



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Sabbatical and Other Paid Leave

**State University of New York:
University at Albany**



Executive Summary

Purpose

To determine whether the State University of New York (SUNY) at Albany (Albany) complied with policies for administering sabbatical and other paid leave.

Background

Policies regarding sabbaticals and other paid leave are set by SUNY's Board of Trustees and labor agreements. The individual SUNY campuses, including the University at Albany (Albany), are responsible for administering sabbatical and other paid leave policies consistent with SUNY direction and the corresponding provisions of the pertinent labor agreements. Sabbatical leaves are granted to academic and administrative officers to promote professional development. Other paid leaves are granted to academic employees for professional development or other purposes consistent with the needs and interests of the school. There are several specific guidelines and requirements relating to sabbatical leaves. In comparison, the guidelines and requirements for other paid leaves are general and limited. In previous audits, we recommended that SUNY strengthen policies and requirements for other paid leave.

Key Findings

- We found officials complied with applicable formal guidance for most of the sabbatical and other paid leave we reviewed. However, there were instances of non-compliance with prescribed sabbatical program guidance and questionable uses of sabbatical leaves. The sabbaticals in question cost Albany \$396,581. We also questioned the propriety of other paid leaves which cost \$622,062.
- One employee, for example, did not return to Albany for the required minimum period of one year after the sabbatical. This employee received a total of \$38,082 in salaries and stipends while on sabbatical. Also, this employee and another employee failed to submit the required statements of activities and accomplishments after completing their sabbaticals.
- Albany officials granted other paid leave costing \$292,267 to four employees whom they knew would not return to work. The four employees either retired or resigned. One of the employees who received \$90,494 noted on his leave request that he intended to take leave "with full pay leading to retirement."
- SUNY has not implemented recommendations we made 22 years ago to ensure other paid leaves were in the best interest of the campuses. As a result, the environment at Albany enabled officials to grant other paid leaves without adequate justification.

Key Recommendations

- Improve controls over the granting of sabbatical and other paid leave to ensure they comply with SUNY policies.
- Adopt policies for granting other paid leave that ensure leave is granted for reasons consistent with the needs and interests of the University.

(In response to the draft audit report, SUNY officials indicate general agreement with our recommendations. However, the SUNY response also provides a detailed narrative explaining

why each of the examples cited in the audit report is compliant with SUNY's current policy and why no recoveries are in order. In addition, SUNY officials point out that individual University campuses are prevented from unilaterally effectuating changes to sabbatical and other paid leave policies because the policies are the subject of negotiations in New York State.)

Auditor's Comments: We maintain that many of the examples cited in our report do represent non-compliance with existing policies and that certain of the examples do call into question the benefit that taxpayers and the University have actually received from the use of paid leaves. Our State Comptroller's Comments at the end of this final audit report provide our detailed rejoinders to the SUNY response.

We recognize that the University at Albany does not have the authority to unilaterally change existing negotiated policy for sabbatical and other paid leaves. In this regard, our intention is to point out shortcomings with the current policies so that the System Administration, together with the campuses, can act to strengthen policies through the negotiation process. We point out now, as we did 22 years ago, that the criteria for other paid leave ought to be more comprehensive to ensure accountability and transparency. Also, we reiterate that our illustrations of the use of other paid leave simultaneously with or in conjunction with sabbatical leave calls into question whether other paid leave has a demonstrable benefit to the University and to taxpayers or is simply used to circumvent the salary limitations associated with sabbatical leave. The absence of contemporaneous reports of the actual results and benefits of paid leave, as cited in the audit report, only serves to reinforce this view.

Other Related Audits/Reports of Interest

[State University of New York: Downstate Medical Center: Allegations of Procurement Fraud, Waste and Abuse \(2010-S-45\)](#)

[State University of New York: Educational Opportunity Program \(2007-S-99\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

July 30, 2013

Dr. Nancy L. Zimpher
Chancellor
State University of New York
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Albany, NY 12246

Dr. Robert J. Jones
President
University at Albany
State University of New York
1400 Washington Avenue
Albany, NY 12222

Dear Dr. Zimpher and Dr. Jones:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls intended to safeguard assets.

Following is a report of our audit of the State University of New York and the University of Albany entitled *Sabbatical and Other Paid Leave*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

The State University of New York (SUNY) consists of 64 autonomous campuses, which include 29 State-operated campuses, five statutory colleges affiliated with private universities, and 30 community colleges. Policies regarding sabbaticals and other paid leave are set by SUNY's Board of Trustees and SUNY's Collective Bargaining Agreement (CBA) with academic and professional staff. The individual SUNY campuses, including the University at Albany, are responsible for administering the policies for sabbatical and other paid leave established by SUNY System Administration. Although the campuses must adhere to SUNY's system-wide policies, campus administrators may also adopt more restrictive policies.

Sabbatical leaves are granted to academic and administrative officers to promote professional development. The objective is to increase an employee's value to SUNY and, thereby, improve and enrich its various programs. SUNY's policies require that employees who take sabbatical leaves return for one year of professional service at the conclusion of their sabbatical leave. This ensures SUNY benefits from this leave, since there would be no benefit if the employees fail to return to service. Employees can only take one sabbatical every six years and are paid 50 percent of their annual salary while on sabbatical leave. SUNY also grants other paid leave to academic and professional employees for the purpose of professional development or other purposes consistent with the needs and interests of the school as deemed appropriate by the Chancellor.

In 1991, we issued an audit report (91-S-30) which found SUNY's policies for other paid leave were insufficient. Specifically, SUNY did not require certain employees to return from these leaves for a minimum period of time, and in some cases, SUNY officials used the other paid leave as an incentive for employees to resign from their jobs after the leave was finished. In 1995, we issued a follow-up report (95-F-24) which found that SUNY did not implement a recommendation to amend its policies requiring employees to return for a minimum period of service after they were granted other paid leave. At that time, SUNY officials indicated that the recommendation was not implemented because officials needed to negotiate changes in collective bargaining agreements with public employee unions. At the time we completed our audit field work, SUNY officials advised us the status of this matter had not changed.

