Interpretive Memo: 3-02  Date: January 8, 2002
Personnel Policy Number:  1.2.24, 1.2.25
Regulation Reference No.:  CUNY As a Separate Municipal Employer:
 Index Reference:  Separate from NYC and NY State Agencies,
                   Mayoral and Non-Mayoral Agencies; Private and
                   Non-Profit Employers, i.e. Research Foundation-

Issue:
The following four documents codify CUNY policy regarding the inter-relationship which it has with other governmental and non-governmental bodies and organizations which define the rights and benefits of future employees to CUNY who had prior service with an outside employer before accepting an appointment as CUNY. Determinations of rights and benefits to which employees are entitled exist as a consequence of State Education Law 6207 under which CUNY, effective July 1, 1979, was designated as a separate municipal employer. Critical elements involve the concept and definitions of original appointment 1.2.25 and continuous service 1.2.25.

Letter One: March 26, 1997  formerly IM 2-97

Correspondence From Joseph DeMarco  Deputy Commissioner NYC DCAS
To: Samuel T. Phillips University P personel Director
Details the relationship between CUNY and the New York City Department of Citywide Administrative Services.

Letter Two: January 16, 1998  formerly IM 2-98

Correspondence From Rosemarie O’Rourke  Deputy University Personnel Director
To: Kathi Kugler  NYC Bd. Of Education Budget Operations & Review
Details the relationship between CUNY and Mayoral And Non-Mayoral Agencies within the City of New York- specifically the NYC Board of Education.

Letter Three: December 23, 1998  formerly IM 4-99

Correspondence From Yosette Jones Johnson HR Administrator Grad School & Univ. Center
To: CUNY Employee with prior Research Foundation employment
Details the relationship between CUNY and Private and Not for Profit Organizations (such as Research Foundation).

Letter Four: June 4, 1999  formerly IM 6-99

Correspondence From Roy Moskowitz  CUNY Office of General Counsel & Legal Affairs
To: Thomas Rozinski NYC Parks Department Counsel
Details the relationship between CUNY and Mayoral Agencies within the City of New York- specifically the NYC Department of Parks.
THE CITY UNIVERSITY OF NEW YORK

Interpretive Memo: 2-97
Date: 4-8-97

Personnel Policy Number:

Regulation Reference No.: 1.2.24 and 1.1.25

Index Reference: CUNY As a Separate Municipal Employer from City of N. Y.
Separate Civil Service Jurisdiction

Original Appointment Date to CUNY

Issue: This letter codifies the understanding of the Department of Citywide Administrative Services (DCAS), formerly known as NYC Department of Personnel, regarding the impact of State Education Law 6207, effective July 1, 1979, on the relationship between The City of New York and The City University of New York. The letter speaks to such issues as original appointment date, permissible transfers, and other voluntary relationships established between the two separate jurisdictions following enactment of that law.

Mr. Samuel Phillips
University Personnel Director
The City University of New York
535 East 80th Street
New York, New York 10021

Dear Mr. Phillips:

This is in response to your request for a statement regarding the applicability of the civil service Rules of the City of New York to classified staff of the City University of New York.

Pursuant to law effective July 1, 1979, The City University of New York became a municipal employer separate from the City of New York. Since that time, employees in the classified service of The City University of New York have not been employees of an agency of the City of New York but have been employees of a separate civil service jurisdiction, the City University of New York. Accordingly, such employees are subject to The City University’s rules with respect to civil service matters, including an employee’s date of original appointment for purposes of seniority and time and leave accruals. The Rules and Regulations of the City Personnel Director do not apply to City University employees, except to the extent that the City University may have chosen to apply those same rules.

Because The City University of New York is a separate civil service jurisdiction, employees of New York City agencies cannot transfer to the City University of New York except to the extent that such transfers are authorized by the City University of New York. The only exception to this is that permanent employees of City agencies were allowed to transfer to the City University of New York and to retain their New York City service for purpose of computing their appointment date, for the period July 1, 1979 through September 13, 1982.

