

Doc. T94-023, as amended

Passed by the Board of Trustees

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**UNIVERSITY OF MASSACHUSETTS
PERSONNEL POLICY FOR NON-UNIT PROFESSIONAL STAFF**

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This policy amends the “Personnel Policy for Non-Unit Staff (T94-023), it rescinds the “Reduction in Force Policy, Non-Unit Staff: Amherst, Boston, Dartmouth, Lowell and the President’s Office”.

I. TERMS OF EMPLOYMENT

The following Policy shall apply to members of the non-unit professional and classified staff who are employed part-time or full-time in regular positions, whether funded from state appropriations or continuing trust funds (i.e., trust funds without a terminal date), excluding the President, the Chancellors, and certain Athletic Coaches. The President shall have authority to implement and interpret this Policy.

A. Compliance with Law and Regulations and University Policies

The University and its employees will comply with all applicable federal and state employment laws and regulations, including, without limitation, M.G.L Chapter 268A and 268B, and including any related post-employment reporting obligations, as well as all additional disclosure requirements set out in any Administrative Standards promulgated by the President pursuant to this Policy as well as any Board of Trustees policies, and policies promulgated on the campus level.

B. Employment Status

Non-unit University employees serve at the pleasure of the Board of Trustees, acting by and through the President or Chancellor, and are, therefore, employees “at will”: the University or the employee may terminate the employment relationship at any time, with or without cause, and with or without notice, subject to the provisions contained in ¶¶ I(C), (D), and (E) below.

C. Employment Contracts

Notwithstanding ¶ I(B), above, with the approval of the President, non-unit University employees may be appointed pursuant to a contract of employment, not to exceed 3 years; *provided* that any such contract of employment is expressly conditioned upon continued satisfactory performance, adherence to applicable state and federal laws and regulations and University policies, the availability of funds, and the Administrative Standards that are issued to implement this Policy.

D. Termination from University Employment for Reasons Other than Cause

Except for terminations for cause and termination of non-unit University employees funded through external funds, the University will provide notice of termination from University employment, or, at the discretion of the University, payment in lieu of notice, in accordance with the Administrative Standards that are issued to implement this Policy.

E. Termination for Cause

Prior to terminating an non-unit employee for cause, the University will give the employee notice and an opportunity to respond to the basis for the termination.

II. ANNUAL PERFORMANCE REVIEW

The University shall conduct a performance review at least once annually for all non-unit employees (which is in addition to and may not be a substitute for T93-080, Policy on the Review and Evaluation of Senior Administrators).

III. PROFESSIONAL IMPROVEMENT LEAVE

Non-unit employees may be eligible for professional improvement leave in cases where it can be clearly demonstrated that such leave will result in a specific benefit to the University, in accordance with the Administrative Standards that are issued to implement this Policy.

IV. COMPENSATION

The Board of Trustees shall have the authority to approve non-unit wage adjustments applicable to the non-unit employees as a whole.

The President shall have the authority to approve salaries for individual non-unit positions in the President’s Office. In addition, the President may establish a merit salary program for non-unit employees or grant bonus pay to certain non-unit employees within the President’s Office.

The Chancellors are delegated authority to approve salaries for positions at the campuses; provided however that the President must approve any initial or adjusted salary for any non-unit position on a campus if the initial or adjusted salary exceeds a threshold determined by the President. Such approval must be secured prior to any change being implemented and prior to initiating the hiring or promotional process.

The threshold will be stated in the corresponding Administrative Standards. The threshold as of the effective date of this policy as set forth in Article IV of the corresponding Administrative Standards is \$200,000, and this threshold may be adjusted in the future and stated in the Administrative Standards in accordance with this policy.

V. ADDITIONAL COMPENSATION

Additional compensation is paid to a non-unit employee, over and above their regular rate of pay, to compensate the non-unit employee for performing additional duties for the benefit of the University that exceeds their regular job duties and are outside the scope of their job description. These additional duties must be performed in addition to, and not in place of, the employee's regular duties and responsibilities. The performance of the additional duties must not adversely impact the employee's obligation to perform their regular duties and responsibilities fully and satisfactorily. The performance of any additional duties that would create a conflict with M.G.L Chapter 268A, or the interests of the University of Massachusetts, or the interests of the Commonwealth of Massachusetts, is prohibited. To be eligible to earn additional compensation as outlined in this Policy, an employee must be non-unit and must be exempt from the provisions of the Federal Fair Labor Standards Act (FLSA), and in accordance with Administrative Standards that are issued to implement this Policy.

