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☞ Details: Follow-up to Legislative Audit Bureau Report 06-12: An Evaluation: UW System Personnel Policies and Practices

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)

March 5, 2007

Statement Presented at Hearing by Assembly Committee on Colleges and Universities On Clearinghouse Rule 06-078

W. Lee Hansen, Professor Emeritus, Economics, UW-Madison

I appear before you today because the new rules dealing with the expedited dismissal of tenured faculty members for their criminal activity, submitted for your consideration by the UW System Board of Regents, fail to give appropriate attention to the concept of "shared governance" embedded in Wisconsin statutes at the time of merger in the early 1970s. These deficiencies can be remedied, as is pointed out below.

The Problem

In the section RULE SUMMARY there is confusion because whereas paragraph 2 on "Statutory authority" mentions both 36.13(3) [RULES] and 36.13(5) [PROCEDURAL GUARANTEES], the reference to 36.13 (5) is not mentioned in either paragraph 1 on "Statutes interpreted" or paragraph 3 on "Explanation of agency authority."

The other statutes cited in these same three paragraphs, namely, 36.09(1) [Responsibilities. THE BOARD OF REGENTS.] and 36.11(1) [PROTECTION OF PEOPLE: CUSTODY AND MANAGEMENT OF PROPERTY], give the Board of Regents sole authority to promulgate rules. By contrast, 36.13(3) and 36.13(5) require that rules dealing with the dismissal of tenured faculty members must be promulgated by the "Board and its several faculties."

The Solution

These problems can be remedied quite easily. One is to include references to 36.13(5) in paragraphs 1 and 3. The second is to modify the first line in the INTRODUCTORY CLAUSE to be consistent with 36.13(3) and 36.13(5). This line would read, with my addition underlined and my deletion bracketed:

The Board of Regents of the University of Wisconsin System and its several faculties propose [s] an order to amend

Pros and Cons

These changes would bring the document on the new rules into alignment with state law. They would also reinforce in the opinion of the "several faculties" the Board's commitment to the concept of shared governance. These advantages are not offset by any apparent disadvantages.

Summary Statement

I urge these changes be made before the new rule is promulgated. Thank you.

Submitted by W. Lee Hansen, 3215 Topping Road, Madison WI 53705-1434
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August 2, 2006

Statement at Board of Regents Hearing on UWS 7
W. Lee Hansen, Professor Emeritus, Economics, UW-Madison

My name is W. Lee Hansen, Professor Emeritus of Economics, UW-Madison. I am here today because of my long-time interest in academic freedom and institutional governance. This interest took root 60 years ago next month when I enrolled as a freshman at the University of Wisconsin and discovered the famous "sifting and winnowing" plaque at Bascom Hall. It culminated, I thought, in the late 1990s with publication of a book I edited, *Academic Freedom on Trial: 100 Years of Sifting and Winnowing at the University of Wisconsin-Madison* (University of Wisconsin Press, 1998). But, as the discussion surrounding UWS 7 demonstrates, these issues crop up in new and different forms.

Like most other faculty members, as well as fellow members of the independent Committee on Academic Freedom and Rights, I agree with the need for an expedited process for dismissal of faculty members convicted of serious crimes. While having concerns about certain provisions of UWS 7—specifically, suspension without pay, the "substantial likelihood" criterion, and carrying out the expedited process within the stated time schedule—I trust these provisions will be exercised in responsible fashion.

What I find surprising and of deep concern is this: the Board of Regents has allowed itself to proceed, despite the abundance of legal talent available to it, in formulating UWS 7 without recognizing that Wisconsin Statutes Chap. 36.13(3) and (5) make it abundantly clear that any and all rules dealing with dismissal of tenured faculty members, such as UWS 7, are to be promulgated not by the board alone but rather by the "board and its several faculties." The Board could easily have created a joint Regent-faculty committee to develop UWS 7, to be followed by a joint effort to promulgate UWS 7 under the provisions of Chapter 227.

It is worth noting that Chapter 36 gives the board explicit and sole authority to promulgate new rules dealing with a variety of matters; the statutory provisions are summarized in Addendum B. In dealing with rules on dismissal of tenured faculty members, however, the law requires joint action between the "board and its several faculties."

Chapter 36 was drafted more than 30 years ago after the former University of Wisconsin System and the Wisconsin State University System were merged. The drafting was carried out by the Merger Implementation Committee composed of four seasoned, well-known state legislators, six distinguished members of the Board of Regents, two committed and knowledgeable faculty members (one from UW-Madison and the other from the Wisconsin State University System), and two students.

Recently I have spent time in the Memorial Library Archives examining the work of the Merger Implementation Committee. It appears that the Committee worked harmoniously over the course of a year in drafting Chapter 36. Most pertinent to our discussion today, there was no controversy about the provision giving the “board and its several faculties” joint responsibility for promulgating rules on dismissal, as provided in Chapter 36.13(3) and (5).

The language of Chapter 36 reflects a long record of cooperation and collaboration between the UW-Madison faculty and its Board of Regents, and similarly, I believe, between the Wisconsin State University System faculties and their governing board.

Though the time is late, the move to implement UWS 7 can proceed in the spirit of cooperation that goes beyond what has already happened. For various reasons, the board assumed leadership on its own, leaving the “several faculties” out of the process except to comment on successive proposals, much as the board probably would do in promulgating other rules over which it has sole and explicit authority to promulgate.

Interestingly, distribution of the May 2006 draft of UWS 7 offered both faculty and academic staff governance units opportunities to comment—to faculty governance units on the draft of UWS 7 and to academic staff governance units on draft amendments to UWS 11—even though the statutory provisions for promulgating rules for these two groups differ sharply. To repeat, the Board of Regents has sole authority for promulgating rules dealing with dismissal of academic staff; see Chap. 36.15(3). By law, Regents must share with the “several faculties” responsibility for promulgating rules affecting dismissal of tenured faculty members; see Chap. 36.13(3) and (5).

What can be done? I offer drafts of two resolutions for consideration by the "board and its several faculties."

The first calls for the Board of Regents to make a mid-course correction by taking steps to promulgate UWS 7 in collaboration with the several faculties, as required by Chap. 36.13(3) and (5).

The second calls for establishing a process so that if and when future changes in UWS 4 and UWS 7 are considered, the board and the several faculties can collaborate in assessing the need for new or changed rules, their framing, and their promulgation.

Rough drafts of these two resolutions appear in Addendum A.

The "board and its several faculties" still have an opportunity to work in the spirit of cooperation envisioned by the Merger Implementation Committee more than 30 years ago, and in the collaborative spirit that has long characterized relationships between the Board of Regents and its "several faculties".

Academic freedom and shared governance are two of the University of Wisconsin System's most intangible but precious resources. We must do everything we can to protect and nurture them.

W. Lee Hansen
608-238-4819; wlhansen@wisc.edu

Addendum A

Draft Resolutions

Resolution 1

Pursuant to Chap. 36.13(3) and (5), the "several faculties" and the Board of Regents agree to promulgate new rules governing "Procedures for Dismissal of Faculty in Special Cases" embodied in the Proposed Chapter UWS 7, Wisconsin Administrative Code. The "several faculties" believe UWS 7 will deal effectively with the relatively infrequent cases when faculty members are involved in serious criminal activity, and that in these cases UWS 7 is appropriate in specifying just cause for dismissal, ensuring due process, and protecting academic freedom. The "board and its several faculties" will work quickly to devise a procedure for jointly promulgating UWS 7.

Resolution 2

Pursuant to Chap. 36.13(3) and (5), "the board and its several faculties" shall meet during the coming year to establish a mechanism that will permit them to work together, when the occasion arises, to refashion the definition of "just cause" for the dismissal of tenured faculty members and the procedures to be followed in dismissal cases, and subsequently to circulate the results of these deliberations to all concerned for comment and subsequent approval to deal with future situations that may call for new rules or amendments to existing rules, rules that need to be promulgated jointly by "the board and its several faculties" under Chap. 227.

Addendum B

On Statutory Provisions in Chapter 36 for Promulgating of Rules by the Board of Regents.

A close inspection of Chapter 36 reveals that the Board's authority to promulgate rules under Chapter 227 is clearly set forth and covers a variety of areas. The Board has sole authority in the following areas:

Chap. 36.05(11) “. . . the board shall promulgate rules defining continuation or termination of student status during”

Chap. 36.09(1)(a) “. . . the board which shall enact policies and promulgate rules for governing the system”

Chap. 36.11(1) “. . . the board may promulgate rules under ch. 227 to protect the lives, health, and safety of persons on property under its jurisdiction and to”

Chap. 36(11)(c) “. . . the board may promulgate rules under ch. 227 for the management of all property”

Chap. 36(11)(cm). “. . . the board shall promulgate rules under ch. 227 prescribing the times, places, and manner in which political literature”

Chap. 36.11(6)(a). “The board may: 1. Make grants to students from funds budgeted to or controlled by the system and formulate policies and promulgate rules for the grants.”

Chap. 36.13(2)(b)1,(d). “The board may promulgate rules specifying additional circumstances that do not”

Chap. 36.15(3) “The board shall develop procedures for notice and hearing which shall be promulgated as rules under ch. 227.”

Chap 36.35(1). “The board shall promulgate rules under ch. 227 governing student conduct and procedures for the administration of violations.”

Interestingly, the Board shares authority in promulgating rules in only one other instance:

Chap. 36.09(1)(i). “. . . the board and the director of the office [office of state employment relations] shall jointly adopt general policies governing the designation of positions”

One other situation calls for explicit consultation by the board with the faculty and chancellors:

Chap. 36.21. “The board, after consultation with the faculty and chancellor of each institution, shall adopt procedures to be followed in the event of termination under this section.”

Chap. 36.13(3) and (5) call for the “Board and its several faculties to promulgate rules dealing with dismissal of tenured faculty members.

Chap. 36.13(2)(a) reveals an interesting symmetry by indicating that just as the rules for dismissal are a shared responsibility, so also are the rules dealing with tenure appointments. The sharing of responsibility is captured in the following words. “The board may grant a tenure appointment only upon the affirmative recommendation of the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendations upon impermissible factors, as define by the board by rule.” In this case, the regents set the rules but recommendations for tenure must come from departments, thereby making the granting of tenure a shared responsibility.

3/7/07

Kate
4:55

- Sue - Bldg & Ground fee bill?

- Clearing House Rule

• Rep. Black - concerned w/ "Substantial likelihood"

706.3(a-c)

* hanged on until



**Testimony before the
Assembly Committee on Colleges and Universities
Regarding the LAB Audit**

by

Kevin P. Reilly
President, University of Wisconsin System

David Walsh
President, University of Wisconsin System Board of Regents

March 5, 2007

Introduction

Thank you, Representative Nass and members of the committee.

I appreciate the opportunity to speak with you today about the work we have done to reform our personnel policies and practices, and ongoing efforts in that regard. The LAB audit issued last October, which I requested, has helped move this effort along.

As you know, the Board of Regents has endorsed a bold action plan for the University of Wisconsin System – something we're calling the "Growth Agenda for Wisconsin." The Governor provided strong support for our Growth Agenda for Wisconsin in his budget message last month, proposing an investment of more than \$225 million in higher education, including about \$180 million for the UW System.

Our goal, working with the Governor and all of you, is to prepare the state for success in a knowledge economy. In addition to expanding student access, boosting student success, and contributing to economic growth, another key component of that plan is preserving peoples' trust in this public university.

To maintain trust, we must be open to examination and willing to change. In that spirit, we are happy to re-visit issues raised in the Legislative Audit Bureau's thorough report. Much of what I am presenting today was included in my testimony to the Joint Legislative Audit Committee Hearing on November 29, this past year. However, I think you will see we have made significant progress since that time in addressing the recommendations that LAB brought to our attention in their audit.

As I did with Representative Jeskewitz and the members of the Audit Committee, I also want to spend a few moments clarifying issues related to limited appointments, so-called "back-up" provisions, and concurrent appointments.

Finally, I will address questions about sick leave and vacation reporting by UW System employees, and touch on other issues raised in the LAB report.

