not to exceed three months duration. If the employee is unable to return to employment after the expiration of this unpaid leave of absence, the appointment shall be terminated. Where employment shall be terminated under these circumstances, the provisions of Title 2, Chapter 6, of the Board of Regents’ Handbook shall not apply.
11. Cases of injury or accident or illness in connection with the work of professional staff members are covered by workers’ compensation statutes and regulations. In order to ensure this protection for out-of-state travel, requests should always be submitted in advance by staff members conducting NSHE business, attending meetings, etc., even if work is undertaken outside of work hours and at the professional staff member’s own expense.

~~[12. Paid Family Leave for a Qualifying Military Event without an FMLA Qualifying Exigency. A professional staff member who has been employed by the NSHE for at least 12 months and has been in a paid status for a minimum of 60% FTE averaged over the preceding 12-month period with a sick leave balance of 40 hours is eligible for eight (8) weeks of paid family leave at 50% of their salary~~

~~for a military event described in subsection 5 resulting from the deployment of a sibling, grandparent or grandchild after they have exhausted any remaining sick leave allowed under subsection 5. After they have exhausted the sick leave allowed under subsection 5 and have a sick leave balance of 40 hours, the professional staff member may take up to eight (8) weeks of paid family leave during a “rolling” 12-month period.~~

~~The appointing authority may require a professional staff member seeking to use paid family leave pursuant to this section to present a copy of the family member’s military orders or other substantial evidence pertaining to a qualifying military event.~~

- ~~13. Death of a Family Member Resulting from Military Deployment. A professional staff member who has been employed by the NSHE for at least 12 months and has been in a paid status for a minimum of 60% FTE averaged over the preceding 12-month period with a sick leave balance of 40 hours is eligible for eight (8) weeks of paid family leave at 50% of their salary to address the death of the staff member’s spouse, parent, son, daughter, sibling, grandparent, or grandchild resulting from military deployment to a foreign country. After the professional staff member has exhausted the bereavement leave allowed under subsection 6 and has a sick leave balance of 40 hours, they may take up to eight (8) weeks of paid family sick leave during a “rolling” 12-month period. For purposes of this section, the terms “son” and “daughter” have the same meaning as under subsection 5.~~

~~The appointing authority may require a professional staff member seeking to use paid family leave pursuant to this section to present a copy of the family member’s military orders or other substantial evidence pertaining to a qualifying military event.]~~