Requests to pay a non-unit employee additional compensation must be submitted to and approved by an employee's Department Head. Such requests must then be submitted to and approved by the Chief Human Resources Officer on the relevant campus, or their designee. If the request pertains to an employee of the President's Office, then the request must be submitted to and approved by the Chief Human Resources Officer in the President's Office. Such requests must be approved prior to the employee performing the duties for which the additional compensation is sought.

Such requests must include:

- A brief description of the service to be provided.
- The anticipated benefit to the University.
- The department, division, or unit to be served.
- The requested amount of additional compensation and the justification for that proposed amount.
- The duration of time for which the employee would earn the additional compensation.

Such requests are subject to the approval of the Chief Human Resources Officer on the relevant campus, or their designee. If the request pertains to an employee of the President's Office, such requests are subject to the approval of the Chief Human Resources Officer in the President's Office. No non-unit employee may receive additional compensation until such a request has been approved.

Additional compensation may not exceed, in a given calendar year, an amount greater than 12 percent of the non-unit employee's then current annual base salary. Compensation earned for performing the following services shall be exempt from this 12 percent cap:

- Teaching academic courses.
- Conducting summer sports programs.

Should the use of University facilities, equipment, or supplies be required to perform additional duties, approval must be obtained in advance from the appropriate Department Head, Director, Dean, or Vice Chancellor and must be in compliance with M.G.L chapter 268A. A reasonable fee may be levied by the impacted department, for use of such facilities, equipment, and supplies, and shall be determined by the Treasurer of the University, upon recommendation of the respective Department Head, Director, Dean, or Vice Chancellor.

No non-unit employee may receive additional compensation if the additional duties occur in what would be defined and/or perceived by the University as falling within the normally scheduled working hours, unless the employee requests and is granted the use of personal time, vacation time, or leave without pay. The use of such vacation time, personal time, or leave without pay may be denied if, in the opinion of the Department Head, it is impossible or impractical because of work schedules or other contingencies.

VI. 43 WEEK WORK SCHEDULE

Non-unit employees who are employed on a 52 week schedule may request a 43 week schedule with a 15 percent reduction in base annual salary. Similarly, those non-unit employees on a 43 week schedule may request a 52 week schedule with a 15 percent increase in base annual salary. All such requests are subject to approval by the President or Chancellor, or their respective designee.

In certain positions or classes of positions designated by the University, the University may request non-unit employees to transfer to a 43 week schedule with a 15 percent reduction in base annual salary, but shall not require them to do so except when a fiscal shortfall exists or is anticipated. Specific details regarding this section are contained in the corresponding Administrative Standards.

VII. ALTERNATIVE FRINGE BENEFITS

- A. In accordance with the authority vested in the University Board of Trustees, as such authority may be supplemented by the provisions of Chapter 163 of the Acts of 1997, the President shall have the authority to establish, approve and amend an alternative program of employee fringe benefits including, but not limited to compensated absences, industrial accident coverage, and group insurance coverage.
- B. Such programs may be made applicable to such campuses, groups of employees, professional staff and/or faculty, or subgroups thereof, including those that are subject to collective bargaining agreements, at the discretion of the President, subject to the University's obligation to bargain in good faith.

VIII. STANDARDS

The University President, in consultation with the Vice President(s) and Chancellors, will issue Administrative Standards to implement this Policy, which Standards may be revised from time-to-time.