First, let me quickly reflect on my testimony before the Joint Legislative Audit Committee more than one year ago. On October 18, 2005, I informed the committee that the UW System had been working diligently with the Board of Regents and the Chancellors to review and, where necessary, reform our policies and procedures.

At that time, we had taken several significant actions. Most notably, we had suspended the practice of offering new back-up appointments to limited employees, as of July 26, 2005. I also reported that we now require my direct approval of any settlements involving the termination of UW System employees with limited appointments.

I also described steps to strengthen our internal audit function, along with measures to beef up our sick leave policy for unclassified staff by requiring written certification from a healthcare provider for sick-leave absences of more than five days. Responding to concerns about inappropriate and excessive sick-leave usage, these changes made the UW System's sick-leave policy the most stringent of all state agencies.

Discussing these issues last Fall, I illustrated how the UW System's ongoing cooperation with the Legislative Audit Bureau reflected our respect for Jan Mueller and her staff, and our sincere commitment to embracing and implementing meaningful reforms. We again want to convey the same message of respect, collaboration, transparency and accountability.

Actions taken since the report in October 2006

Armed with insight provided by the LAB's external perspective on our personnel policies and practices, we have worked with the UW Board of Regents to charge a Special Regents Committee to address the audit's findings. That committee is chaired by former Speaker of the Assembly, **Regent Tom Loftus**.

Other members include:

- **Regent Jeffrey Bartell**
- **Dennis Shaw, an academic staff member from UW-Stout**
- **Regent Eileen Connolly-Keesler**
- **Regent Judith Crain**
- **Professor Chris Sadler of UW-Stevens Point**
- **Chancellor Martha Saunders of UW-Whitewater**

This new committee met for the first time on November 17th and is scheduled to meet again on April 5th. It will provide valuable counsel on how to best address and implement all of the LAB's recommendations. This will be done in full cooperation with our standing Fringe Benefit Advisory Committee, a group of faculty and staff representatives which advises me on fringe-benefit matters related to unclassified staff.

The Fringe Benefit Advisory Committee is working on administrative and policy changes designed to improve our leave reporting practices. That includes a review of the forms employees use for reporting leave days, as well as the instructions and training materials on reporting policies and procedures for both employees and supervisors.

We are also assessing policy changes that will make leave reporting and monitoring more efficient, providing incentives that will promote more regular and timely submission of leave reports even when no leave has been used for a given month. We will be initiating some of these changes between now and June, when I will make my report to the Joint Legislative Audit Committee.

I will also ask our faculty and academic staff governance groups to consider a second set of improvements in our policies and practices. Specifically, I will request a re-consideration of the policy that allows sick leave accrual during sabbatical leave, and I'll ask them to help develop alternative models for defined work schedules, as relates to sick leave and the statutory requirements for reporting sick leave.

As Regent Loftus and his committee members go about their careful examination of the LAB's recommendations, I have directed the 14 UW Chancellors, in collaboration with their provosts and human-resources staffs, to perform a detailed review of cases where the LAB raised specific questions about the rates at which UW System employees utilize and report sick-leave and vacation time.

They have already provided information about the 197 cases – out of some 40,000 employees – where UW System faculty and staff members reported no vacation for the three-year period from January 2003 through December 2005. On that point, I can tell you that the 197 people in question included 100 part-time employees – some with as little as 2% and 20% appointments. Over the same timeframe, these same employees collectively forfeited some 5,750 days of unused vacation time. We have also completed our review of cases where unclassified faculty and staff reported five or fewer vacation days over the same three-year period, and cases where employees reported no sick leave during that timeframe.

We have already retroactively corrected the leave records of 47 academic staff members where mistakes around sick-leave usage were uncovered by the LAB.

In response to actions by the Board of Regents, we have established a yearly internal review of all UW System "limited" appointments, to ensure compliance with the revised Regent policies on the use of this employment category and appropriate compliance with all related policies. We have now completed our review of new limited appointments made between July 26, 2005 and October 31, 2006. We found and corrected some coding errors and the need for some approvals and can now report that we are in compliance with Regent action directing the monitoring of our assignment and use of limited appointments.

On the matter of "consultant" titles, I reported to the Joint Audit Committee that we had already examined use of that title. Since November, we have completed a review of all unclassified consultants. In most cases, we found that other job titles and employment arrangements were available that more accurately characterize the nature and extent of the work that was being performed. This would include, for example, someone who teaches a single non-credit course and receives a lump-sum payment, where the "ad-hoc program specialist" title is a better fit.

With respect to sabbaticals for our faculty members, I have charged the UW System Office of Academic Affairs to address the LAB's recommendations, and they will be sharing their recommendations with Regent Loftus' special committee in April.

Faculty sabbaticals are a valuable and effective means of retaining top-notch professors, and an important component of their professional development. Only about three percent of our faculty members are selected for this opportunity each year.

When I meet with the Joint Legislative Audit Committee in June, I will share the details of a new standardized sabbatical reporting form, which will help ensure that all participating faculty members understand fully their obligations under state law and Regents' policy.

On the topic of salaries for administrators who return to their faculty roles, I have already required all UW institutions to seek approval from the UW System Office of Human Resources for those pay rates, to ensure that the new salaries are consistent with faculty members of the same rank and years of service within their academic departments.

Finally, two items on the matter of alleged criminal activity.

First, we have advanced changes to the disciplinary rules process that would expedite cases involving allegations and investigations of serious criminal activity by university employees. Such matters arise very, very rarely among our faculty and staff, but when they do, we want to bring them to an appropriate, fair and just conclusion more quickly than we have sometimes been able to in the past. As you are aware, these rules are now before you as part of the rule making process.

In December of 2006 the Regents approved an entirely new policy to require criminal background checks for all new hires in the UW System. We are now in the process of working with our faculty and staff to have specific implementation procedures approved and in-place no later than May 1, 2007.

I think you'll agree that the long list of actions I just described reflects a sincere commitment by this university to openness and responsiveness.

Limited, back-up and concurrent appointments

In advance of today's hearing, we provided you with a copy of Regent President David Walsh's letter to the co-chairs of the Joint Legislative Audit Committee that specifically addressed the topic of limited, back-up, and concurrent appointments. Regent President Walsh did an excellent job in this letter of providing my and the Board's perspective on what can be a very confusing issue regarding limited appointments, and related statutory and contractual rights.

I'll now turn it over to Regent Walsh to address the reforms we have made in this area.

[David Walsh Testimony]

Sick Leave and Vacation Reporting

On the matter of sick leave and vacation reporting by unclassified UW faculty and staff – I should first state that I believe, as I'm sure you do, that our faculty and staff, as a group, are ethical, honest, dedicated, and productive. These are qualities we want to celebrate and reward.

The LAB report acknowledged that the university work environment is different from that of other workplaces. In their report, they wrote:

“UW System workdays are scheduled according to academic rather than business practices and typically include nonstandard work hours to accommodate research and related activities.”

That observation is certainly true. We believe that these non-standard work schedules and academic settings are one major contributing factor in explaining the lower-than-average utilization of sick leave, especially among our faculty.

There are other contributing factors. For instance, faculty and staff who hold 9-month academic-year appointments have the unique ability to defer elective medical procedures to the summer, when they may not be on the payroll at all.

The average UW faculty or staff member with a 12-month appointment carries forward about 8½ unused sick days in a given year, while comparable professional state employees carry forward nearly 10 unused days.

We are undertaking a careful examination of the “cause-and-effect” relationship between utilization rates and the conversion value of unused sick leave to pay for healthcare after retirement. At the same time, we are examining research on how sick-leave utilization is affected by salary level, age, job autonomy, professional status, and other factors.

Also, as I indicated earlier, my Fringe Benefits Advisory Committee will be providing me with what I expect will be very positive and workable improvements in administrative practice and policy that will ensure greater understanding of our policies by all employees and supervisors, and add appropriate incentives toward full compliance with our leave reporting policies.

We will come back to Joint Legislative Audit Committee by the LAB’s required deadline of June 1 with the results of our careful review. I have also asked Regent Loftus and his special committee to consult with legislative leaders on your review of the wider state sick leave conversion program.

Conclusion

In my testimony at the Joint Legislative Audit Committee Hearing, I closed by holding up a page from that day’s *Wisconsin State Journal*, which cited the outstanding work of three UW-Madison faculty members:

- **Stacey Schultz-Cherry**, whose work on “peptides” may stem the spread of bird flu;
- **Nancy Mathews**, who helped us better understand how CWD is transmitted among the deer population; and
- **Paul Weimer**, who is exploring new ways to use the by-products of ethanol fermentation.

The State Journal editors reminded us to "never lose sight of UW-Madison's broad success," in the midst of particular controversies.

I hope that we will never lose sight of how the entire UW System contributes to the growth of our economy, the strength of our communities and the vitality of our entire state.

Whatever we do in the way of reforming policies and management practices, we must preserve a system that helps our public university recruit and retain gifted teachers and researchers like Professor Schultz-Cherry, Professor Mathews and Dr. Weimer.

For now, I'd welcome the opportunity for members of the committee to share their advice on how the University of Wisconsin System can best respond to these issues and recommendations. Thank you.

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June 1, 2007

Senator Jim Sullivan, Co-chair, Joint Committee on Audit
PO Box 7882
Madison, WI 53707-7882

Representative Suzanne Jeskewitz, Co-chair, Joint Committee on Audit
PO Box 8952
Madison, WI 53708

Dear Senator Sullivan and Representative Jeskewitz:

The Legislative Audit Bureau report (issued October 2006) on Personnel Policies and Practices in the University of Wisconsin System included specific recommendations for reporting to the Joint Legislative Audit Committee by June 1, 2007. The attached report responds to all of the recommendations, and provides information on actions taken regarding other findings in the LAB review.

While the details of several of the improvements are still under review by the Special Regents Committee, the Fringe Benefit Advisory Committee, and the faculty and academic staff governance groups, the Board of Regents and the UW System have taken seriously the recommendations of the LAB, and we are making good progress on implementing improvements and reporting processes related to the following identified issues:

- Sick leave reporting
- Vacation time reporting
- Limited appointment reporting
- Concurrent (or back-up) position reporting
- Consultant reporting
- Faculty sabbatical leave reporting

In addition, over the past two years, the UW System has made numerous unprecedented reforms in its personnel policies and practices. The following specific actions have been implemented:

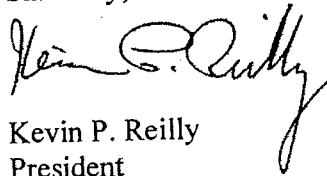
- The practice of offering back-up appointments was ended.
- We advanced to the Legislature changes to the disciplinary rules process that will expedite cases involving the allegation and investigation of serious criminal misconduct by university employees. These rules have completed the legislative process, and are effective June 1, 2007.

Senator Jim Sullivan
Representative Suzanne Jeskewitz
June 1, 2007
Page Two

- The Regents approved a new policy to require criminal background checks for all new hires in the UW System.
- We have strengthened our internal audit function by establishing a reporting relationship to the President and to the Board of Regents.
- We have beefed up our sick leave policy for unclassified staff by requiring written certification from a healthcare provider for sick-leave absences of more than five days. The UW sick leave policy for unclassified staff is now the most stringent of all state agencies.
- We have adopted a policy that any settlement involving the termination of a limited appointee requires the approval of the UW System President and will be reported to the Board of Regents.
- We now require that the UW System Administration Office of Human Resources approves all salaries established when administrators return to their faculty position and determines that the rate is consistent with other faculty members of the same rank in the department, considering the normal factors used when setting faculty salaries.

I hope you agree that this long list of actions reflects a sincere commitment by the UW System to openness and responsiveness. Please contact me or Associate Vice President Al Crist (3-4384, or email: acrist@uwsa.edu) if you have any questions or would like additional information.

Sincerely,



Kevin P. Reilly
President

copy: Board of Regents
Special Regent Committee on LAB Audit Response
Jan Mueller
Chancellors
Provosts
Faculty Reps
Academic Staff Reps
Cabinet

**Report to the Joint Legislative Audit Committee
On
The Legislative Audit Bureau Report 06-12
An Evaluation: Personnel Policies and Practices in
the University of Wisconsin System**

June 1, 2007

The Legislative Audit Bureau Report 06-12, *An Evaluation: Personnel Policies and Practices in the University of Wisconsin System*, issued in October 2006, made recommendations in the areas of reporting of sick leave and vacation usage, utilization of limited appointments and concurrent or back up positions, employment of unclassified staff as consultants, and compliance with statutory requirements and consistent institutional practices regarding faculty sabbaticals. This report responds to all of the recommendations. In addition, it also provides comment on other actions taken regarding other findings in the October 2006 LAB report for which the LAB made no specific recommendations.