During the period September 1, 2007 through August 31, 2011 SUNY's University at Albany (Albany) granted 196 sabbatical leaves at a cost of more than \$9.2 million and granted 43 other paid leaves at a cost of more than \$1.6 million. We reviewed 55 sabbatical leaves and 39 other paid leaves (costing about \$4.3 million) that Albany granted during that four-year period.

Audit Findings and Recommendations

Albany officials complied with applicable formal guidance for most of the sabbatical and other paid leaves we reviewed. Nonetheless, there were instances of non-compliance with prescribed sabbatical program guidance and questionable uses of sabbatical leaves. The sabbaticals in question cost Albany \$396,581. We also identified questionable uses of other paid leave which cost \$622,062. Because of the non-compliance and questionable use, Albany might have derived little or no benefit from these paid leaves. Further, SUNY had not implemented audit recommendations the State Comptroller made 22 years ago to ensure other paid leaves were in the best interest of the campuses. As a result, there was an environment at Albany that enabled officials to grant other paid leaves without adequate justification. Given the State's and SUNY's current fiscal concerns, officials must take steps to ensure that sabbaticals and other paid leaves conform with the prescribed requirements and the public investment in such leaves is adequately protected.

Sabbatical Leave

Albany did not adequately administer and monitor the sabbaticals of certain employees. We reviewed a judgmental sample of 55 sabbatical leaves for 53 employees at Albany during the four-year period ending August 31, 2011. Of these, we found 15 employees took sabbatical leaves (costing \$396,581) that did not comply with one or more SUNY or Albany policies.

Pursuant to the Board of Trustees' policies and SUNY's CBA, employees are required to complete activity and accomplishment reports upon their return from sabbatical leaves. Albany administrators use these reports to determine whether employees' activities and accomplishments met the objectives of their sabbaticals. Further, if an employee does not return to the campus to work for the required year after taking a sabbatical, Albany can take steps to recover the employee's sabbatical compensation. Nonetheless, we determined that:

- An employee took sabbatical leave on September 1, 2008 and went to a foreign country, where he eventually obtained full-time employment. The employee never returned to the Albany campus. Nonetheless, Albany placed the employee on the regular payroll (at 18 percent of base pay) on March 5, 2009. On May 28, 2009, Albany placed the employee on educational leave. On September 3, 2009, Albany returned the employee to the regular payroll to teach one course in a distance learning format. On January 7, 2010, Albany terminated the employee. Based on these circumstances, we conclude the employee did not return to Albany for the required minimum period of one year. While on sabbatical, the employee received a total of \$38,082 in salaries and stipends. Albany did not recover the salaries or stipends paid to this employee; and
- Two employees did not submit the required report of professional activities and accomplishments after returning from sabbatical leave. Without this report, University at Albany administrators lacked adequate support to show what activities the employees engaged in, what the employee accomplished while on sabbatical, and whether there was any benefit to the campus. Albany paid the two employees a total of \$173,491

(which includes \$38,082 from the employee who did not return to Albany, as cited previously). Subsequent to our audit fieldwork, Albany obtained the required activities and accomplishment reports from the employees in question.

We also found that Albany officials granted leaves that were inconsistent with the design and intent of the sabbatical program. Specifically, we determined that:

- Two employees were granted sabbatical leaves for a full year and were paid their full salaries. According to Albany officials, the two employees were granted both sabbatical and other paid leaves at the same time. However, there was no documentation that officials approved other paid leave for the employees while they were on sabbatical. Albany granted another employee sabbatical leave for six months followed by other paid leave for six months. Thus, Albany paid the employee his full annual salary although he was on leave for an entire year. In total, Albany paid the three employees \$330,468 for their leaves. However, because SUNY policy limits an employee's compensation to 50 percent of his/her full annual salary while on sabbatical, Albany should have paid the employees only \$165,864 (\$330,468 x 50 percent). Consequently, Albany incurred an equal amount (\$165,864) in excessive salary expenses. Further, given the aforementioned income limitation applicable to sabbaticals, we question the propriety of granting employees multiple leaves concurrently. (Note: SUNY's CBA and the Board of Trustees policies are silent on the concurrent use of multiple forms of employee leave.)
- According to Albany officials, department administrators granted an employee a sabbatical with the understanding the employee would not return to Albany after the sabbatical ended. The sabbatical program, however, is not intended for this purpose. Moreover, this is inconsistent with the Board of Trustees' policies and SUNY's CBA, which require an employee to return for one year of professional service at the conclusion of a sabbatical. Further, prior to the sabbatical, the employee's supervisor did not indicate what benefit it would provide to Albany. Nevertheless, Albany paid the employee \$57,225 while on sabbatical. Also, the employee returned to his normal position after completing it.

Employees can, with prior approval from the campus' chief administrative officer, accept fellowships, grants-in-aid, or other income during the course of their sabbaticals. If an employee's total sabbatical earnings exceeds his/her normal salary, campus officials can reduce the employee's SUNY salary to the extent of the outside income. However, Albany granted sabbaticals to seven employees who did not state how much they would receive in prospective income on their applications. Albany officials did not follow up with these employees to determine what they actually earned beyond their normal SUNY salaries during their sabbaticals. Therefore, Albany officials were unable to adjust the salaries of these employees, if they earned outside income during their sabbaticals and salary adjustments were warranted.

In addition, we determined that Albany's payroll system did not accurately reflect the leave status of four employees. For example, Albany approved two employees' requests for sabbatical leave. However, the payroll system indicated that Albany placed these employees on other paid leave. Albany officials should ensure that payroll system information is corrected to properly indicate the leave status of the employees in question.