**UNIVERSITY OF MASSACHUSETTS
ADMINISTRATIVE STANDARDS FOR THE
PERSONNEL POLICY FOR NON-UNIT PROFESSIONAL STAFF
(Doc. T94-023, as amended)
(Effective January 1, 2024)**

I. TERMS OF EMPLOYMENT

C. “Employment Contracts”

A non-unit University employee may be appointed to a contract of employment with the approval of the President, provided the following terms and conditions are met:

- Such contract may not be more than 3 years in duration.
- Such contract must be expressly conditioned upon continued satisfactory performance.
- Such contract must be expressly conditioned upon adherence to applicable state and federal laws and regulations and University policies.
- Such contract must be expressly conditioned upon the availability of funds.

A non-unit University employee may not be provided with either of the following employment provisions unless the provision is expressly included in a contract of employment that has been approved by the President in accordance with this standard:

- An expectation of future wage increases other than those increases that may be available to other similarly situated employees.
- The establishment of an individual multi-year employer funded 457(f) deferred compensation plan.

D. “Termination from University Employment for Reasons Other than Cause”

Except for terminations for cause and terminations of non-unit employees funded through external funds (e.g., grants or contracts), the University will provide 1 month of notice of termination, or, at the discretion of the University, payment of one (1) month’s salary in lieu of notice.

In those circumstances in which the President (or the President’s designee) or campus Chancellor (or the campus Chancellor’s designee) offers, and the non-unit employee executes, a general release of claims, a non-unit employee hired into a regular position may receive notice or payment in lieu of notice based on one month for each complete year of continuous service to the University not to exceed one year (inclusive of the one (1) month above).

Prior Unit Service

If a non-unit employee had prior continuous service in a unit position within the University system prior to serving in their current non-unit position, then that service shall count toward the calculation of this benefit.

Repayment of Severance

This repayment requirement applies to former employees who received a payment in lieu of notice in accordance with this Policy and who, after receiving such payment, have been offered a new position

of employment with the University. Such employees must repay the University fifty percent of the remaining value of their payment.

- For example, if an employee received a payment in lieu of notice based on six (6) months, and two (2) months have passed since their layoff date, then the remaining value is four months. Fifty percent of that value is equal to two (2) months. The employee would need to make a payment equal to the value of two (2) months of pay.
- Also, for example, if an employee received a payment in lieu of notice based on six (6) months, and seven (7) months have passed since their layoff date, then the employee does not need to make a repayment of any amount.

In the event an employee is required to repay some portion of their severance benefit, the University may offer the employee the option of paying back the required amount of money over a period of time at the discretion of the Chief Human Resources Officer on the relevant campus.

In exceptional circumstances, and if the employee executes a general release of claims, the President (or the President's designee) or Chancellor (or Chancellor's designee), in consultation with the University's General Counsel, may approve additional notice or payment in lieu of notice that is in excess of this Policy, and may also waive some or all of the requirement to repay the severance benefit.

Any notice of termination or payment in lieu of notice of employees funded through external funds (e.g., grants or contracts) will be consistent with the requirements of the funding source and contingent on availability of funds.

E. "Termination for Cause"

Each campus' process and/or procedures for Termination for Cause, shall include, at a minimum, that prior to termination of employment, an employee will be provided either an oral or written reason for the termination for cause and the employee will be provided the opportunity to respond to the reason for the termination.

II. PERFORMANCE REVIEW

The University shall conduct a performance review at least once annually for all non-unit employees (which is in addition to and may not be a substitute for T93-080, Policy on the Review and Evaluation of Senior Administrators).

Non-Unit employees shall have the opportunity to review and discuss their performance review with their supervisor.

The campus Chief Human Resources Officer on each campus and in the President's Office will be responsible for ensuring that the most current performance review for each non-unit employee is retained and accessible to an employee and their supervisor.