Sick Leave

LAB Recommendation: (page 34)

We recommend:

- *the Board of Regents consider modifications to policies for reporting sick leave use by unclassified staff within the University of Wisconsin System;*
- *the Board of Regents report to the Joint Legislative Audit Committee by June 1, 2007 on an improved method for reporting the use of sick leave by unclassified staff within the University of Wisconsin System;*

Vacation Time

LAB Recommendation: (page 39)

We recommend the Board of Regents:

- *consider ways to modify how vacation time use is reported by unclassified staff within the University of Wisconsin System, such as by more strictly enforcing existing policies; and*
- *report to the Joint Legislative Audit Committee by June 1, 2007, on its proposal to improve the reporting of vacation time by unclassified staff.*

Based on a review of its policies and practices, the UW System is making the following administrative changes to improve sick leave, vacation, and personal holiday reporting by unclassified staff:

1. Revise the System-wide uniform leave reporting form (UW-1538) for reporting use of sick leave, vacation, and personal holidays.

UW-1538 (see Attachment #1) consists of a report of the employee's current sick leave, vacation, and personal holiday balances and a space for the employee to report any leave usage. It is distributed to the institutions monthly by the UW Service Center. The institutions distribute the form electronically or manually to their employees.

Form UW-1538 could be improved in several ways:

- a. Provide instructions on how to complete the monthly sick leave, vacation, and personal holiday leave report.
 - b. Show days of the week as well as dates on the current month's leave report which would make it easier to complete and reduce errors.
 - c. Ask all institutions to post a copy of form UW- 1538 on their websites for use by employees. This form could be filled in and emailed to the supervisor and then to the payroll office. (This would require electronic signature capability.)
 - d. Provide reason codes for adjustments to prior sick leave, vacation, and personal holiday leave balances allowing for more accurate auditing of balance changes that are the result of error corrections rather than the current month's activity.
2. Create a system-wide deadline of the 10th of the month for submission of the sick leave, vacation, and personal holiday leave report to the payroll office.
 3. Provide instructions on UW-1538 to clarify use of colleague coverage as defined under Unclassified Personnel Guideline 10.05. Supervisors will be cautioned to review reports for appropriate use of colleague coverage. A review is underway regarding the possible elimination of colleague coverage in lieu of sick leave (see Attachment #2). The Board of Regents will act on recommendations in December.
 4. Improve employee education regarding the importance of proper sick leave, vacation, and personal holiday reporting.

Examples of improved educational measures include:

- a. Revise and disseminate the UWSA PowerPoint presentation on sick leave to include more information about how to report sick leave usage.
- b. Revise and simplify policy guidelines on sick leave, vacation, and personal holiday reporting (UPG#9 & 10) to make them more understandable for employees.
- c. Provide institutions with new employee orientation materials to help new employees understand the sick leave, vacation, and personal holiday reporting requirements.
- d. Require each institution to issue an annual reminder on sick, vacation, and personal holiday leave reporting and provide materials that the institution could use to do so.
- e. Offer specialized training to supervisors regarding the review of sick leave, vacation, and personal holiday leave reports.

In addition, recommendations for policy changes on the following issues are being developed and will be taken to the Board of Regents for consideration before the end of the 2007 calendar year:

1. Hour-for-hour basis for reporting sick leave, vacation, and personal holidays.
2. Reduction of sick leave accrual on an annual basis for those who fail to submit a sick leave, vacation, and personal holiday report one or more months during the year.
3. Supervisor authorization to correct monthly leave reports that appear to be inaccurate, with appropriate documentation and notification to the employee.
4. Possible elimination of colleague coverage in lieu of sick leave.
5. Possible elimination of sick leave accrual during sabbatical leave.
6. Alternative models for defined work schedules as they relate to sick leave and the statutory requirements for reporting sick leave.

The combination of these policy and administrative changes will ensure that sick leave, vacation, and personal holidays are reported on a much more consistent and reliable basis across the UW System.

Action taken on Audit Findings regarding Inappropriate use of Colleague Coverage:

The LAB report noted 47 cases of instructional academic staff who inappropriately used colleague coverage. UW System's review of these cases is complete, and corrective action has been finalized as of November 29, 2006. Fifteen of the cases were found to be due to the following: data entry errors, use of colleague coverage for leaves not sick leave related such as attending a conference, and one LAB error. The remaining 32 staff recorded colleague coverage in cases that were non-instructional related activities. In all 47 cases, the leave reported has been corrected and charged to sick leave, vacation, or floating holiday as appropriate.

Limited Appointments and Back Up Positions

LAB Recommendation: (page 48)

We recommend the Board of Regents:

- *review all additional titles beyond the 17 enumerated in statutes that the University of Wisconsin System Administration designates as limited appointments;*
- *report to the Joint Legislative Audit Committee by June 1, 2007, on the number of additional position titles beyond the 17 enumerated in statutes that have been designated, and are being considered for designation, as limited appointments and on the job protections available to those who hold them;*

A report was made on additional titles approved beyond the 17 enumerated in statutes to the Board of Regents as part of their May 11, 2007 meeting (see Attachments #3, 3A, and 3B). The full report to the Regents notes that Limited appointments are “at will,” offering employees fewer job protections than any other unclassified or classified appointment types. Limited appointments provide the UW with valuable management flexibility. The use of limited appointments affords effective and efficient use of resources in response to the changing needs and fiscal circumstances of UW System institutions. Of particular note, the review of 195 Limited appointment hires from June 26, 2005 through March 31, 2007 showed that those hired from outside the UW into a position for which a faculty appointment is not required and therefore do not have a concurrent appointment, as noted in Attachment 3B, constitute over 40% of the limited appointments made during this period. The 79 new hires with no concurrent appointments are granted no more than 6 months notice of termination should it become necessary to terminate their limited appointment. Of these 79 new hires, more than half are not provided any notice in their letter of offer.

- *require University of Wisconsin System Administration to report annually on the number of employees with concurrent or back-up positions or notice of termination protections at each institution for the current and prior years.*

The UW System has established a policy of yearly review for this purpose (Unclassified Personnel Guidelines 2.02). The report will be presented to the Board of Regents each year in December using October payroll data. Unclassified Personnel Guideline #2, section 2.02 includes the following:

2.02 Limited Appointments

Regent Resolution #9091 (adopted November 11, 2005) directed that from and after November 11, 2005, notwithstanding any institutional policies to the contrary, limited appointments shall be permitted only for those positions enumerated in s. 36.17 (2), Wis. Stats., unless an institution demonstrates circumstances justifying the creation of additional limited appointments and the UW System President authorizes, in writing, the addition of such a limited appointment.

s. 36.17(2), Wis. Stats. states that limited appointments apply to the following positions:

- President
- Provost
- Vice President
- Associate Vice President
- Assistant Vice President
- Chancellor
- Vice Chancellor
- Associate Chancellor
- Assistant Chancellor
- Associate Vice Chancellor
- Assistant Vice Chancellor

- College Campus Dean
- Secretary of the Board
- Associate Secretary of the Board
- Assistant Secretary of the Board
- Trust Officer
- Assistant Trust Officer
- Other administrative positions as the board determines at the time of the appointment

On December 2, 2005, the System President approved the use of limited appointments for those administrative positions that require a faculty appointment (see UPG 2.03 for definition of faculty). Positions that require a faculty appointment as defined in UPG #1, Attachment #1 are:

- Dean (A20NN)
- Associate Dean (A51NN)
- Assistant Dean (A52NN)
- Academic Program Directors (all levels)
- Department Chairperson

The use of limited appointments for positions other than those included in s. 36.17(2) and those requiring a faculty appointment, requires written authorization from the UW System President. The written request should be addressed to the Associate Vice President for Human Resources and must include the justification for using the limited appointment. The System President will evaluate the request based on the following:

- Position has major responsibility for significant functional areas within the UW institutions. It is critical the staff in these positions respond quickly to the changing business needs of the institutions and its students. Therefore it is imperative institutions maintain maximum staffing flexibility in these positions.
- Position has direct management of the day-to-day administrative activities of a school, college or administrative unit and works closely with the senior administrator of school, college or unit. The senior administrator responsible for these areas must be provided the maximum staffing flexibility in order to not only meet the changing needs of the school, college or unit but also to meet the needs of a change in leadership.
- Position serves in a critical role both as an advisor and representative of the President, Chancellor, Provost/Vice Chancellor or other Vice Chancellors. Senior administrators change and working styles vary. Maximum staffing flexibility must be maintained.

- Position is an Associate Director or Assistant Director listed in UPG #7, Attach 2, section II.A.I General University Management. The 1993 Memorandum of Agreement with Office of State Employment Relations stipulated these positions must be assigned a limited appointment in order to remain in the unclassified service.
- Position is a specifically defined and/or mandated position (e.g., State Geologist)
- Position is particularly unique to those institutions participating in NCAA Division I athletics.

UPG 2 Attachment 2 (see Attachment 3A of this report) lists the positions approved for limited appointments. This attachment will be updated as the UW System President approves the use of additional limited appointment titles.

In order to ensure consistent adherence to Regent Resolution #9091 (adopted November 11, 2005), the System Office of Human Resources will conduct a yearly review.

An internal review of limited appointments made from July 26, 2005 through October 31, 2006 was completed in order to determine compliance with new Regent policy established by Regent Resolution #9091 (Attachment #4). In the internal review of limited appointments, the UW System found and corrected coding errors and identified the need for approvals which have now been accomplished to fully comply with Regent Resolution #9091.

LAB Recommendation: (page 49)

We recommend University of Wisconsin System Administration report to the Joint Legislative Audit Committee by June 1, 2007, on efforts it has taken to ensure University of Wisconsin System institutions provide and track back-up positions uniformly.

The UW System Administration Office of Human Resources, as part of its internal audit of limited appointments, directed institutions to make needed corrections to ensure reliable and consistent data collection on limited appointments. Training is being developed and will be provided to institutions that need assistance in the procedure(s) to correctly enter concurrent appointments. This audit will be repeated annually in preparation of the annual report on limited appointments and the job protections afforded those in limited appointment which will be made to the Board of Regents each December. The first such report is scheduled for December 2007.

Consultants

LAB Recommendation: (page 64)

We recommend University of Wisconsin System Administration annually report to the Board of Regents on:

- *all consultants hired, including those paid on a lump sum basis; and*
- *the number of unclassified consultants who have been employed in the same positions for more than one year and why, as well as how long they are expected to remain in those positions.*

A review has been completed of all unclassified consultants. It was determined that in many cases other job titles were available that more accurately characterize the nature and extent of the work that was being performed and that, therefore, these employees should not have been hired as consultants. An example would be lump sum payments for a consultant teaching a non-credit course for which the ad hoc program specialist title is now used.

The policy going forward prohibits the use of consultant title for lump sum payments to individuals who are not serving in a consultant capacity.

Action taken on Audit Findings regarding Consultants Earning \$65,000 or more

A review has also been completed of the 24 consultants in the LAB report earning \$65,000 or more to ensure that the title is being used appropriately. In 4 cases, a more appropriate title was found and the change was made; in 16, the individuals are no longer employed or will terminate by the end of the current fiscal year; and, in 4, the title was appropriate for the defined term and nature of the projects for which the individuals were hired.

An annual report will be prepared using October payroll data for reporting to the Board of Regents each year in December as per the LAB recommendation.