Recommendations

1. Ensure full compliance with prescribed requirements for sabbatical leave. In particular, this includes compliance with provisions for the:
 - return to Albany for a full year of work at the conclusion of a sabbatical;
 - maximum amount of compensation to be paid to an employee on sabbatical leave;
 - completion of an activity and accomplishment report at the conclusion of a sabbatical;
 - reporting of prospective income and adjustment of salaries to reflect such income; and
 - appropriate use of sabbatical leave.
2. Formally assess the instances of non-compliance and payroll system errors, as detailed in this report. Take actions as needed, including the recovery of improper compensation payments, to address the matters presented.

Other Paid Leave

Pursuant to the Board of Trustees' policies and the CBA, SUNY grants other paid leave to academic and professional employees for the purpose of professional development or other purposes consistent with the needs and interests of the school, as deemed appropriate by the Chancellor. Employees who request other paid leave must submit an application which includes a statement of the purpose for which the leave is requested, its anticipated duration, and its value to the applicant and Albany. SUNY's policies prohibit employees on other paid leave from accruing or using leave credits. Also, there are no other formal policies or guidelines which govern other paid leave. Consequently, senior campus officials have broad discretion in their interpretation of "other purposes" and the "needs and interests of the school" when evaluating applications for other paid leave.

We issued an audit report (91-S-30) 22 years ago which recommended that SUNY establish more specific program policies and/or guidelines (similar to those for sabbatical leave) to govern other paid leaves. At the time, SUNY officials said they had to negotiate with labor unions before instituting such policy and guideline changes. Although SUNY has negotiated four labor contracts since we issued report 91-S-30, SUNY officials still have not developed and implemented the recommended policies and guidelines that are needed. Therefore, the applicable policies and guidelines remain inadequately defined and do not ensure that the stated intent of other paid leave is achieved.

Further, the current system enabled Albany officials to grant other paid leaves to employees although officials had little or no reason to expect any tangible benefit to the campus. For example, the current policies do not require employees to return from other paid leave for any specific period of time and do not include penalties for failing to return from this leave. Therefore, Albany officials had no basis to recover payments for other paid leaves that did not adequately benefit the campus. In fact, we found instances in which Albany officials granted other paid leave to employees whom they knew would not return. Specifically, we determined that:

- Four employees, who were paid a total of \$292,267, did not return to Albany at the conclusions of their paid leaves. The four employees either retired or resigned. One of the employees, who received \$90,494 during the leave, noted on his leave application that he intended to take leave “with full pay leading to retirement;” and
- On March 27, 2007, at a department faculty meeting, participants voted against the renewal of an employee’s contract, set to expire on August 31, 2008, due to “a lack of improvement in job performance.” On May 19, 2007, the employee requested, and was granted, other paid leave starting in the fall of 2007. Administrators subsequently granted an extension of the leave through the spring of 2008. Albany paid the employee \$27,682 during the leave. The employee did not return to Albany after the leave and was terminated when her contract expired in August, 2008.

We also concluded that Albany officials used other paid leave inappropriately - as an incentive to hire one employee and encourage another employee to resign. It was unclear how these leaves supported the needs and interests of Albany. Specifically, we determined that Albany officials:

- guaranteed a job candidate one year leave at full salary after just one year of service. The leave was an employment incentive. Further, the Dean attached a note to the employee’s application stating “I do not want to sign this because I strongly disagree with giving (this employee) a full year off.” Nonetheless, another Albany official approved the application, and consequently, the applicant was hired and took the other paid leave costing Albany \$88,846; and
- asked a dean to resign her position and resume standard teaching duties. Administrators prepared an application for other paid leave for the dean as part of an agreement for her to step down as dean. However, the dean never applied for the leave and did not sign the application. Further, there was no formal activity plan for this leave or detail of the expected benefit to be derived from it. Nevertheless, the dean went on other paid leave which cost Albany \$209,831 (including a full year salary plus a \$31,578 stipend). She returned after one year of other paid leave and eventually resumed teaching.

In addition, since SUNY does not require those taking other paid leave to submit a report of professional activities and accomplishments, Albany lacked adequate support to determine whether employees achieved the stated purpose of such leave. Although 15 (of the 39) employees who were granted other paid leave submitted activity and accomplishment reports, the remaining 24 employees did not. Albany paid these 24 employees about \$1 million in salaries and stipends without verifying the employees’ activities and accomplishments - as well as the benefits the campus derived from these other paid leaves.

Although SUNY prohibits employees on other paid leave from accruing leave credits, Albany did not have an adequate system in place to enforce this policy. As a result, five employees received 14.83 days of leave credits (worth \$3,436) that they were not entitled to while on other paid leave.

Recommendations

3. Develop and implement clear policies to establish accountability over other paid leave. These should include, but not be limited to:
 - requiring employees to return for one year of professional service at the conclusion of their other paid leave; and
 - requiring employees returning from other paid leave to complete activity and accomplishment reports.
4. Adopt guidelines that clearly distinguish between sabbatical and other paid leave, identify the expected purpose and benefit to SUNY from each, and identify the circumstances under which each type of leave is appropriate.
5. Implement controls to ensure other paid leave is granted for purposes consistent with the stated intent of such leave.
6. Implement controls to ensure employees on other paid leave do not accrue leave credits. Also, as appropriate, adjust the leave balances of the employees who accrued leave credits while on other paid leave.

Audit Scope and Methodology

The objective of our audit was to determine whether the University was in compliance with SUNY's policies for administering sabbatical and other paid leave. Our audit scope period was September 1, 2007 through August 31, 2011. To accomplish this objective we interviewed University officials, reviewed policies and procedures and reviewed payroll and leave records for a judgmental sample of 83 employees. During our audit period, these employees took 94 leaves (55 sabbatical leaves and 39 other paid leaves).

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members (some of whom have minority voting rights) to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to SUNY System Administration and University at Albany officials for review and response. Their response is appended at the end of this report along with State Comptroller's comments rejoining the response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of SUNY shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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Vision

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To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



Office of the Provost

May 28, 2013

Mr. Brian E. Mason
 Audit Director
 Office of the State Comptroller
 Division of State Government Accountability
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 Albany, New York 12236

Dear Mr. Mason:

In accordance with section 170 of the Executive Law, we are providing our response to the draft report on the Office of the State Comptroller's audit of Sabbatical and Other Paid Leave, State University of New York: University at Albany (2011-S-34).