III. PROFESSIONAL IMPROVEMENT LEAVE

- A. Non-unit employees may be eligible for professional improvement leave in cases where it can be clearly demonstrated that such leave will result in specific benefit to the University. Such

leave shall be available as a matter of privilege rather than as a right and shall be granted to eligible employees only in those cases where the following conditions have been met:

- (1) Such leave shall require prior approval of a specific proposal that outlines the benefits expected for both the University and the non-unit employee. This approval must be given by the President (or the President's designee) for staff in the President's Office, and the Chancellors (or their designee) for staff on their respective campuses.
 - (2) The non-unit employees must have completed at least six years of continuous full-time equivalent professional service at the University in their non-unit position, or at least six (6) years of such service since the last professional improvement leave.
 - (3) Professional improvement leave shall not exceed 5 and 1/2 months at full salary or eleven (11) months at half salary, but leave may be for shorter periods at greater frequency as may mutually benefit the individual and the University.
 - (4) Professional improvement leave will not result in a net salary cost increase to either the University or the department with which the non-unit employee is associated.
 - (5) The University may consider payment of tuition and registration or similar costs attendant to such leave. Such payment requires approval by the Chancellor or President, or their designee, as applicable.
 - (6) Non-unit employees who receive approval for professional improvement leave must return to their duties at the University for at least two (2) full years of service immediately following the expiration of the leave. Failure to comply, except in a case of involuntary separation, will obligate the individual to return the salary received during the leave and any other costs paid by the University unless an exception is approved by the Chancellor or President, as applicable.
 - (7) Any leave granted under this provision of the Policy must not create a conflict with M.G.L Chapter 268A or any other provision of law.
 - (8) The University and the employee must execute a written agreement that outlines all of the terms and conditions of any leave that is granted under this provision of this Policy. The agreement must be executed by both parties prior to the commencement of the leave.
- B. In addition, a non-unit employee may be granted shorter-term professional leave after two (2) years of full-time equivalent service to the University in their non-unit position. Such leave may be of varying duration not to exceed two (2) months within any two (2) year period and shall be at full pay. Such leave shall be approved at the discretion of the President (or the President's designee) for staff in the President's Office, and at the discretion of the Chancellors (or their designee) for staff on their respective campuses. This approval shall be based upon a proposal which clearly demonstrates the benefit to be gained by the University from the employee's exposure to new ideas, skills and practices. Exceptions to these requirements are possible only upon special justification made to the officer whose approval is required. Paragraphs A(4), A(5), and A(6) above shall also apply to this shorter-term leave, except that six (6) months' service upon return instead of two (2) year shall be required.

IV. COMPENSATION

Merit Pay

The President may establish a merit salary program for non-unit employees. If so established, merit increases will be funded by a merit pool and will be granted within an established range of minimum and maximum increases. The total of all merit increases for eligible employees shall not exceed the pool available for all non-unit employees in the President's Office, or all non-unit employees on a campus. Merit increases must be based on an employee's performance as it is documented in their

annual review. Merit salary increases are subject to the approval of the President or Chancellor as applicable.

Bonus Pay

In addition to or as an alternative to any base-rate merit increase awarded, employees may be eligible on their annual review date for a non-base-rate cash bonus. Such a bonus may be awarded in recognition of exceptional performance over the past year on a one-time program, project, or initiative of major significance to the campus or University. All bonuses must be approved by the President or Chancellor, as applicable.

Threshold for President's Approval

The President must approve, in advance, any salary adjustment and the designation of a new hire salary for any non-unit position on a campus if the new hire salary or the adjusted salary exceeds \$200,000. This includes any salary adjustment due to a promotion, an individual adjustment, or merit pay. This approval is required for adjustments that will result in a non-unit employee earning a salary of \$200,000 in the first instance as well as for any proposed salary adjustment for a non-unit employee who already earns over \$200,000.

This approval must be secured prior to initiating the hiring or promotional process, meaning prior to the posting of the position and prior to interviewing of candidates. This requirement applies to both internal and external hiring processes.

Failure to obtain such prior approval may result in the cancellation of the search or the withdrawal of an offer of employment or salary equity increase. In exceptional circumstances, approval may be granted after the commencement of a recruitment process; provided that, in such circumstances, the campus Chief Human Resources Officer, on behalf of the Chancellor and Vice Chancellor for Administration & Finance, shall include a detailed explanation describing the specific circumstances that prevented such prior approval.

When determining whether to seek approval for a salary, the campus should consider the highest possible salary they would pay to a preferred candidate. If that amount may exceed \$200,000, because of salary negotiations with a preferred candidate, then the campus Chief Human Resources Officer must submit the position for approval in advance of initiating the hiring process.