Faculty Sabbaticals Leave

LAB Recommendation: (page 75)

To ensure compliance with statutory requirements and consistency in institutional practices, we recommend University of Wisconsin System Administration develop both:

- *a standard agreement for signature that lists all statutory and policy requirements related to faculty sabbaticals, including the need to return to the institution for at least one year after a sabbatical, to complete a final*

report on sabbatical activities within three months after a sabbatical, and to submit monthly leave reports while on sabbatical; and

- *a standard form for all institutions to use in determining total compensation received by faculty on sabbatical, including compensation from outside sources and from short-term duties at individual institutions.*

A standard agreement has been developed as recommended by the LAB and is included with this report (see Attachment #5). Governance groups are now

reviewing it, and the UW System intends to have it in place for use with sabbaticals granted in Fall, 2007.

In addition, a standard form will be used to determine total compensation received by faculty on sabbatical.

NAME: _____

DEPT: _____

LEAVE STATEMENT

Thru _____ pay period

MAJOR DEPT: _____

TITLE: _____

APPT ID: _____

TYPE: _____

PAYROLL #: _____

PAY BASIS: _____

HOURS					
	PRIOR BALANCE	EARNED	USED	ADJUSTMENTS	ENDING BALANCE AS OF _____
VACATION					
SICK LV					
FLOAT HOL					
ALRA LV					

MESSAGES

I UNDERSTAND MY OBLIGATION TO PROVIDE MEDICAL CERTIFICATION FOR SICK LEAVE USED FOR MORE THAN 5 CONSECUTIVE FULL WORK DAYS.

UW - Madison

Leave report for _____ (Month) _____ (Year)

NAME: _____

APPT ID: _____
PAYROLL #: _____

TITLE: _____

Report amount of leave used in HOURS. If no leave was used, please enter zero in the Total Hours row.

	VACN	SK LV	F HOL	ALRA	CO COV		VACN	SK LV	F HOL	ALRA	CO COV
1						17					
2						18					
3						19					
4						20					
5						21					
6						22					
7						23					
8						24					
9						25					
10						26					
11						27					
12						28					
13						29					
14						30					
15						31					
16						Total Hours					

I certify that my leave report is accurate. I understand that misrepresentation can lead to disciplinary action.

Employee Signature _____ date _____

Supervisor Signature _____ date _____

RETURN BOTTOM PORTION BY _____ TO: _____



Office of Human Resources
 1564 Van Hise Hall
 1220 Linden Drive
 Madison, Wisconsin 53706-1525
 (608) 263-4384
 (608) 265-3175 Fax
 email: acrist@uwsa.edu
 website: <http://www.uwsa.edu/hr>

April 24, 2007

TO: Academic Staff Representatives
 Faculty Representatives

FROM: Alan N. Crist, Associate Vice President for Human Resources

SUBJECT: Recommendation from the Special Regent Committee Regarding Fringe Benefit Advisory Committee Recommendations for Improvements in Leave Reporting

In March you received from President Reilly the FBAC's recommendations for improvements in leave reporting. These recommendations were formulated to assist the UW to report to the legislature on its responses to the Legislative Audit Bureau report of October 2006. Section I of the FBAC recommendations calls for administrative changes that I believe can be initiated right away. Section II contains recommended policy changes. President Reilly requested your review and response to Sections I and II by May 16, 2007. Section III describes three more far-reaching policy areas. Governance groups' recommendations in these areas are requested by October 31, 2007.

On April 5, UW staff and the chair of the FBAC met with the Special Regent Committee to discuss the recommendations and other areas addressed by the audit. In preparation for the April 5 meeting, UW staff rewrote Section II.2.a. and deleted Section II.2.e. The revised version is attached. The change was made for administrative clarity and does not substantially change the meaning of the section, but I wanted to bring it to your attention.

At its April 5, meeting, the Special Regent Committee took a unanimous stand against the current policy that allows substitution of colleague coverage for sick leave as outlined in UPG #10.05. The Committee directed staff to draft a revision to UPG #10 for your consideration to delete references to colleague coverage in UPG #10 and to include the following language:

Teaching responsibilities not met because of an absence specified in UWS 19.01, Wis. Adm. Code, must be reported as sick leave, regardless of whether a qualified instructor covers the aforementioned responsibilities. Teaching responsibilities include class time preparation, actual classroom instruction, and scheduled office hours available to students for educational guidance.

This policy change does not affect colleague coverage as a method of providing instruction when the regular teacher is absent for any reason, such as attending a conference or due to illness. It simply requires the absent teacher to report sick leave when the absence is due to medical necessity.

Section III.1. of the FBAC recommendations asks the governance groups to evaluate the need for colleague coverage. In light of the Special Regent Committee's strong position, it is unlikely that colleague coverage as a substitute for sick leave will be continued. It is important, however, that governance groups provide the Regents with an assessment of what such a change in policy might mean at your institution. To assist you in your consideration of the Regents' Special Committee's recommendation regarding sick leave reporting and colleague coverage, I have attached a document prepared by staff and discussed with the FBAC that looks at four options with pros and cons.

I have also attached a document prepared by staff to assist you in your consideration of the question of our policy on leave accrual and reporting during sabbatical leaves.

Finally, I have attached pages 27-28 and 33-34 of the LAB audit which provide the context for the LAB recommendations on leave reporting and for our resulting recommended administrative policy changes in response. As you will see this is not the first time that LAB has raised concerns about our leave reporting policies and practices.

Please contact me if you have questions.

Thank you.

Attachments;

Revised Recommendations from FBAC dated April 4, 2007
Document on Colleague Coverage: Alternatives
Document on Leave Accrual and Reporting During Sabbaticals:
Alternatives for Discussion Purposes.
Pages 27-28 and 33-34 of October 2006 LAB Audit

cc: Special Regent Committee on LAB Audit Response
President Reilly
Cabinet
Chancellors
Provosts
Chief Business Officers
Human Resources Directors, Academic Personnel Officers
Fringe Benefit Advisory Committee

**University of Wisconsin System
Improvements in Leave Reporting
Recommendations of the UW System President's
Fringe Benefits Advisory Committee
April 4, 2007**

I. Administrative changes to address the LAB findings and recommendations

1. Revise the System-wide uniform leave reporting form (UW-1538) for reporting use of sick leave, vacation, and personal holidays.

UW-1538 (see attached) consists of a report of the employee's current leave balances and a space for the employee to report the next month's leave usage. It is distributed to the institutions monthly by the UW Service Center. The institutions distribute the form electronically or manually to their employees.

Form UW-1538 could be improved in several ways:

- a. Create two separate forms; one that provides the employee with a statement of his or her current balances, and one for reporting monthly leave usage.
 - b. Provide instructions on how to complete the monthly leave report.
 - c. Provide a way to indicate use of vacation or other leave in lieu of sick leave since many unclassified staff make this choice.
 - d. Show days of the week as well as dates on the current month's leave report which would make it easier to complete and reduce errors.
 - e. Ask all institutions to post a copy of form UW- 1538 on their websites for use by employees. This form could be fillable and could be emailed to the supervisor and then to the payroll office. (This would require electronic signature capability.)
 - f. Provide reason codes for adjustments to prior leave balances allowing for more accurate auditing of reasons for balance changes that are not the result of the current months leave activity, such as error correction.
2. Create a system-wide deadline for submission of the current month's leave report to the payroll office.

Form UW-1538 indicates a deadline, approximately the 10th of the next month. Most institutions think that the 10th of the next month is a workable deadline.

3. Instructions on UW-1538 should clarify use of colleague coverage as defined under Unclassified Personnel Guideline 10.05. Supervisors should be cautioned to review reports of colleague coverage use for appropriateness.
4. Improve employee education regarding the importance of proper sick leave and annual leave reporting.

Examples of improved educational measures include:

- a. Revise and disseminate the UWSA PowerPoint presentation on sick leave to include more information about how to report leave usage.
- b. Revise and simplify policy guidelines on leave reporting (UPG#9 & 10) to make them more understandable for employees.
- c. Provide institutions with new employee orientation materials to help new employees understand the leave reporting requirements.
- d. Require each institution to issue an annual reminder on sick leave reporting and provide materials that the institution could use to do so.
- e. Offer specialized training to supervisors regarding the review of leave reports.

II. Policy changes to address the LAB findings and recommendations for discussion with governance groups

1. Require leave reporting on an hour-for-hour basis.

It appears that several institutions have already taken this step. Form UW-1538 currently directs the employee to report in hours. The system described in UPG #10 may be unnecessarily cumbersome. Hour-for-hour reporting is consistent with the requirements of the state and federal Family and Medical Leave Acts.

2. Establish UWS System policy authorizing the institutions to implement any of the following:
 - a. On an annual basis, reduce sick leave accrual if the employee has failed to report leave usage in one or more months during the year. Sick leave accrual for that year will be limited to the capped amount specified in s. 40.05(4)(bp)1., Wis. Stats. (i.e., 8.5 days for an annual appointee or 6.4 days for an academic year appointee). The reduction will apply both to the sick leave available to employees during their careers and to the sick leave balance certified at retirement.
 - b. Consider compliance with leave reporting as a factor in merit increases.
 - c. Include leave reporting requirements in the employment contract as a condition of employment.
 - d. Permit supervisors to correct a leave report that appears to be inaccurate, with appropriate documentation and notification to the employee.

III. Policy Areas for Further Evaluation

The following are substantive policy issues which should be referred to the governance groups for further evaluation.

1. Evaluate the continued need for Colleague Coverage as a benefit to students when staff are absent from teaching responsibilities
2. Re-evaluate the policy that allows sick leave accrual during sabbatical leave
3. Evaluate alternative models for defined work schedules as it relates to sick leave and the statutory requirements for reporting sick leave.

COLLEAGUE COVERAGE: ALTERNATIVES

This discussion only refers to situations in which a qualified individual stands in for an academic employee who is unable to perform his or her teaching duties due to personal illness or injury or other medical necessities. In these situations, within certain limits, Board of Regents policy allows the incapacitated employee to be absent without charging sick leave or other paid leave.

Nothing in this discussion would affect current practices that allow a qualified individual to take over a class in order to share special expertise or to cover when the regular teacher is absent due to professional activities, illness, or other reasons. The only question is how absences due to medical necessity should be reported.

Policy documents:

- Regent policy 73-10 (see attachment 1)
- Unclassified Personnel Guideline #10 (see attachment 2)

Issues in the Colleague Coverage policy:

- Very little colleague coverage usage is reported. The Legislative Audit Bureau study found that in 2005 over 90% of teaching staff reported no usage. Faculty reported an average of 1.1 hours per year.
- In most employment settings, it is common for one employee to stand in for another in case of absence. The absent individual is expected to charge paid or unpaid leave regardless of whether someone else does the work. Is there any reason to treat teaching responsibilities differently?
- Income replacement benefits (sick leave, income continuation insurance, long-term disability benefits) have replaced colleague coverage as the safety net for employees.
- Colleague coverage assumes that other employees add extra teaching duties without compensation. Especially during a long absence, this places a heavy burden on other staff and may interfere with their research and other duties.

Should an academic employee who is absent for medical reasons be exempt from charging sick leave for teaching duties that are covered by a colleague?

1) Yes. Leave the colleague coverage policy as is; increase education.

PRO:

- This is a confusing benefit and many employees probably don't understand how it should be used. Increasing employee education may result in more reporting of colleague coverage. We should work on education and wait to see whether the reporting changes.
- Other staff may be more willing to help out in emergencies if they know that they could be eligible for the same help if they become ill.
- Changing or eliminating the benefit could cause resentment among staff and increase confusion.

CON:

- This is a confusing benefit and is probably unpopular with the public. Dropping it could generate some goodwill in the legislature and the public.

- The Board of Regents sub-committee appears to be unfavorable to continuing the policy.
- The UW benefit structure is needlessly complicated. Simplifying and streamlining would help employees understand and use benefits more efficiently.
- Sick leave is provided to ensure that employees who are unable to work have an alternative source of income.
- The colleague coverage benefit is not needed. According to the LAB audit, 718 individuals reported using colleague coverage in 2005. Almost 62% of these employees used just one day and 94% used five days or less. In other words, 94% of users of colleague coverage could have accounted for their absences by charging 40 hours or less of sick leave, or less than half of their annual accrual.
- The majority of employee absences are already charged to sick leave. According to the LAB audit, 10,024 academic employees charged one or more days' sick leave between 2003 and 2005, or an average of 3,341 individuals per year. Over 50% of this group used six days or more.

2) Yes, but for short absences only (5 days or less per year?)