We are pleased that the Office of the State Comptroller (OSC) found that the University at Albany officials complied with applicable formal guidance for most of the sabbaticals and other paid leaves that were reviewed. While this is reported in the body of the OSC document, we respectfully request that the statement also be included in the Executive Summary. Furthermore, we would like to acknowledge that while some payments were questioned, the report does not identify any instances of inappropriate payments.

*
 Comment
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We appreciate the opportunity to review OSC's informal report, and to provide additional information regarding the report. We also appreciate some updates that have been made to the report, but we remain concerned that the report may not reflect a full and common understanding of the context of the higher education environment nationally and the policies and procedures of SUNY and the University at Albany. For example, the report notes that "Albany may have derived little or no benefit from these paid leaves." Yet, the report does not acknowledge that for virtually every leave approved, there was an application that included the purposes, activities, and benefits to the University.

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 Comment
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Similarly, the report questions \$396,581 in sabbatical payments and \$622,062 in other leave payments, most of which is neither improper nor questionable under the current SUNY policy. For example, the report states that if the \$507,410 in payments to four individuals on other leaves were limited to the amounts for sabbaticals, Albany would only have had to pay \$253,705. Applying such a limitation is not consistent with current policy and does not warrant being included as questioned costs.

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 Comment
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* See State Comptroller's Comments, page 25.

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Paid sabbaticals and other leaves for professional development are, and have been, commonplace throughout higher education. The University at Albany, consistent with other universities and systems of higher education across the country, recognizes the importance and benefits of such leaves and therefore makes them available to academic and professional staff. We note that leaves are a mandatory subject of negotiations in New York State, thus preventing SUNY or its individual campuses from unilaterally effectuating changes in existent leave programs.

In this regard, it is important to note that the SUNY “Sabbatical Leave” and “Other Leave” procedures are not only published in the SUNY Policies of the Board of Trustees, but are part of the New York Code of Rules and Regulations published by the Secretary of State and are contained in Article 23 (Leaves) of the Agreement between the State and UUP. The University at Albany is concerned that the report does not accurately portray our compliance with the aforementioned procedures nor recognize the limitations on SUNY’s and the campus’ ability to change these programs. We are also concerned with certain of the report’s recommendations regarding the use of “Other Leaves.”

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Comment
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The University at Albany has taken a number of steps to address the few compliance issues cited in the report, such as obtaining the required report upon completion of a sabbatical leave and implementing a system to track the submission of the reports. However, given that many of the examples cited in the report are, in fact, in compliance with existing policies and procedures, it would seem that OSC’s “questioning” of those leaves may be based on OSC’s view of policy considerations or business judgments beyond the scope of existing SUNY policies and procedures and collective bargaining agreements.

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Comment
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Our detailed response to the report follows. For each of the two sections of the report (Sabbatical Leave, Other Leave), we note specific excerpts from the OSC Report (in *italics*), followed by our response and comments to clarify the text of the report. We also respond to the recommendations at the end of each section.

Section Subtitle 1: Sabbatical Leave – Findings

OSC Report:

An employee took sabbatical leave on September 1, 2008 and went to a foreign country, where he eventually obtained full-time employment. The employee never returned to the Albany campus. Nonetheless, Albany placed the employee on the regular payroll (at 18 percent of base pay) on March 5, 2009. On May 28, 2009, Albany placed the employee on educational leave. On September 3, 2009, Albany returned the employee to the regular payroll to teach one course in a distance learning format. On January 7, 2010, Albany terminated the employee. Based on these circumstances, we conclude the employee did not return to Albany for the required minimum period of one year. While on sabbatical, the employee received a total of \$38,082 in salaries and stipends. Albany did not recover the salaries or stipends paid to this employee.

* See State Comptroller’s Comments, page 25.

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University at Albany Response: Professor A was on Sabbatical Leave in the fall 2008 semester and then continued as a member of the professional staff for the following two semesters. As such, the University at Albany was in compliance with SUNY Sabbatical Leave Policy, and salary recovery is not warranted in this case.

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Comment
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OSC Report: *Two employees did not submit the required report of professional activities and accomplishments after returning from sabbatical leave. Without this report, University at Albany administrators lacked adequate support to show what activities the employees engaged in, what the employee accomplished while on sabbatical, and whether there was any benefit to the campus. Albany paid the two employees a total of \$173,491 (which includes \$38,082 for the employee who did not return to Albany, as cited previously).*

University at Albany Response: The OSC report concerns Professor A (see above) and Professor B. These two reports, from Professor A and Professor B, have since been submitted and the University has installed an improved tracking procedure to insure that reports are submitted in the future in a timely manner. Salary recovery is not warranted in these cases.

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Comment
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OSC Report: *Two employees were granted sabbatical leaves for a full year and were paid their full salaries. According to Albany officials, the two employees were granted both sabbatical and other leaves at the same time. However, there was no documentation that officials approved other paid leave for the employees while they were on sabbatical. Albany granted another employee sabbatical leave for six months followed by other paid leave for six months. Thus, Albany paid the employee his full annual salary although he was on leave for an entire year. In total, Albany paid the three employees \$330,468 for their leaves. However, because SUNY policy limits an employee's compensation to 50 percent of his/her full annual salary while on sabbatical, Albany should have paid the employees only \$165,864 (\$330,468 x 50 percent). Consequently, Albany incurred an equal amount (\$165,864) in excessive salary expenses. Further, given the aforementioned income limitation applicable to sabbaticals, we question the propriety of granting employees multiple leaves concurrently. (Note: SUNY's CBA and the Board of trustee policies are silent on the concurrent use of multiple forms of employee leave.)*

University at Albany Response: The OSC report concerns Professor C, Professor D, and Professor E.