This approval is not required for salary adjustments that are being implemented across-the-board for non-unit staff as a whole.

The approval described above does not substitute for or supersede any campus-specific approval(s) that may be required either before or after the President's approval.

Deferred Compensation

The President must approve, in advance, the establishment of an employer funded deferred compensation plan for an individual employee. [e.g., a 401(a) or a 403(b).] This requirement applies regardless of whether the employee earns above or below the \$200,000 threshold above. This requirement does not apply to the 403(b) deferred compensation plan that already exists at the University of Massachusetts Chan Medical School and is administered by that campus.

In addition, a multi-year employer funded 457(f) plan may only be provided to a non-unit employee if it is expressly included in a contract of employment in accordance with Section I.C, "Employment Contracts".

V. ADDITIONAL COMPENSATION

If an employee has been temporarily granted a higher rate of pay because they are serving in an interim capacity due to a vacancy, then their additional earnings are not considered "additional compensation" within the meaning of this Policy.

The University payroll system has many different earning codes that fall under the umbrella definition of "Additional Compensation." This Policy is not intended to apply to each of the many different types of earnings that fall within that payroll codes group. For example, the payroll codes utilized for one-time signing bonuses, transition allowances, and health insurance reimbursements fall within the umbrella category of "additional compensation." This Policy is not intended to apply to those types of earnings.

Instead, additional compensation for the meaning of this Policy is paid to an FLSA exempt non-unit employee, over and above their regular rate of pay, to compensate the non-unit employee for performing additional duties that are more than their regular job duties, outside the scope of their job description and performed outside of the regular work hours. These additional duties must be performed in addition to, and not in place of, the non-unit employee's regular duties and responsibilities.

When additional compensation is to be paid by grant or trust monies, such funds must be budgeted and encumbered in advance, and all payments must conform to any regulation governing the grant or trust fund.

Where additional compensation is to be paid by state funds, then the specific account to be used is subject to the regulations and policies established by the Commonwealth, University, and department/unit, and said account must be verified in advance by the campus Budget Office.

VI. 43 WEEK WORK SCHEDULE

Non-unit employees who are employed on a 52 week schedule may request a 43 week schedule with a 15 percent reduction in base annual salary. Similarly, those non-unit employees on a 43 week schedule may request a 52 week schedule with a 15 percent increase in base annual salary. All such requests are subject to approval by the President or Chancellor, or their respective designee.

In certain positions or classes of positions designated by the University, the University may request non-unit employees to transfer to a 43 week schedule with a 15 percent reduction in base annual salary, but shall not require them to do so except when a fiscal shortfall exists or is anticipated.

- A. All new non-unit employees in specific positions or classes of positions designated in advance by the University would be employed on a 43 week schedule at a salary within 85 percent of the present base 52 week schedule salary range for the same classification.
- B. In all cases the recommendation of the appropriate campus administrative officers and consultation with the campus Human Resources Office will be required.

- C. The University shall determine and specify the periods of employment. Normally, the total nine week period of non-responsibility to the University shall not be divided into more than two components. The period of annual vacation leave shall not be counted as one of these two allowed periods. The annual salary shall be paid over a 52 week period as is currently the policy for faculty members employed on an academic year basis.
- D. Should a non-unit employee who is employed on a 43 week schedule perform, at the request of the University, service in excess of the stipulated period(s) in the position in which they are regularly employed, the staff member shall be compensated at their current rate of salary in accordance with pertinent policies, rules, and regulations.
- E. Fringe benefits such as, but not limited to, health insurance, life insurance, retirement, and disability income insurance shall not be affected by the employment of an individual on a 43 week schedule. However, vacation leave, sick leave, and paid personal leave shall be prorated.
- F. The method of annual salary calculation for a non-unit professional staff member transferring from a 52 week schedule to a 43 week schedule shall be to divide the annual 52 week salary by 1.15 to arrive at the annual 43 week salary. The method of annual salary calculation for a professional staff member transferring from a 43 week schedule to a 52 week schedule shall be to multiply the annual 43 week salary by 1.15 to arrive at the annual 52 week salary.