PRO:

- Short absences are generally unplanned and emergency. Colleagues are likely to be willing to fill in in these situations even if they could not take on a longer commitment.
- In the long run, everyone provides some colleague coverage and everyone uses it. This informal arrangement spreads the burden of unexpected absences among all employees and motivates employees to help each other.
- According to the LAB audit, 718 individuals reported using colleague coverage in 2005. Almost 62% of these employees used just one day and 94% used five days or less. In other words, the great majority of colleague coverage arrangements are used for short absences.

CON:

- Colleagues will step in to teach classes if they can. This has nothing to do with whether the absent employee is required to report sick leave for the absence.
- If no colleague is available to cover an absence, a missed class can be often be made up by the regular teacher. Nonetheless, he or she would be required to use sick leave for the absence. Why should colleague coverage make a difference?

3) Yes, but for extended absences only (more than 5 consecutive days?)

PRO:

- Extended absences potentially cause the greatest hardship for the employee, and it is desirable to help the employee to get through the ICI waiting period and/or to preserve his or her sick leave balance to pay future health insurance premiums.
- According to the LAB audit, many more employees charge sick leave for extended absences than charge colleague coverage (compare Tables 11 and 12). It is difficult to arrange colleague coverage for extended absences, because the substitutes do not receive any extra compensation. In the few cases where it works, we should leave the colleague coverage arrangement in place.

CON:

- Colleague coverage for extended absences places a great burden on the substitutes, and their own work may be adversely affected. Hiring a substitute may be necessary for the sake of the instructional program.
- Exempting teachers from the need to charge sick leave or leave without pay for extended absences is unfair to other employees, or appears to be so.
- Employees already charge sick leave for extended absences most of the time; colleague coverage for absences longer than 5 days is rare.
- New employees with a small sick leave balance should be counseled to select a short ICI elimination period.

4) No. The exemption from charging sick leave should be eliminated.

PRO:

- Employees with teaching responsibilities should have the same benefits as other academic employees. The benefits package includes the ability to use sick leave to cover absences for medical necessity and to accumulate unused sick leave for conversion at retirement. It should not include an additional option to preserve sick leave when colleagues help to cover part of the employee's duties.
- Colleague coverage is not guaranteed, since colleagues may not be available to step in.
- Colleague coverage has been superseded by more reliable forms of income protection.
- Colleague coverage is a political liability because it is perceived by the public and by the legislature as an unfair expansion of the sick leave program.

CON:

- Colleague coverage is an inexpensive benefit because few employees use it much.
- Colleague coverage encourages cooperation among academic staff and as such is important to staff morale.
- Faculty governance groups would perceive an attack on colleague coverage as one more failure by management and the legislature to appreciate the efforts of the UW staff.
- Colleague coverage helps to ensure that students receive timely and reliable instruction even when the regular teacher is unable to meet the class.

Attachment 1: Regent policy 73-10 (www.uwsa.edu/bor/policies/bor_pols.pdf)

Faculty with Teaching Responsibilities: In any semester^{**} in which a faculty member^{***} who has teaching responsibilities is entitled to use sick leave, the provisions of this policy shall be modified as follows:

- (a) If a faculty member's duties are assumed by colleagues for the duration of the semester, as has been the traditional way of covering teaching responsibilities, the absent individual will not be required to use sick leave until the end of the semester in which the absence began.
- (b) If a replacement is appointed to assume the faculty member's responsibilities he or she must use sick leave.

Whichever of the above situations obtains during the semester in which the absence commences, the absent staff member will be required to use sick leave thereafter.

*** The word "semester" in this policy shall be interpreted to include "quarter" or any other institutionally defined time period.*

**** For the purposes of this policy, faculty assistants, lecturers and instructors with teaching responsibilities shall be accorded the same sick leave provisions as members of the teaching faculty. Visiting faculty whose home institutions do not provide sick leave shall also be covered by the provision.*

Attachment 2: Unclassified Personnel Guideline #10 (www.uwsa.edu/hr/upgs/upg10.pdf)

"TEACHING" means for the purposes of colleague coverage to include class time preparation, actual classroom instruction and scheduled office hours available to students for educational guidance. Any other administrative or research responsibilities will not qualify for colleague coverage.

10.05 Colleague Coverage

Colleague coverage for teaching faculty is a substantial benefit designed solely for the benefit of students and to provide continuity of studies. In any semester in which a faculty member who has teaching responsibilities is to use sick leave, the provisions of this policy for colleague coverage shall be invoked as follows:

1. Teaching responsibilities not met because of an absence specified in UWS 19.01, Wis. Adm. Code, and covered by colleagues will be reported in units of one-half days in the monthly colleague coverage report. Such coverage can be used during the semester in which the absence commences. In the following semester, a faculty member who continues to be absent as defined in 19.01, Wis. Adm. Code, will not be eligible to charge colleague coverage, but will be required to use sick leave, other paid leave, or leave without pay.
2. If a paid replacement is appointed to assume the faculty member's teaching responsibilities, the faculty member will not be entitled to colleague coverage for the absence.
3. Academic staff with less than 50% of their assigned responsibilities eligible for colleague coverage can record colleague coverage for only the eligible teaching responsibilities. Paid leave or leave without pay is to be charged for the balance of the appointment.
4. Colleague coverage must be reported in the institution's monthly colleague coverage report and will be reported in units of one-half day as is sick leave. Colleague coverage does not extend to administrative duties of Department Chairs, Assistant Deans, etc.

10.06 Categorization of Employees and Methods of Determining Amount of Sick Leave to be Charged

1. Reported sick leave or colleague coverage may not exceed 40 hours for a given week. Unclassified employees holding less than full-time appointments report sick leave or colleague coverage based on actual hours used.

LEAVE ACCRUAL AND REPORTING DURING SABBATICALS: ALTERNATIVES FOR DISCUSSION PURPOSES

Under s. 40.02(22)(em), Wis. Stats., instructional faculty who go on sabbatical leave as provided in s. 36.17(11), Wis. Stats., continue to receive creditable service in the Wisconsin Retirement System at the full-time rate and at the salary rate that was in effect immediately before the leave. They also accrue sick leave at the percent of appointment that was in effect before the leave.¹ Actual compensation during the sabbatical may be at any rate up to 65% for a full year or 100% for one semester.

During the sabbatical, the faculty member has few if any official duties at the home institution. He or she may be away from campus for extended periods. His/her department chair or other supervisor often has no way to monitor the leave reports submitted by the faculty member.

Sick leave reporting is required during sabbaticals. However, according to the Legislative Audit Bureau (LAB) Report, faculty on sabbatical in 2004-05 reported an average of less than 0.1 sick days (p. 74), and 96.6% reported none. This very low rate of sick leave reporting is probably due to: 1) the perception that the official work schedule does not apply during the sabbatical; 2) the fact that research and other sabbatical activities can be scheduled at the faculty member's convenience; 3) inadequate policy documentation about use of sick leave during a sabbatical; and 4) the lack of day-to-day accountability to a supervisor.

The LAB recommended that the UW require a standard agreement requiring the recipient to submit monthly leave reports while on sabbatical. While this can certainly be done, by itself this measure does not promise to result in much additional sick leave reporting.

Policy Documents:

40.02(22)(em), Wis. Stats.
36.11(17), Wis. Stats.
UWS 19.02(1), Wis. Admin. Code
Academic Planning Statement 3.3

Should leave reporting and accrual of sick leave during sabbatical leaves be discontinued?

PRO:

Since sick leave usage cannot be verified by a supervisor while the faculty member is away on sabbatical, reporting is likely to be pro forma only, as the LAB study suggests.

This measure is likely to be welcomed by the regents' sub-committee, the legislature, and the public.

Sabbaticals are intended to allow faculty members to pursue self-directed research, writing, and other professional projects. It is counter-productive to require the individual to observe an official schedule for sick leave reporting purposes. Time lost due to minor illnesses and medical appointments can easily be made up during a sabbatical. Faculty members should be free to manage their sabbatical time as they wish, so long as they complete their projects. In return, they should give up accrual of a leave benefit that they usually do not need to use while on sabbatical.

Sabbaticals are like any other leave of absence for professional purposes, except that the faculty member receives service credit in the Wisconsin Retirement System for the leave period.² Recipients of grants

¹ UWSA Academic Planning Statement -3.3.D.2.. See www.uwsa.edu/acss/acps/acps3-3.pdf
² 40.02(22)(em), Wis. Stats. "For Wisconsin retirement system purposes *only*, . . . [earnings] means the compensation that *would have been payable*" to a faculty member who is on sabbatical. [emphasis added].

funded by non-UW sources do not accrue sick leave while on leave,³ and they are not required to submit leave reports, even though their time is spent on research, writing, and other professional activities. Sabbaticals should be treated the same way.

If a sabbatical is interrupted by a serious illness or other FMLA-qualifying event, the sabbatical pay could be suspended and sick leave or leave without pay could be charged. In this case, sick leave accrual could resume as appropriate.

CON:

Policies and instructions to faculty regarding use and reporting of sick leave while on sabbatical need clarification. This can be accomplished without other changes to the benefit.

Sabbaticals are not like other leaves of absence. They have a specific statutory authorization that provides for UW-paid compensation and retirement service credit. They are intended to "recognize and enhance teaching effort and excellence," and are conditional upon the recipient's returning to work at the UW for at least one year. Other portions of the fringe benefits package, such as the employer share toward health insurance, continue to be paid during a sabbatical. Sick leave accrual is a part of the benefits package and should not be an exception.

Discontinuing accrual of sick leave during a sabbatical would result in the loss of six or twelve days of leave.

Discontinuing sick leave accrual during sabbaticals might present substantial record-keeping problems. For example, if an individual is unable to work full-time on his or her sabbatical project for medical reasons (including the need to care for a family member as provided under the state and federal FMLA), he or she is entitled to use sick leave and should report it. However, sick leave accrues while an employee is using sick leave,⁴ so during these periods the faculty member would be entitled to accrual. Similarly, if the individual receives UW compensation for brief work assignments during the sabbatical, sick leave would accrue for those hours.

³ UWS 19.02(f), Wis. Admin. Code

⁴ UWS 19.02(2)(e), Wis. Admin. Code

40.02(22)(em) For Wisconsin retirement system purposes only, for a member of the faculty, as defined in s. 36.05 (8), of a university who is on sabbatical leave under s. 36.11 (17), means the compensation that would have been payable to the participant, at the participant's rate of pay immediately prior to beginning the sabbatical leave, for service that would have been rendered at the university during the period of the sabbatical leave if the participant had continued to render services for the participant's employer during that period. Contributions and premiums on earnings considered to be received under this paragraph shall be paid as required under s. 40.05.

36.11(17) Sabbatical leave for instructional faculty. The board may grant sabbatical leave of up to one year to instructional faculty, in order to recognize and enhance teaching efforts and excellence, under rules and procedures adopted by the board, subject to the following conditions:

(a) Sabbatical leave may be granted only to those faculty members who have completed 6 or more years, or the equivalent, of full-time instructional service in the system.

(b) Only one sabbatical leave may be granted for each 6 years of full-time instructional service in the system with preference given to those who have been making significant contributions to teaching and have not had a leave of absence except under s. 103.10, regardless of source of funding, in the previous 4 years.

(c) Sabbatical leave shall be granted for the purposes of enhancing teaching, course and curriculum development or conducting research or any other scholarly activities related to instructional programs within the field of expertise of the faculty member taking such leave.

(d) Sabbatical leave shall be approved by appropriate faculty and administrative committees.

(e) A faculty member shall receive compensation while on sabbatical leave, but such compensation, when combined with outside compensation earned while on leave, shall not exceed the full compensation normally received from the system.

(f) The faculty member taking a sabbatical leave shall agree to return to the institution from which leave was granted for at least one year after the termination of the sabbatical or return any compensation received from the system during the sabbatical.

(g) Funding for the sabbatical leave program shall be provided from the existing general operations appropriation for the system.

UWS 19.02, Wis. Admin. Code

(1) ELIGIBILITY.

(a) All faculty, academic staff, and limited appointees as defined in s. UWS 15.01 (2), shall earn sick leave while in pay status, unless the following conditions apply:

1. The employee is not expected to work at least one-third of what is considered full-time employment, or
2. The employee's expected duration of employment is less than one year.