Professor C was approved for a one-year Sabbatical Leave at 50% salary and a concurrent one-year Other Leave at 50% salary which, as stated by OSC in the finding above, is in compliance with SUNY policy. However, the OSC payroll system will not allow entering an employee in dual leave status and so the University was forced to place the employee in the payroll system in a single leave status at 100% salary to accommodate the employee's payroll situation. As a result, the University entered the employee into the payroll system as on Sabbatical Leave only at 100% salary when in fact, the employee was on Sabbatical Leave and Other Leave at 50% salary each, again, consistent with SUNY policy.

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Comment
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* See State Comptroller's Comments, page 25.

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Professor D was approved for a one-year Sabbatical Leave at 50% salary for the year, which is consistent with SUNY Policy. He funded the other half of his regular fulltime salary from self-generated grant revenues in an Income Fund Reimbursable account in order to carry out the work outlined in his sabbatical request. As a result, the net cost to the University was 50% of Professor D's salary during the time of his Sabbatical Leave, which is consistent with SUNY Policies.

Professor E was approved for a one-semester Sabbatical Leave at 100% salary followed by a one-semester Other Leave at 100% salary which, as stated in the OSC finding above, is in compliance with SUNY Board of Trustees' Policy.

In all three cases, the purposes, activities, and benefits to the University from these Sabbatical Leaves are provided in the application documentation upon which the leave approvals were granted. As OSC acknowledges, there are no restrictions or conditions for concurrent or consecutive use of multiple forms of employee leave in current SUNY policies (see Article XIII). Salary recovery is not warranted in these cases.

OSC Report: *According to Albany officials, department administrators granted an employee a sabbatical with the understanding the employee would not return to Albany after the sabbatical ended. The sabbatical program, however, is not intended for this purpose. Moreover, this is inconsistent with the Board of Trustees' policies and SUNY's CBA, which require an employee to return for one year of professional service at the conclusion of a sabbatical. Further, prior to the sabbatical, neither the employee nor his supervisor indicated what benefit it would provide to Albany. Nevertheless, Albany paid the employee \$57,225 while on sabbatical. Also, the employee returned to his normal position after completing it.*

University at Albany Response: The OSC report concerns Professor F.

The purposes and benefits of Professor F's Sabbatical Leave at half salary in the 2010-11 academic year are provided in his application for Sabbatical Leave. Further, there is no documentation that indicates that there was ever an intent that Professor F would not return to University service following his Sabbatical Leave. Finally, as indicated in the OSC finding above, at the end of the Sabbatical Leave, "...the employee returned to his normal position after completing it." This statement from the OSC report is correct and Professor F did continue in professional service for the 2011-12 academic year which is consistent with the requirements of SUNY policy. As such, and as per the OSC report itself, there is no finding in this case and salary recovery is not warranted.

OSC Report: *Employees can, with prior approval from the campus' chief administrative officer, accept fellowships, grants-in-aid, or other income during the course of their sabbaticals. If an employee's total sabbatical earnings exceeds his/her normal salary, campus officials can reduce the employee's SUNY salary to the extent of the outside income. However, Albany granted sabbaticals to seven employees who did not state how much they would receive in prospective income on their applications. Albany officials did not follow up with these employees to determine what they actually earned beyond their normal SUNY salaries during their*

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* See State Comptroller's Comments, page 25.

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sabbaticals. Therefore, Albany officials were unable to adjust the salaries of these employees, if they earned outside income during their sabbaticals.

University at Albany Response: It is common in U.S. higher education for faculty members to combine a sabbatical leave at partial salary with fellowships and grants from other sources to address research expenses. This is particularly common for faculty members who are conducting scholarship and research for extended periods at another institution or in a foreign country. As stipulated in the SUNY Policies for sabbatical leaves, faculty members are required to indicate any prospective income during the leave period in their application document. The University at Albany's campus policy also says that a complete application will include "a statement identifying any proposed income other than salary from the campus while on leave." In the absence of an explicit statement about prospective non-University income, the presumption is that there will be no non-University income. In addition, while the Policies permit reductions to the sabbatical salary to take into account outside income, adjustments are not mandatory but at the discretion of campus officials, who may take into account a number of issues such as the value of the proposed program of study to the University, and the required research expenses (e.g., for transportation and lodging for residencies at other institutions or in foreign countries). The cases cited in the OSC report involve Professors G, H, I, J, K, L, and M.

Professor G applied for a sabbatical leave at 50% salary for the 2007-08 academic year. The application describes the proposed program of study and discloses that Professor G had applied for a prestigious Fulbright fellowship and to several artist-in-residence programs with the expectation that funding from these sources would replace a portion of the other half of Professor G's regular fulltime salary and help to address research expenses during an extended residency including in a foreign country. The leave request was approved based on the applicant's representations and the University's prior experience with the Fulbright program and other small grant opportunities, none of which (even if combined) would have exceeded 50% of Professor G's salary. Thus, Albany officials had information about prospective outside income at the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor H applied for a sabbatical leave at 50% salary for the 2008-09 academic year. The application describes the proposed program of study and discloses that Professor G had received an ACLS fellowship that is equal to the other half of Professor H's regular fulltime salary. Thus, Albany officials possessed information about prospective outside income at the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor I applied for a sabbatical leave at 50% salary for the 2008-09 academic year. The application describes the proposed program of study and discloses applications for financial support from potential funding agencies for the other half of Professor I's regular full-time salary. The application also stipulates that if these efforts are not