Very truly yours,

[Signature]
Joseph A. De Marco
THE CITY UNIVERSITY OF NEW YORK
3/12
Interpretive Memo: 2-98 Date: January 20, 1998
Personnel Policy Number:
Regulation Reference No.: 1.2.24 and 1.2.25
Index Reference: CUNY As a Separate Municipal Employer: Separate Civil Service Jurisdiction from Mayoral and Non-Mayoral Agencies of NYC

Issue:
The following letter was prepared in response to a request from the NYC Board of Education, upon resignation from the Board of Education and subsequent appointment to CUNY, for permitting the crediting of sick leave time earned at the Board of Education and at CUNY to a former CUNY employee who had been, upon appointment to the NYC Board of Education, permitted under their policies to have sick leave time earned while at CUNY credited by that agency. The NYC Board of Education’s request was denied.

January 16, 1998

Ms. Kathi Kugler
New York City Board of Education
Office of Budget Operations and Review
110 Livingston Street; Room 1214
Brooklyn, New York 11201

Dear Ms. Kugler,

I write in response to your letter of January 7, 1998, to Vice Chancellor Brenda Richardson Malone received on January 12, 1998, regarding the University’s policy on the crediting of leave balances from other jurisdictions. Pursuant to New York State Law, effective July 1, 1979, the City University of New York became a separate municipal employer from The City of New York, and separate as well from non-mayoral agencies such as The Board of Education. Prior to July 1, 1979, employees of both then non-mayoral agencies were generally eligible to have their unused sick leave balances credited when they were hired by an external city mayoral or non-mayoral agency. Subsequent to July 1, 1979, as a result of CUNY’s separate municipal status, it has been the University’s policy to permit the crediting of time only when an employee moves between two CUNY colleges, and to deny the crediting of sick leave recorded on another jurisdiction’s personnel history documents. I have attached a copy of the University’s general policies on this matter, as well as a letter from Mr. Joseph DeMarco, Deputy Commissioner of the Department of Citywide Administrative Services, codifying the understanding between The City of New York and CUNY.
Under University policies, an eligible employee with at least 10 years service who resigns receives terminal leave payment for sick leave benefits. Otherwise the employee, upon resigning, forfeits his sick leave. The University does, however, when requested, provide the appointing authority at another jurisdiction with a copy of the employee’s leave balances on record at the time their employment with the University ceased. The decision by the other jurisdiction as to whether they wish to credit the sick leave time is totally discretionary to them.

From your correspondence, it is apparent that The Board of Education determined to credit Mr. XXX’s sick leave time which he earned as a CUNY employee, and forfeited when he resigned. Your unilateral decision to credit Mr. XXX’s sick leave balances may have been a recruitment benefit, but does not result in a quid pro quo reciprocal agreement when or if the same candidate might subsequently return to CUNY. I have had several prior conversations with Ms. Rose Wilson in the Board of Education Personnel Unit on this matter because the Board of Education has credited other former CUNY employees with both time and service credits.

When Mr. XXX resigned from the Board of Education and subsequently accepted an appointment at CUNY, he was hired at CUNY as a new employee. Your request that the University credit his sick leave balance is contrary to University policy and is therefore denied. I hope this will assist in clarifying the matter, and that the City Comptroller will comply with your request, and release Mr. XXX’s final entitlement check.

If you have further questions, I can be reached at (212) 794-5345.

Very truly yours,

Rosemarie K. O’Rourke
Deputy University Personnel Director

Attachments
pc Vice Chancellor Brenda Richardson Malone
Samuel T. Phillips
IM2-98. E/ppbimia/rko

[Signature]
University Personnel Director
THE CITY UNIVERSITY OF NEW YORK

Interpretive Memo: 6-99  Date: June 24, 1999
Personnel Policy Number: 1.2.24
Regulation Reference No.: CUNY As a Separate Public Employer:
Separate From Private and Non-
Profit employers such as Research
Foundation

Issue:

The following letter of June 4, 1999, written by Roy Moskowitz, Acting General Counsel, to Thomas Rozinski, counsel for the Department of Parks, regarding the University's status as a separate municipal employer from agencies (i.e. Dep't of Parks) under the jurisdiction of the New York City Department of Citywide Administrative Services. This understanding has been further noted in Interpretive Memo 2-97 in correspondence from Joseph DeMarco, Deputy Commissioner of DCAS. Therefore, in this letter the University counsel asserts that it is the Department of Parks responsibility for payment of annual leave balances on record at that City agency. Under policy, the University will not accept balances earned prior to a provisional appointment at a CUNY college.