(b) An employee who is not expected to work at least one-third of what is considered full-time employment shall earn sick leave under par. (a) if he or she is subsequently employed within the university of Wisconsin system for at least one year for at least one-third of what is considered full-time employment during the immediately preceding 12-month period.

(c) Any employee who becomes eligible to earn sick leave under par. (a) shall continue to be eligible to earn sick leave, notwithstanding the requirements of par. (a), unless his or her employment within the university of Wisconsin system is terminated for 12 or more consecutive calendar months or unless the

employee receives a benefit that would have the effect of closing his or her retirement account under s. 40.25, Stats.

(d) In this subsection, "one-third of what is considered full-time employment" means employment within the university of Wisconsin system with the expectation that there will be at least 440 hours of actual performance of duty during an annual earnings period.

(2) ACCRUAL OF SICK LEAVE.

(a) As of March 1, 1976, each employee's account shall reflect the accrued balance of unused sick leave earned under the board of regents' sick leave policy adopted on June 8, 1973.

(b) Employees whose initial appointments are for 9 months or more shall be credited with 22 working days of sick leave which they may draw upon as required consistent with s. UWS 19.01.

(c) In addition to sick leave credited under par. (b), after 1.5 years of service, each employee shall earn additional nonlapsing sick leave at the rate of 1 day per month for persons holding annual basis appointments and at the rate of 6 days per semester or 4 days per quarter for persons who hold academic year basis appointments, with a maximum annual accumulation limited to not more than 12 days.

(d) Unused sick leave shall accumulate from year to year in the employee's sick leave account pursuant to s. 36.30, Stats.

(e) An employee utilizing paid sick leave shall continue to accumulate sick leave credits during the period of the sick leave absence.

(f) An employee does not accumulate sick leave credits while on an unpaid leave of absence.

(g) Part-time employees have an initial entitlement, earn and are charged sick leave in the same proportion as their appointment bears to a full-time appointment.

UWS 19.02 - ANNOT.

Note: Consistent with general leave accounting principles within the UW system, the reference to "year" in this section refers to the academic year for academic year-basis appointees, and to the fiscal year for annual basis appointees.

ACPS 3.3. See www.uwsa.edu/acss/acps/acps3-3.pdf

Other UW System policies may explain, in part, why unclassified staff and particularly faculty reported using little sick leave. In addition to not requiring full-time unclassified staff to report absences of less than two hours, and allowing unclassified staff to designate alternate work schedules that allow them increased personal flexibility, system policies allow department chairs to permit, in limited circumstances, faculty and academic staff to work extra hours at home in lieu of using sick leave if the work is completed during the same payroll period in which an illness occurs. Furthermore, human resources staff indicate that faculty:

- may teach their courses even if they are sick, because it can be difficult to reschedule courses and because students are inconvenienced if courses are cancelled;
- may choose not to record sick leave if they work more than 40 hours during a week in which they are sick; and
- may schedule medical procedures and appointments for the summer months, when faculty with 9-month appointments neither earn nor are required to report sick leave.

In 2005, more than 90.0 percent of faculty and teaching academic staff did not report any coverage of their teaching responsibilities by colleagues.

To the extent that faculty and teaching academic staff report colleagues covering their teaching responsibilities, they also may report using less sick leave. However, 5,969 faculty and 3,695 teaching academic staff, representing more than 90.0 percent of employees with instructional responsibilities, did not report using any coverage by colleagues in 2005, as shown in Table 12. Furthermore, the reported use of such coverage by faculty declined from an average of 1.5 hours in 2003 to 1.1 hours in 2005. Therefore, coverage by colleagues does not explain the decline in reported use of sick leave.

In 2005, 47 academic staff reported using coverage by colleagues even though they were ineligible to do so.

However, we found that 47 of the 234 academic staff who reported coverage by colleagues in 2005, or 20.1 percent, did not have teaching responsibilities at that time and therefore should not have reported such coverage. Included were 36 individuals at UW-Madison; 6 at UW-Milwaukee; and 1 each at UW-Eau Claire, UW-Green Bay, UW-La Crosse, UW-Stout, and UW-Stevens Point. UW-Madison has indicated that, based on our analysis, sick leave or vacation balances for 33 of these 36 academic staff have been reduced to reflect the inappropriate use of coverage by colleagues.

Table 12

**Reported Coverage of Teaching Responsibilities by Colleagues
2005**

Number of Days	Faculty		Academic Staff ¹	
	Number of Employees	Percentage of Total	Number of Employees	Percentage of Total
0	5,969	92.6%	3,695	94.0%
1	292	4.5	151	3.8
2	86	1.3	35	0.9
3	41	0.6	23	0.6
4	16	0.2	10	0.3
5	17	0.3	6	0.2
6 to 10	23	0.4	7	0.2
11 or More	9	0.1	2	<0.1
Total	6,453	100.0%	3,929	100.0%

¹ Includes teaching academic staff, as indicated by UW System payroll data.

Our findings on reported sick leave use are similar to those of UW System internal auditors, who concluded in October 1998 that significant differences in sick leave use between faculty and classified staff raised questions about whether UW System policies were consistently being followed. The internal auditors found that, on average, faculty and teaching academic staff had reported approximately 1.0 day of sick leave in fiscal year (FY) 1996-97, non-teaching academic staff with 9-month appointments reported 1.7 days, non-teaching academic staff with 12-month appointments reported 3.6 days, and classified staff reported 6.1 days.

Compliance with Required Record-Keeping

To evaluate current compliance with the record-keeping required by UW System policies, we reviewed the 2005 leave files for 300 unclassified staff. Our review included employees who reported relatively little sick leave and those who reported more than 15 days in 2005. The files included all reported leave, not just sick leave. UW System policies require unclassified staff to report their leave use each month, and the monthly leave reports must be signed and dated by the employee and the employee's supervisor. The information in these reports is subsequently entered into

**1987 Wisconsin Act 27
was intended to address
disparities in unused sick
leave conversion.**

In an earlier evaluation conducted by this office (report 85-32), we found that faculty and administrative staff who retired between 1983 and 1985 converted an average of \$40,200 in unused sick leave, while employees who retired from other state agencies converted an average of \$28,600. We concluded that this disparity resulted, in part, because UW System did not ensure accurate sick leave reporting. After our evaluation, 1987 Wisconsin Act 27, the 1987-89 Biennial Budget Act, limited the amount of unused sick leave to be converted at retirement to 8.5 days per year for faculty and academic staff with full-time appointments, and 6.4 days for those with 9-month appointments. Section 40.05(4)(bp), Wis. Stats., provides that these limits can be waived at a UW institution if DOA determines that:

- administrative procedures exist at the UW institution for the crediting and use of earned sick leave for teaching faculty and academic staff, and they are comparable to the standard for a scheduled 40-hour work week;
- a sick leave accounting system comparable to the system used by classified state staff is used at the institution; and
- the institution regularly reports on the operation of its sick leave accounting system to the Board of Regents.

DOA reviewed each UW institution and, by 1993, determined that all had the requisite policies and procedures in place. Consequently, the statutory limits were waived retroactive to the enactment of Act 27, and all UW faculty and academic staff were allowed to convert all of their unused sick leave at retirement. DOA has not since reviewed the institutions' sick leave policies and procedures.

UW System officials argue that any changes to sick leave policies could negatively affect their ability to recruit and retain staff. However, we believe the need to recruit and retain qualified staff must be balanced with the need to ensure all state employees use and report sick leave as required. Reported sick leave use by faculty and other unclassified staff within UW System has been low and is declining. Because the effectiveness of past efforts to ensure accurate sick leave reporting remains doubtful, we believe the Board of Regents should consider modifications to UW System policies for reporting sick leave use by unclassified staff.

Another area for the Legislature's consideration is a review of the program in light of new financial reporting requirements for public employee benefit programs. To ensure full disclosure in financial statements, the Governmental Accounting Standards Board is

requiring that they include the actuarially determined costs for such programs beginning in FY 2007-08.

In many states and municipalities, these program costs have not been fully funded. However, that is not the case in Wisconsin. The Department of Employee Trust Funds, which oversees administration of the sick leave conversion credit program, reported that as of December 31, 2005, the program has accumulated \$1.9 billion in assets to pay estimated future benefits of \$1.8 billion. State agencies fund the program on an ongoing basis, based on a percentage of their payrolls. In 2005, UW System's contribution was an estimated \$20.4 million, based on a contribution rate of 1.4 percent of its payroll. UW System and other state agencies also contribute to fund debt service for pension obligation bonds that were issued to liquidate the State's unfunded liabilities in both the pension and sick leave programs in 2003.

Recommendation

We recommend:

- *the Board of Regents consider modifications to policies for reporting sick leave use by unclassified staff within the University of Wisconsin System;*
- *the Board of Regents report to the Joint Legislative Audit Committee by June 1, 2007, on an improved method for reporting the use of sick leave by unclassified staff within the University of Wisconsin System; and*
- *the Legislature consider a review of the sick leave conversion credit program in light of new Governmental Accounting Standards Board financial requirements.*

**Vacation Time Reporting
Policies and Practices**

Under policies established by the Board of Regents, unclassified UW System staff, including faculty with 12-month appointments, earn 22 days of vacation time annually. Faculty and teaching academic staff with 9-month appointments do not earn any paid vacation time. Each year, unclassified UW System staff with 10 years

May 11, 2007

I.2.c.

**REVIEW OF TITLES DESIGNATED AS LIMITED
APPOINTMENTS IN RESPONSE TO LEGISLATIVE AUDIT
BUREAU PERSONNEL AUDIT**

EXECUTIVE SUMMARY

BACKGROUND

The Wisconsin Statutes, under s. 36.17(2), identify 17 unclassified titles as limited appointment type and authorize the Board of Regents to designate other administrative titles/positions as limited at the time of appointment. The Wisconsin Administrative Code Chapter UWS 15 (Code) defines a limited appointment as:

"a special appointment to a designated administrative position. A person in this type of appointment serves at the pleasure of the authorized official who made the appointment."

Limited appointments are "at will" appointments, offering employees fewer job protections than any other unclassified or classified appointment types. Limited appointments provide the University with valuable management flexibility. The use of limited appointments affords effective and efficient use of resources in response to the changing needs and fiscal circumstances of our institutions.

Individuals accepting limited appointments who are currently members of the faculty or staff of that institution have statutory rights to return to such a position upon the termination of a limited appointment. Prior to July 26, 2005, individuals hired into limited positions from outside the UW System often had job protection in the form of a contractual "administrative back-up" academic staff position, typically for one year but on occasion up to an indefinite appointment. On July 26, 2005, the President of the UW System suspended the practice of offering administrative back-up appointments for new hires in limited positions. On November 11, 2005, the Board of Regents adopted Resolution #9091, supporting the July action by the President, effectively ending the use of administrative back-up appointments. The Regents went one step further in an effort to halt the practice of offering back-up appointments while not precluding the use of limited appointments, stating the following:

- (5) From and after the date of this resolution, notwithstanding any institutional policies to the contrary, limited appointments shall be permitted only for those positions enumerated in s. 36.17, Wis. Stats., unless an institution demonstrates circumstances justifying the creation of additional limited appointments and the UW System President authorizes, in writing, the addition of such a limited appointment.

On December 2, 2005, the UW System President approved the use of limited appointment types for 7 additional administrative titles that require a faculty appointment. Since July 26, 2005, the UW System President has approved a total of 145 positions that have become vacant, and that were previously limited, to continue to be defined as limited appointments as per Regent Resolution #9091. Of these 145 positions (See Attachment A) there are 7 types of titles. Three are Academic Administrator titles, 10 are

Special Assistant titles, 74 are Administrative Director, Associate Director, and Assistant Director titles, 39 are Coaching/Athletic titles, 13 are Administrative Officer titles, 5 are Program Manager titles, and one is a Secretary of the Faculty title.