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successful, Professor I would change the request to a one-semester leave at 100% salary. This contingency was subsequently activated; Professor I submitted a request to change the approved sabbatical to a leave at 100% salary for the spring 2009 semester because the applications to potential funding agencies were unsuccessful. Thus, Albany officials possessed information about prospective outside income at the time of the final application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor J applied for a sabbatical leave at 50% salary for the 2010-11 academic year. The application describes the proposed program of study and indicates that the request is contingent on a successful application for a Fulbright fellowship that would replace a portion of the other half of Professor J's regular fulltime salary and help to address research expenses during an extended residency in a foreign country. The leave request was approved based on the applicant's representations and the University's prior experience with the Fulbright program, which would not have exceeded 50% of Professor J's salary. Thus, Albany officials possessed information about prospective outside income at the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor K applied for a sabbatical leave at 50% salary for the 2011 spring and fall semesters. The application describes the proposed program of study and discloses Professor K's intention to apply for fellowships and grants to support her research expenses. The leave request was approved based on the applicant's representations and the University's prior experience with fellowship and other small grant opportunities, none of which (even if combined) would have exceeded 50% of Professor K's salary. Thus, Albany officials had information about prospective outside income at the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor L applied for a sabbatical leave at 100% salary for the fall 2010 semester. The application describes the proposed program of study and indicates that Professor L intended to apply for a residency fellowship to defray monthly living expenses at a research institution in another state. Thus, Albany officials had information about prospective outside income at the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

Professor M applied for a sabbatical leave at 50% salary for the 2010-11 academic year. The application describes the proposed program of study and indicates that the application is contingent on a successful application for a Fulbright fellowship that would replace a portion of the other half of Professor M's regular fulltime salary and help to address research expenses during an extended residency in a foreign country. The leave request was approved based on the applicant's representations and the University's prior experience with the Fulbright program, which would not have exceeded 50% of Professor M's salary. Thus, Albany officials had information about prospective outside income at

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the time of application to make a judgment about whether an adjustment to the sabbatical salary was warranted.

For each of these cases the University at Albany maintains that institutional officers acted responsibly on behalf of the University's interests and in accordance with applicable policies for sabbatical leaves. Going forward, we agree that it would be a good practice to document information on external income for sabbatical candidates so that the basis of decisions is clearer to external auditors. We have adjusted our review protocols accordingly.

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OSC Report: *We also identified two employees who were eligible for and requested sabbatical leaves. However, payroll system records indicate that Albany placed the employees on other paid leave. Further, Albany approved another employee for sabbatical leave; however, the employee did not take the sabbatical. Nevertheless, payroll system records indicate that Albany placed the employee on sabbatical leave. In yet another instance, Albany granted an employee other paid leave. However, payroll system records indicate the employee took sabbatical leave. Albany should correct its payroll system information to reflect the actual leave statuses of the employees in question.*

University at Albany Response: The OSC report concerns Professor N, Professor O, Professor P, and Professor Q.

Both Professor N and Professor O made proper application for Sabbatical Leaves, for which they were eligible. Both leaves were clerically miscoded as Other Leave when they were entered into the payroll system. Similarly, Professor Q made proper application for Other Leave, for which she was eligible, but her status in the payroll system was also miscoded. Professor P's status in the payroll system was not changed when she decided not to take an approved Sabbatical Leave.

The recorded status in the payroll system of each of these employees has been corrected and the University has strengthened its clerical training and data entry procedures to prevent such miscoding in the future.

Sabbatical Leave – Recommendations

OSC Recommendation 1:

Ensure full compliance with prescribed requirements for sabbatical leave. In particular, this includes compliance with provisions for the:

- *Return to Albany for a full year of work at the conclusion of a sabbatical;*
- *Maximum amount of compensation to be paid to an employee on sabbatical leave;*
- *Completion of an activity and accomplishment report at the conclusion of a sabbatical;*
- *Reporting of prospective income and adjustment of salaries to reflect such income; and*
- *Appropriate use of sabbatical leave.*

* See State Comptroller's Comments, page 25.

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University at Albany Response: The University at Albany agrees that there should be full compliance with prescribed requirements for sabbatical leave and has in fact already complied with each of the OSC recommendations above. As noted above:

- all faculty continued in University service for the required period following a Sabbatical Leave so there are no substantiated findings in this area;
- the compensation paid to faculty during Sabbatical Leave was consistent with current SUNY policy;
- the University has received the missing reports and has strengthened the report collection process to insure that all reports are collected in a timely manner in the future;
- all decisions made concerning employees receiving external awards were made on complete information, and the University now includes an additional step in its review protocol to make more clear the information on which it bases its decisions concerning the optional reduction of the employee's SUNY salary; and
- the University has strengthened its controls over the proper coding of leaves such that leaves will be properly coded in payroll and other University systems in the future.

OSC Recommendation 2:

Formally assess the instances of non-compliance and payroll system errors as detailed in this report. Take actions as needed, including the recovery of improper compensation payments, to address the matters presented.

University at Albany Response: The University at Albany agrees that any instances of non-compliance and payroll system errors as detailed in the OSC report should be assessed, and corrected as necessary. The University at Albany has already taken all such necessary corrective actions. In addition, as noted, there were no improper compensation payments made and therefore no recovery of such is necessary.

Section Subtitle 2: Other Paid Leave – Findings

OSC Report: *Four employees, who were paid a total of \$292,267, did not return to Albany at the conclusion of their paid leaves. The four employees either retired or resigned. One of the employees, who received \$90,494 during the leave, noted on his leave application that he intended to take leave "with full pay leading to retirement."*

University at Albany Response: This involves Professor R, Professor S, Professor T, and Professor P (see above).

The purposes and benefits to the University associated with these leaves are provided in the documentation upon which the leaves were approved. Further, continued service after Other Leave is not a requirement in the SUNY policy for Other Leaves (see Article XIII, Title F, section 1a of the SUNY Trustees' Policies). As such, the leaves cited in

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this finding were granted in compliance with SUNY policy and salary recovery is unwarranted.

OSC Report: *On March 27, 2007, at a department faculty meeting, participants voted against the renewal of an employee's contract, set to expire on August 31, 2008, due to "a lack of improvement in job performance." On May 19, 2007, the employee requested, and was granted, a paid leave starting in the fall of 2007. Administrators subsequently granted an extension of the leave through the spring of 2008. Albany paid the employee \$27,682 during the leave. The employee did not return to Albany after the leave and was terminated when her contract expired in August, 2008.*

University at Albany Response: This concerns Professor U.

The purposes and benefits to the University are provided in the documentation upon which the original leave and its later extension were approved for Professor U. There is no requirement under Article XIII, Title F, section 1a of the SUNY Trustees' Policies that employees return to service following an Other Leave. This leave was granted in compliance with SUNY Policies and salary recovery is unwarranted.