The City University of New York
Office of the General Counsel and Vice Chancellor for Legal Affairs
535 East 100th Street, New York, N.Y. 10029
Phone: (212) 794-5187
Fax: (212) 794-3426

June 4, 1999

Thomas Rozinski
Counsel
Department of Parks and Recreation
830 Fifth Avenue
New York, N.Y. 10022

Re: Payment for Annual Leave

Dear Mr. Rozinski:

I request your assistance in resolving a dispute between your agency and Brooklyn College of The City University regarding the annual leave balance for a former employee of the Department of Parks, who is currently employed at Brooklyn College.

Prior to being hired by Brooklyn College as an employee of the College's Personnel Office sent the Department of Parks a form, DP-2001, requesting certain information about Mr. . As this form (Attachment 1) indicates, at the time Mr. left the Department of Parks, he had a balance of 348.56 hours of annual leave and his daily salary rate was $223.76. Accordingly, at the time he resigned from the Department of Parks in 1992, the agency owed Mr. $7625.74 for his unused annual leave balance. That amount was never paid to him.

The College did not learn until July 1998, in connection with Mr. 's inquiry regarding his retirement options, that Mr. had never been paid his annual leave balance when he left the Department of Parks. Upon reviewing Mr. 's history, the College discovered that Mr. annual leave balance had been incorrectly recorded in his file as having been transferred to Brooklyn College. However, as The City University of New York is not an agency of the City of New York, but rather a separate municipal employer, his annual leave balance from the Department of Parks cannot transfer to Brooklyn College. The University's status as a separate municipal employer for purposes
of administering the state civil service law is explicitly set forth in Section 6207 of the New York State Education Law and was recognized by Joseph DeMarco, Deputy Commissioner of the Department of Administrative Services, by letter dated March 26, 1997 (Attachment 2).

In an effort to resolve this issue, on October 2, 1998, Ms. Denise Flanagan, Deputy Director for Personnel Services at Brooklyn College, wrote to Mr. Richard Terhune, Director for Personnel at the Department of Parks and Recreation (Attachment 3). By letter dated March 22, 1999, Mr. Terhune stated that "it is the Agency's position that Brooklyn College is responsible for the payment of these balances." (Attachment 4)

The College regrets that, due to a clerical error, it did not bring this problem to your agency's attention for some years. This fact does not in any way negate the fact that Mr. annual leave balance accrued during his employment at, and is the responsibility of, the Department of Parks. I am therefore requesting that you review this matter and take whatever action is necessary for Mr. to receive the funds owed to him by your agency.

Thank you for your attention to this matter.

Very truly yours,

Roy R. Moskowitz

[Signature]

[Stamp: APPROVED 4/24/99]

[Signature]
The following letter written by Yolette Jones Johnson of the CUNY Graduate School and University Center to a staff member on her campus clearly explains and reflects the University policy and practice regarding the original appointment date status, benefits package, and accrual rate for time and leave benefits to which employees who were previously employed by the Research Foundation are eligible. Such employees are treated as new hires. There is no continuous service or bridging of benefits between the Research Foundation and CUNY.

Memorandum

To:  Ms. Bei Zhang  
International Student Counselor

From:  Yolette Jones Johnson

Subject:  Questions on Benefits

I write in response to your December 18, 1998 letter to me requesting clarification on your treatment as a new hire.

CUNY Personnel Officers and Labor Designees are continuously advised that CUNY is a separate employer from the CUNY Research Foundation (RF). As a private employer, the Research Foundation is subject to different retirement law provisions and provides different benefits than CUNY, a public tax-levy employer. Because of this distinction, there is no carry over of benefits between the two employers. I confirmed this information with officials on the RF's Office of Human Resources and the University Personnel office before preparing this response.

Ms. Lora Williams is implementing CUNY's policies in enrolling you in benefits. The information she gave you regarding direct deposit, the University’s contribution to your pension, and your annual leave accrual rate are correct. I regret that you may have been given misinformation.

cc: Samuel Phillips  
John Zummo  
Patricia Mathews  
Lora Williams  
Personnel File