The Legislative Audit Bureau Report 06-12, *An Evaluation Personnel Policies and Practices University of Wisconsin System*, issued in October 2006, made recommendations in the areas of reporting of sick leave and vacation usage, the utilization of limited appointments and concurrent or back up positions, the employment of unclassified staff as consultants, and compliance with statutory requirements and consistent institutional practices regarding faculty sabbaticals. A full report on the UW System response to the LAB recommendations is being prepared and will be submitted to the Joint Legislative Audit Committee by June 1, 2007 per the LAB recommendations. A Special Regent Committee, chaired by Regent Loftus, has been working with UW System Administration staff in developing the formal response to this audit.

This review fulfills one recommendation of the LAB, which will become part of the June 1, 2007 Report to the Joint Legislative Audit Committee:

We recommend the Board of Regents:

- *review all additional titles beyond the 17 enumerated in statutes that the University of Wisconsin System Administration designates as limited appointments;*

This review addresses one other LAB recommendation:

- *report to the Joint Legislative Audit Committee by June 1, 2007, on the number of additional position titles beyond the 17 enumerated in statutes that have been designated, and are being considered for designation, as limited appointments and on the job protections available to those who hold them. (emphasis added)*

An additional LAB recommendation -- for an annual report to the Board of Regents on the number of employees with concurrent or back-up positions or notice of termination protections at each institution for the current and prior years -- will be made in December each year using October data. The first such report is planned for December 2007.

REQUESTED ACTION

This item is informational only.

DISCUSSION

The Wisconsin Administrative Code Chapter UWS 15 (Code) defines a limited appointment as "a special appointment to a designated administrative position. A person in this type of appointment serves at the pleasure of the authorized official who made the appointment." By law, certain unclassified positions must be designated as limited appointments (s. 36.17(2), Wis. Stats.). In addition, the Code permits limited appointment status to those "other administrative positions as the board, the president, or the chancellor determines at the time of appointment."

Regent Resolution #9091 (adopted November 11, 2005) directed that from and after November 11, 2005, notwithstanding any institutional policies to the contrary, limited appointments shall be permitted only for those positions enumerated in s. 36.17(2), Wis. Stats., unless an institution demonstrates circumstances justifying the creation of additional limited appointments and the UW System President authorizes, in writing, the addition of such a limited appointment.

The attached document (Attachment A) contains a list of the position titles that are limited by statute [s. 36.17(2)], those that were approved as limited by the President on December 2, 2005, and those that have been approved by the President for each institution following the November 11, 2005 Regent resolution (#9091).

Attachment A shows the total of approved limited positions beyond the 17 statutorily approved titles and the 7 titles requiring a faculty appointment is 145 as of April 30, 2007. Unclassified Personnel Guideline #2, Section 2.02, outlines the criteria that are used to evaluate an institution's justification for assigning a limited appointment type to a position. Further, as stated in UPG 2.02, the 1993 Memorandum of Agreement with the Office of State Employment Relations (OSER) stipulated that all Associate Director and Assistant Director titles listed in UPG #7, Attachment 2, section II.A.1. General University Management, must be assigned a limited appointment to comply with the service placement designation criteria established in the 1993 Memorandum of Agreement. If an institution wants the position to remain in the unclassified service, the use of limited appointment for the position requires written authorization from the UW System President.

The use of limited appointments for positions other than those included in s. 36.17(2), Wis. Stats, and those requiring a faculty appointment must have written authorization from the UW System President. The written request should be addressed to the Associate Vice President for Human Resources and must include the justification for using the limited appointment. The System President has delegated to the Associate Vice President for Human Resources the evaluation of the request based on the following:

- Position has major responsibility for significant functional areas within the UW institutions. It is critical the staff in these positions respond quickly to the changing business needs of the institutions and its students. Therefore it is imperative institutions maintain maximum staffing flexibility in these positions.

- Position has direct management of the day-to-day administrative activities of a school, college or administrative unit and works closely with the senior administrator of school, college or unit. The senior administrator responsible for these areas must be provided the maximum staffing flexibility in order to not only meet the changing needs of the school, college or unit but also to meet the needs of a change in leadership.
- Position serves in a critical role both as an advisor and representative of the President, Chancellor, Provost/Vice Chancellor or other Vice Chancellors. Senior administrators change and working styles vary. Maximum staffing flexibility must be maintained.
- Position is an Associate Director or Assistant Director listed in UPG #7, Attachment 2, section II.A.I General University Management. The 1993 Memorandum of Agreement with Office of State Employment Relations stipulated these positions must be assigned a limited appointment in order to remain in the unclassified service.
- Position is a specifically defined and/or mandated position (e.g., State Geologist)
- Position is particularly unique to those institutions participating in NCAA Division I athletics.

It is important to note that the use of limited appointments for positions as defined above is a valuable management practice. Limited appointments are at will positions serving at the pleasure of the hiring authority. The use of limited appointments affords effective and efficient use of resources in response to the changing needs and fiscal circumstances of our institutions. Individuals accepting limited appointments who are currently members of the faculty or staff of that institution have statutory rights to return to such a position upon the termination of a limited appointment.

Those hired from outside the UW into a position for which a faculty appointment is not required and therefore do not have a concurrent appointment, as noted in Attachment B, constitute over 40% of the limited appointments made since the passage of Regent Policy 05-01. The 79 new hires with no concurrent appointments are granted no more than 6 months notice of termination should it become necessary to terminate their limited appointment. Of these 79 new hires, more than half (44, or 55.7%) are not provided any notice in their letter of offer (or their letter references UWS 15 and the University's practice of providing three months notice of termination wherever possible), and 12 (15.2%) are provided up to 6 months notice of termination. The remaining 23 (29.1%) are athletic coaching positions that, in addition to having a limited appointment, have a contract stating specific termination terms.

RELATED REGENT POLICIES

Regent Policy 05-1 (Resolution #9091), Wisconsin Statutes, s. 36.17(2)
UWS 15 Limited Appointments, Unclassified Personnel Guidelines #2 and #7

Positions Statutorily Designated or Approved as Limited Appointments**SYSTEMWIDE POSITIONS:**

s. 36.17(2) Wis. Stat states that limited appointments apply to the following positions:

- President
- Provost
- Vice President
- Associate Vice President
- Assistant Vice President
- Chancellor
- Vice Chancellor
- Associate Chancellor
- Assistant Chancellor
- Associate Vice Chancellor
- Assistant Vice Chancellor
- College Campus Dean
- Secretary of the Board
- Associate Secretary of the Board
- Assistant Secretary of the Board
- Trust Officer
- Assistant Trust Officer
- Other administrative positions as the board determines at the time of the appointment

December 2, 2005, the System President approved the use of limited appointments for those administrative positions that require a faculty appointment (see UPG 2.03 for definition). Positions that require a faculty appointment as defined in UPG #1, attachment #1 are:

- Dean (A20NN)
- Associate Dean (A51NN)
- Assistant Dean (A52NN)
- Academic Program Directors (all levels)
- Department Chairperson

INSTITUTION SPECIFIC POSITIONS (date approved):**UW Colleges**

Registrar (M) (March 9, 2007)
Assistant Campus Dean/UWC (April 6, 2007)
Assistant Campus Dean/UWC (April 6, 2007)
Assistant Campus Dean/UWC (April 6, 2007)
Director, UWC Library (M) (April 6, 2007)
Director, Continuing Education (M) (April 6, 2007)

UW-Eau Claire

Assistant to the Chancellor for Affirmative Action III (September 21, 2006)
Special Assistant, Chancellor's Office (September 21, 2006)
Director, Library (M) (November 7, 2006)

Positions Statutorily Designated or Approved as Limited Appointments - continued

UW-Extension

Senior Special Assistant, Chancellor's Office (April 12, 2006)
Assistant to the Chancellor for Affirmation Action III (February 22, 2006)
Dir., Unsp (10), Director of Business and Manufacturing Extension (February 22, 2006)
Dir., Unsp (10), Director of Division of Broadcasting & Media Innovations (February 22, 2006)
Director, Radio/Television (L) (February 22, 2006)
Director, Business Services (M), Cont. Ed & E-Learning Division (May 30, 2006)
Dir., Unspecified (8), Milwaukee County Extension Office Director (June 6, 2006)
Associate Dir., Unspec (10), Business and Manufacturing Extension (February 21, 2007)

UW-Green Bay

Assistant Coach – Women's Basketball (April 21, 2006)
Assistant Coach – Women's Soccer (June 21, 2006)
Assistant Coach – Women's Volleyball (January 2, 2007)
Director, Personnel (M) (January 22, 2007)

UW-La Crosse

Director, Physical Plant (M) (June 22, 2006)
Controller (M) (June 22, 2006)

UW-Madison

Director, Wisconsin State Laboratory of Hygiene (May 15, 2006)
Assistant Dir., Unsp (10), Wisconsin State Laboratory of Hygiene (May 15, 2006)
Dir., Unsp (11), Division of Information Technology, Vice-Provost/CIO (October 11, 2006)
Dir., Unsp (8), Director of McBurney Center (May 16, 2006)
Dir., Unsp (8), Director of Research Policy Office, Graduate School (August 14, 2006)
Dir., Unsp (7), Director of International Student Services (July 24, 2006)
Dir., Unsp (7), School of Education, Director of PEOPLE program (August 3, 2006)
Assistant Dean (S), School of Human Ecology (February 22, 2006)
Assistant Dean (M), Div. of Cont. Studies, Adult and Student Services Center (Sept. 1, 2006)
Assistant Dean (L), College of Letters & Science, AAP Program (May 16, 2006)
Assoc. Dean (L) – School of Medicine & Public Health, Medical Education, (May 3, 2006)
Assoc. Dean (L) – School of Medicine & Public Health, Faculty Development, (May 16, 2006)
Assoc. Dean (L) – School of Medicine & Public Health, MCC (June 21, 2006)
Asst. Dir., Business Service (M), School of Medicine & Public Health, Anesthesiology (Aug. 1, 2006)
Assistant Dir., Unsp (10), Memorial Union, Facilities Operations (October 11, 2006)
Assistant Dir., Unsp (9), Primate Center (March 30, 2006)
Associate Dir., Unsp (9) – University Health Ctr., Chief Medical Officer (April 21, 2006)
Associate Dir., Unsp (8), CALS – International Programs (April 21, 2006)
Associate Director, Athletics (L) (new position) (February 9, 2006)
Assistant Director, Athletics (L), Ticket Operations (July 31, 2006)
Assistant Director, Athletics (L), Event Operations (August 17, 2006)
Coach - Head Football Coach (May 16, 2006)
Assistant Coach – Football – 8 positions (May 16, 2006)
Assistant Coach – Men's Track & Field (May 16, 2006)
Assistant Coach – Strength & Conditioning (May 16, 2006)
Assistant Coach – Men's and Women's Swimming & Diving (May 16, 2006)
Assistant Dean (S), College of L&S, Continuing Studies, Adult & Student Svcs Ctr (November 22, 2006)
Dir., Unsp (8), Director of Learning Support Services, College of L&S (November 22, 2006)
Dir., Unsp (9), Exec Dir., North Central Regional Association, CALS (December 5, 2006)
Assistant Dean (S), Offices of the Dean of Students, Finance & HR (December 20, 2006)
Assistant Coach-Softball (December 28, 2006)
Assistant Coach-Strength (December 28, 2006)
Assistant Coach-Men's Tennis (December 28, 2006)
Assistant Coach-Men's Crew (December 28, 2006)