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OSC Report: *Although the general purpose of other paid leave is consistent with the purpose of sabbatical leave, SUNY's policies do not limit the salary paid to employees on other paid leave to 50 percent of their annual salary. Consequently, we determined that Albany paid four employees their full salaries, totaling \$507,410, while on other paid leave. If these employees were subject to the same guidelines as those on sabbatical leaves, they would have only been paid \$253,705 (Note: The \$253,705 in question also corresponds with other findings detailed in this report. Consequently, we excluded this amount from the totals previously cited).*

University at Albany Response: This involves Professor R (see above), Professor T (see above), Professor V, and Professor W.

The University acted in these cases within the scope of discretion provided in the SUNY policy for Other Leaves. Other Leaves are permitted at full salary without limitation as to duration as per Article XIII, Title F, section 1a of the SUNY Trustees' Policies. In addition, these leaves are purposely not subject to the same guidelines as Sabbatical Leaves and therefore there are no substantiated findings in these cases. These leaves were granted in full compliance with SUNY policies and no salary recovery is warranted.

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OSC Report: *We determined that Albany officials guaranteed a job candidate one year leave at full salary after just one year of service. The leave was an employment incentive. Further, the Dean attached a note to the employee's application stating "I do not want to sign this because I strongly disagree with giving (this employee) a full year off." Nonetheless, another Albany official approved the application, and consequently, the applicant was hired and took the other paid leave costing Albany \$88,846.*

University at Albany Response: This involves Professor W (see above).

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Professor W was recruited at the associate professor rank from an elite university, where he had earned eligibility for a sabbatical. SUNY policies do not provide for credit at non-SUNY institutions in calculating eligibility for Sabbatical Leave, and as a result, a Sabbatical Leave was not considered. However, there are intentionally no comparable minimum service provisions in the Other Leave policy. Therefore, the University acted in this case within the zone of discretion provided in the SUNY policy for other paid leaves (see Article XIII, Title F, section 1a of the SUNY Trustees' Policies) and no salary recovery is warranted.

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OSC Report: *We determined that Albany officials asked a dean to resign her position and resume standard teaching duties. Administrators prepared an application for other paid leave for the dean as part of an agreement for her to step down as dean. She never applied for the leave and did not sign the application. Nonetheless, the dean went on other paid leave which cost Albany \$209,831 (including a full year salary plus a \$31,578 stipend). She returned after one year of other paid leave and eventually resumed teaching.*

University at Albany Response: This case involves Professor V (see above).

It is common practice at U.S. universities to provide an opportunity for a school/college dean to transition back to their tenured fulltime faculty appointment at the conclusion of their administrative assignment. This transition period is to provide time for intensive updating of the current knowledge and skills in the individual's professional discipline, time to re-initiate a research and scholarly program, and time to prepare the courses the individual will be assigned to teach. In this particular case, the faculty member had been in a dean position for over five years and a transition period was necessary to insure the faculty member was properly prepared to benefit students upon her return to the classroom. The SUNY policy for Other Leaves (see Article XIII, Title F, section 1a of the SUNY Trustees' Policies) provides a mechanism for these purposes and was appropriately utilized in this case. As such, no salary recovery is warranted.

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OSC Report: *Since SUNY does not require those taking other paid leave to submit a report of professional activities and accomplishments, Albany lacked adequate support to determine whether employees achieved the stated purpose of such leave. Although 15 (of the 39) employees who were granted other paid leave submitted activity and accomplishment reports, the remaining 24 employees did not.*

University at Albany Response: As noted in the OSC Report, there is no reporting requirement in the SUNY policy for Other Leaves; therefore, Albany officials administered these Other Leaves in accordance with the policy. We agree, however, that it is a good business practice to review whether the purpose of the Other Leave had been achieved and have adjusted the campus's internal procedure associated with such leaves accordingly.

OSC Report: *Although SUNY prohibits employees on other paid leave from accruing leave credits, Albany did not have an adequate system in place to enforce this policy. As a result, five*

* See State Comptroller's Comments, page 25.

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employees received 14.83 days of leave credits (worth \$3,436) that they were not entitled to while on other paid leave.

University at Albany Response: This involves Professor S (see above), Professor W (see above), and Professors X, Y, and Z.

This was a clerical oversight. None of the leave accruals were paid out prior to being corrected, and therefore no recovery is warranted. Corrections have been made and data entry training and procedures have been strengthened to prevent this situation from recurring in the future.

Other Paid Leave – Recommendations

OSC Recommendation 3:

Develop and implement clear policies to establish accountability over other paid leave. These should include, but not be limited to:

- *requiring employees to return for one year of professional service at the conclusion of their other paid leave;*
- *establishing limits on what employees can earn while on other paid leave; and*
- *requiring employees returning from other paid leave to complete activity and accomplishment reports.*

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University at Albany Response: The University agrees that there should be clear policies regarding other paid leave. The University at Albany does not possess the authority to set policy for the SUNY system or to alter state-wide collective bargaining agreements. It is our understanding SUNY system will review existing policies.

OSC Recommendation 4:

Adopt guidelines that clearly distinguish between sabbatical and other paid leave, identify the expected purpose and benefit to SUNY from each, and identify the circumstances under which each type of leave is appropriate.

University at Albany Response: The University at Albany agrees that there should be clear policies regarding sabbatical and other paid leave. The University at Albany does not possess the authority to set policy for the SUNY system or to alter state-wide collective bargaining agreements. However, the University at Albany does believe that there are currently very clear distinctions between Sabbatical Leave and Other Leave, that there are expected purposes and documented benefits from each type of leave, and that it is clear under which circumstances each type of leave is appropriate.

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OSC Recommendation 5:

Implement controls to ensure other paid leave is granted for purposes consistent with the stated intent of such leave.

* See State Comptroller's Comments, page 25.

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University at Albany Response: The University agrees that there should be sufficient controls in place to ensure other paid leave is granted for purposes consistent with the stated intent of such leave. The University has adhered to both the intent and specifics of the SUNY policies on Other Leave in each of the cases cited by OSC in this report and has demonstrated such in its response to each case.

OSC Recommendation 6:

Implement controls to ensure employees on other paid leave do not accrue leave credits. Also, as appropriate, adjust the leave balances of the employees who accrued leave credits while on other paid leave.

University at Albany Response: The University agrees with this recommendation and has taken steps to strengthen its monitoring process in order to prevent accruals of any leave credits for persons on Other Leave in the future. Further, the University has already corrected the leave balances for the employees in the cases cited in this report. Finally, the University is reviewing leave records for all employees who have taken Other Leave to insure that all such records are correct.

With recognition of the corrections and protocol improvements noted above, the University at Albany is accountable for the planning and management of its academic and administrative staff, and is in compliance with the provisions of the SUNY Policies of the Board of Trustees. The careful use of Sabbatical Leave and Other Leave is key in ensuring our academic quality and competitiveness with other campuses and systems in Higher Education, and the University at Albany will continue to be responsible stewards of our resources.

Sincerely,



Susan D. Phillips
Provost
University at Albany

State Comptroller's Comments

1. We have revised our report to reflect the comments of SUNY officials.
2. The presence of an application stating the intended benefits of paid leave provides accountability for the approval of the leave and is a necessary control. However, equally important is compliance with requirements for a report of the actual results and benefits of paid leave. When such reports are not documented on a contemporaneous basis, as was the case in several of the examples cited by the audit report, there is significantly diminished assurance that paid leaves have been dedicated to and produced the desired outcomes and have not wasted funds.
3. We have revised our report to delete statements about the payments totaling \$507,410 to four individuals.
4. We acknowledge that paid leaves are governed by published SUNY policies contained in negotiated agreements and cannot be unilaterally changed by the University at Albany. Our intention is to point out to SUNY System Administration and to the campuses that there are opportunities to strengthen the existing policies through the negotiation process.
5. We believe that many of the examples in our report do, in fact, represent aspects of non-compliance as well as questionable practices contrary to the comments of SUNY officials.
6. The facts as presented in the audit do not support the claim that the professor returned to the employment of the University for the required one-year period following the sabbatical. The employee was returned to payroll at 18 percent of base pay for approximately three months followed by an educational leave for three months followed by one semester of teaching a distance learning course. We continue to question how this arrangement is in compliance with stated policy.
7. We are pleased that the University was able to obtain the required reports of professional activity and accomplishments in response to the audit findings. Nevertheless, the documentation was not contemporaneous and the determination of activity and accomplishments should not have been prompted by an audit finding. Such late reporting of requirements tends to increase the risk for errors or omissions in reporting results and increases doubt as to what timely benefits the University gained during and following such paid leave. Further, we continue to question the compliance of this leave with stated policy.
8. In accordance with policy, approval of other paid leaves must be documented before the leave actually takes place. In the absence of such approvals, the leave is non-compliant with policy and sound internal controls. Moreover, the absence of written approval for other paid leave to be used at the same time as the use of approved sabbatical leave only serves to heighten concern about the propriety of the other paid leave. While one employee may have funded 50 percent of his salary from grant revenues during his sabbatical, the employee's application for sabbatical did not contain this required disclosure, thus further indicating non-compliance. In another case, the funding of one professor at 100 percent of salary for a six-month sabbatical followed by funding this employee at 100 percent from other paid leave for the next six months may be technically compliant with established SUNY policy. However, this practice circumvents the requirement that an employee must return to campus after completing a sabbatical (which is intended to produce a benefit to

the University) and, therefore, raises some question as to the propriety of using other paid leave immediately after the completion of a sabbatical. Hence, we continue to question the transaction.

9. Officials who are knowledgeable and responsible for the approval openly stated to our auditors that there was no expectation that this employee would return to the campus after the sabbatical. This fact is not refuted in the University response. In addition, contrary to the University response, the application for the sabbatical did not include the required supervisor's supporting statement, addressing the benefits to be derived. This further supports the notion that the employee was not expected to return to the campus after the sabbatical. We continue to question the paid leave and how it benefited the University. We also continue to note aspects of non-compliance with policy requirements.
10. Policy requires the amount of the income to be obtained during a sabbatical must be documented and policy requires follow up on the amount of income actually received so that the University is able to determine if State compensation should be adjusted. The University had insufficient documentation to support compliance with these aspects of policy and, hence, we continue to maintain the validity of our findings. University officials note that on a going forward basis it would be a good practice to document information on external income for sabbatical candidates as a basis for documenting decisions to auditors. University officials should be following this practice because it is part of a good system of internal control and because it promotes accountability and compliance with existing policy.
11. We agree that policy requirements for other paid leave do not require return of the employee to the campus after the completion of the leave. We continue to question this aspect of the policy because it is difficult to envision what taxpayer or University benefits accrue when paid leave is granted to employees who are not returning to the campus.
12. See Comment 11. In addition, this example raises the question of whether an employee in need of improved performance should be entitled to other paid leave. Also, the facts of this situation suggest that the original and extended paid leave allowed the University to simply not deal with a performance issue and, instead, bide time until the employee's contract expired.
13. We agree that the University acted within the zone of discretion for other paid leave. However, clearly the intention of this other paid leave was to allow the employee to take a sabbatical that he was otherwise not entitled to. Hence, we question the use of other paid leave in this instance. Further, we continue to believe that criteria for other paid leave ought to address the amounts that can be compensated in these instances to reduce the risk that other paid leave is not simply used as a way around the salary limitation of the sabbatical leave policy.
14. We appreciate the after the fact explanations provided by the University in support of this use of other paid leave. However, we continue to note that the leave was not supported with the required application signed by the employee.
15. We appreciate that the University System will review existing paid leave policies in response to our recommendations.
16. We believe that the examples cited in our audit illustrate areas where there is need for improved coordination and clarification on leave policies.