Positions Statutorily Designated or Approved as Limited Appointments - continued

UW-Madison, cont'd

Assistant Coach-Women's Basketball (December 28, 2006)
Assistant Coach-Women's Crew (December 28, 2006)
Assistant Coach-Wrestling (December 28, 2006)
Assistant Coach-Women's Tennis (December 28, 2006)
Assistant Director, Athletics (L), Academic Services, Intercollegiate Athletics (December 28, 2006)
Associate Director, Financial Aid (L), Division of Enrollment Management (December 28, 2006)
Dir., Unsp (7), Visitor Information & Programs (December 28, 2006)
Director, Business Services (M), SMPH, Ophthalmology (January 2, 2007)
Associate Dir., Unsp (9), UW Survey Center (January 4, 2007)
Dir., Unsp (8), Director of Social Science Research Services, College of Letters and Science (January 5, 2007)
Dir., Unsp (9), Director of University Communications (January 12, 2007)
Assistant Coach-Women's Soccer -2 positions (January 12, 2007)
Assistant Dir., Unsp (10), PSL & SRC, Graduate School (January 25, 2007)
Director, Career Planning and Placement (L), L&S and Human Ecology Career Svcs (January 26, 2007)
Associate Dir., Unsp (9)-Lab Animal Resources Unit, SMPH (February 7, 2007)
Associate Dir., Unsp (8)-Biotron Lab, Graduate School (February 14, 2007)
Dean of Students (L) (February 16, 2007)
Sr Admin Prog Specialist-Football Operations (February 20, 2007)
Assoc Admin Prog Specialist-Women's Basketball Operations (February 20, 2007)
Assoc Admin Prog Specialist-Men's Hockey Operations (February 20, 2007)
Assoc Admin Prog Specialist-Women's Hockey Operations (February 20, 2007)
Assoc Admin Prog Specialist-Women's Volleyball Operations (February 20, 2007)
Special Assistant to the Chancellor for Community Relations (March 20, 2007)
Assistant Dean (S), Institutional Research, School of Pharmacy (March 20, 2007)
Assistant Dean (M), Financial Management, School of Business (April 13, 2007)
Associate Dean (L), Office of the Dean of Students, (April 13, 2007)
Assistant Dir., Unsp (10), FP&M, Radiation Safety (April 19, 2007)
Assistant Dir., Business Services (M), SMPH, Ophthalmology (April 19, 2007)
Assistant Dir., Unsp (10) - Gaylord Nelson Institute for Environmental Studies (April 25, 2007)
Dir., Unsp (10) - Veterinary Diagnostic Lab (April 30, 2007)
Assistant Dir., Business Services (M), SMPH, Pediatrics (April 30, 2007)
Coach - Women's Soccer, Division of Intercollegiate Athletics (April 30, 2007)

UW-Milwaukee

Director, Library (L) (March 30, 2006)
Director, Personnel (L) (April 21, 2006)
Director, Physical Plant (L) (May 30, 2006)
Dir., Unsp (7), Director, Communication and Media Relations (June 26, 2006)
Associate Dir., Unsp (9), Division of Student Affairs, Enrollment Services (June 22, 2006)
Secretary of the Faculty (March 30, 2006)
Assistant Dean (L), School of Education, College of Health Sciences, and the Helen Bader School of Social Welfare (March 30, 2006)
Controller (L) (November 7, 2006)
Assistant Director, Planning and Construction (L) (November 16, 2006)
Dir., Unsp (10), Director of Legal Affairs (December 13, 2006)
Associate Dir., Unsp (8), Associate Athletic Director (January 2, 2007)
Director, Computer Services (L), CIO (January 10, 2007)
Admin. Officer (M), Peck School of the Arts (March 9, 2007)
Dir., Unsp (7), PSOA Marketing & Development (March 9, 2007)

UW-Oshkosh

Administrative Program Manager II, HR, Equity & Affirmative Action (May 31, 2006)
Dir., Unsp (7), Integrated Marketing and Communications (February 1, 2007)

Positions Statutorily Designated or Approved as Limited Appointments – continued

UW-Parkside

Director, Personnel (M) (April 21, 2006)

UW-River Falls

Director, Budget (M) (April 21, 2006)
Director, Computer Services (M) (May 3, 2006)
Director, Physical Plant (M) (October 19, 2006)
Director, Protective Services (M) (October 19, 2006)
Special Assistant, Chancellor's Office (October 20, 2006)

UW-Stevens Point

Assistant to the Chancellor for Affirmative Action II (May 17, 2006)
Special Assistant, Chancellor's Office (August 15, 2006)
Dir., Unsp (7), Communications and University Relations (August 15, 2006)
Dir., Unsp (8), Northern Aquaculture Demonstration Facility (April 6, 2007)
Director, International Education Program (M) (April 6, 2007)

UW-Stout

Assistant Dir., Unsp (8), Student Life Services (June 5, 2006)
Dir., Unsp (6), Director of the Office of Multicultural Student Services (May 31, 2006)
Dir., Unsp (7), Chief Communications, Legislative Liaison and Publications Officer (June 15, 2006)
Dir., Unsp (9), Chief Information Officer (CIO) (February 21, 2007)

UW-Superior

Coach - Men's Basketball (April 23, 2007)
Coach - Men's Baseball (April 23, 2007)
Coach - Women's Basketball (April 23, 2007)
Assistant Coach - Men's Baseball (April 23, 2007)

UW-System Administration

Director, Internal Audit (UWS) (October 13, 2006)
Dir., Unsp (10), Director of Communications & External Relations (June 21, 2006)
Dir., Unsp (8), Common System IT Project Director (September 27, 2006)
Special Assistant, Communications (June 21, 2006)
Special Assistant, Communications (June 21, 2006)
Special Assistant, AA/EEO, Gender Equity, Employment Diversity (October 24, 2006)
Dir., Purchasing/L, Procurement (November 15, 2006)
Dir., Unsp (7), Co-Lab Executive Director (December 12, 2006)
Director, Trust Funds, Trust Fund Operations, VP for Finance (January 25, 2007)
Special Assistant, OLIT, Associate Vice President (January 25, 2007)
Special Assistant, HR, Associate Vice President (January 25, 2007)

UW-Whitewater

Assistant to the Chancellor for Affirmative Action III (June 16, 2006)
Director, Protective Services (M) (January 24, 2007)

Limited Appointments Hired*
Headcount Summary
July 26, 2005 – March 31, 2007

	Number of Limited Hires		Number with Concurrent Appointments**	Number with no Concurrent Appointments	Percent with no Concurrent Appointments
Limited Appointments Defined by Statute	22		15	7	31.82%
Limited Appointments Requiring Faculty Appointment	68		68	0	0.00%
Limited Appointments Approved on a Case-by-Case Basis	105	***	33	72	68.57%
TOTALS	195		116	79	40.51%

* Does not include those limited appointees employed in an acting/interim capacity. and those positions approved to be filled prior to 7/26/05.

** Concurrent appointments are either those for which a faculty appointment is required for the position and/or those hired from the institution's faculty or staff thereby having statutory rights to return to such a position.

*** 40 additional limited positions have been approved, but not filled.

Regent Policy Documents

20-18 REVIEW OF UNIVERSITY PERSONNEL POLICIES AND PRACTICES

(Formerly 05-1)

Whereas, at its September, 2005 meeting, the Board of Regents approved an eight-point resolution addressing University of Wisconsin System personnel policies and practices; and

Whereas, among other items included in that resolution, the Board of Regents directed that "with input from appropriate governance groups, position titles designated as limited appointments shall be reviewed, and the practice of negotiating fixed-term contracts for administrators in lieu of limited term appointments shall be considered. A report on that assessment will be presented to the Board of Regents no later than its November, 2005 meeting;" and

Whereas, the advice of the governance groups has now been received, and it is the general consensus that fixed-term contracts for administrators should not be substituted for the current limited term appointments because of the likely additional costs associated with such a system, and the related loss of flexibility in dealing with administrators who no longer fulfill the requirements of the position; and

Whereas the governance groups have further suggested that, going forward, limited appointments should be restricted only to those identified in s. 36.17, Wis. Stats., unless otherwise authorized by the UW System President; and

Whereas, the position titles designated as limited appointments and the practice of using fixed-term contracts for administrators in lieu of limited term appointments, have also been reviewed by appropriate UW System staff;

Now therefore be it resolved:

That, upon the recommendation of the President of the UW System, the Board of Regents adopts the following principles:

1. As required by s. 36.17, Wis. Stats., limited appointees holding concurrent UW System faculty or academic staff appointments under ss. 36.13 and 36.15, Wis. Stats., shall not lose those faculty or academic staff appointments upon accepting a limited appointment.
2. Limited appointees entering UW System employment from other institutions and either: (a) holding a tenured faculty position elsewhere or (b) having been recruited to a position with a requirement or expectation of tenurability, and who have been recommended for tenure by the appropriate UW department may be granted a concurrent tenure appointment as part of the employment contract process.
3. The status or the length of the term of a concurrent appointment held by a limited appointee may not be altered while the individual is serving in the limited appointment.
4. Limited appointees entering UW System from other institutions who do not hold tenure elsewhere and were not recruited with a tenurability requirement shall not be granted concurrent appointments; however, at the discretion of the appointing authority, such employees may be granted not more than six months notice of termination as permitted under s. UWS 15.01, Wisconsin Administrative Code, at the same salary, and with possible reassignment to other duties during this period.
5. From and after the date of this resolution, notwithstanding any institutional policies to the contrary, limited appointments shall be permitted only for those positions enumerated in s. 36.17, Wis. Stats., unless an institution demonstrates circumstances justifying the creation of additional limited appointments and the UW System President authorizes, in writing, the addition of such a limited appointment.

The effect of this resolution is to eliminate "back-up" appointments.

SABBATICAL AGREEMENT BETWEEN THE BOARD OF REGENTS OF THE UNIVERSITY OF
WISCONSIN SYSTEM OPERATING AS UNIVERSITY OF WISCONSIN - _____ AND

(Name of faculty member receiving sabbatical leave)

The Board of Regents of the University of Wisconsin System (Board), operating as the University of Wisconsin - _____ ("Institution"), grants _____ ("Faculty Member") sabbatical leave, pursuant to Wis. Stats. 36.11((17)), and implementing Board and institutional policies, for the period _____, subject to the following conditions which are hereby acknowledged and agreed to by Faculty Member:

1. **Sabbatical Leave.** Sabbatical leave is for the purpose of enhancing teaching, course and curriculum development, or conducting research, or any other scholarly activities related to instructional programs within Faculty Member's field of expertise. Faculty Member may not use the sabbatical leave to accept other paid employment during the period of the leave, except as follows: _____, which is expressly stipulated as a condition of the sabbatical leave. Any compensation received in connection with such paid employment is subject to paragraph 3 below.
2. **Administration of Sabbatical Leave.** Institution reports earnings, creditable service, leave benefits and contributions to the Wisconsin Retirement System at the full-time rate, based on the rate of pay in effect immediately prior to the beginning of the sabbatical. Leave benefits will also continue to accrue at the rate in effect immediately prior to the sabbatical. Faculty Member shall submit a leave statement to Institution's Human Resources Department for each month of the sabbatical leave according to Institution's administrative policies.
3. **Compensation.** Faculty Member may receive and is encouraged to seek supplementary grants or other awards while on sabbatical leave, but such compensation when combined with the amount of institutional compensation, shall not exceed the full compensation normally received from their institution for that period. Faculty Member shall specify all grants or other awards applied for in the application for the sabbatical program. Such additional grants or awards may be received by Faculty Member only if the conditions for accepting the additional resources do not interfere with the stated purposes of Faculty Member's sabbatical program. However, Faculty Member may seek additional support specifically for travel or unusual living expenses incident to the sabbatical program without restriction by the full-compensation maximum.
4. **Return to Institution.** Faculty Member shall return to Institution for at least one academic year of full-time service after the termination of the sabbatical, or repay any compensation (salary, plus the University's share of fringe benefits) received from Institution during the sabbatical.
5. **Written Report.** Faculty Member must submit a written report outlining his/her accomplishments during the leave within three months of returning to Institution in accordance with the process and format established by the institution. These reports are to be filed and maintained in the Vice Chancellor's Office and be available upon request.
6. **Sabbatical Leave.** Faculty Member acknowledges that sabbatical leave is subject to Wis. Stat. 36.11(7), and implementing Board and Institution policies, copies of which have been provided to Faculty Member.
7. **Acknowledgment.** In signing this Agreement, Faculty Member acknowledges and agrees:
 - a. That he/she has read this Agreement and fully understands the terms and conditions hereof, which are contractual and not a mere recital;

- b. That he/she has not relied on any statement or representation made by or on behalf of the Board or Institution other than as set forth herein, but wholly upon his/her own judgment, belief, and knowledge and the advice of any other advisers, including any attorney or tax professional he/she may have consulted; and
- c. That he/she is voluntarily signing this Agreement with full knowledge as to its meaning and consequences.

Faculty Member: _____ Date: _____

Institution by: _____

(Title)

DRAFT