



UNIVERSITÄT  
PADERBORN



# GENERAL INFORMATION REGARDING VACATION

# List of general laws regarding vacation.

- Minimum vacation law for employees (Federal vacation law)
- §§ 17 - 40 Leave and Vacation Ordinance NRW for civil servants
- §§ 26 - 29 TV-L for employees in collective agreements
- § 9 collective agreement for trainees of the federal states in apprenticeships according to the Vocational Training Act (TVA-L BBiG) for trainees
- § 40 No. 7 to § 26 TV-L special regulations for universities and research institutions

# Minimum vacation entitlement according to the federal vacation law for every employee

- **§ 1 vacation entitlement**

Every employee is entitled to paid vacation time in every calendar year.

- **§ 2 scope**

Employees within the meaning of the law are workers and employees as well as those employed for their professional training. Employees are also persons who, due to their economic independence, are to be regarded as employees who are similar to employees; Section 12 applies to the field of home work.

- **§ 3 Duration of the vacation**

- (1) Vacations are at least 24 working days a year.
- (2) Working days are all calendar days that are not Sundays or public holidays.

# What are working days?

- Working days are basically the calendar days on which
  - 1. work is carried out in the normal course of business,
  - 2. with the exception of working days (statutory public holidays (weekly holidays) for which no time off is granted.
- Example:
  - If there is a public holiday on vacation (e.g. Fronleichnam „Corpus Christi”) on which work is not scheduled, this day will not be considered when calculating the vacation duration.
  - However, if work is scheduled on the holiday (e.g. Christmas for university caretakers) and a different day is granted as a leisure allowance (e.g. January 3 of the following year), the time must be considered when calculating the vacation duration.

# Working days in the event of a deviation from the 5-day week.

- The same applies if work is not carried out from Monday to Friday, but on fewer or more working days in the week.
- When granting vacation, only the days that are workdays on schedule can and must be considered.
- If such working days fall on public holidays, then vacation is only necessary if work would otherwise be scheduled on these days (see previous example).
- The remaining days are not working days.

# Part-time employees

- Since vacation is granted as a work leave for whole working days, part-time employees are generally entitled to the same vacation duration as full-time employees.
- In the case of part-time employees who do not work in a 5-day week, the vacation is calculated according to the actual week worked.
- The following applies to the calculation:
  - Annual leave entitlement for 5-day week  $\div$  5 x individual weekly working days
- Example for a distribution of working hours over 3 days a week:
  - 30 days annual leave  $\div$  5 x 3 days of the week = 18 days of annual leave entitlement
- Granting of hourly leave is not an option.

# Entitlement to change in the scope of employment

- In all cases where the weekly work hours change (e.g. reduction in weekly working hours) but the number of weekly working days remains the same, there are no consequences for the duration of the vacation entitlement.
- In cases where the number of weekly working days is reduced or increased, the number of vacation days is recalculated for each time period.
- It can be calculated on a monthly or weekly basis.
- Previous and new collective vacation entitlements are each divided by 12 months or 52 weeks and then multiplied by the number of months or weeks in each time period.

# Calculation(s)

1. Tariff vacation entitlement / 12 months x ... months of the partial time period

Or:

Tariff vacation entitlement / 52 weeks x ... weeks of the partial time period

**Attention:** The respective partial results are not yet to be rounded up to whole days. This only happens after the annual leave entitlement has been calculated.

2. The partial vacation entitlements previously calculated are added to determine the annual vacation entitlement. Any remaining fractions of a vacation day are then rounded.
3. After determining the annual vacation entitlement, any vacation already granted before the change date is to be deducted. Taking future vacation accruing in subsequent vacation years should be avoided.



# Example 1:

- A full-time employee (5 work days, 30 days of annual vacation) will reduce his working hours from 01.08.2016 to 60% of full-time, with a distribution on 3 work days. In May the employee took five days off. There are no vacation entitlements from the previous year.
- **Calculation:**
  - 1st section:  $30 \text{ days} / 12 \text{ months} \times 7 \text{ months} = 17.5 \text{ vacation days}$
  - 2nd section:  $18 \text{ days} / 12 \text{ months} \times 5 \text{ months} = 7.5 \text{ vacation days}$
  - Annual leave entitlement =  $17.5 \text{ vacation days} + 7.5 \text{ vacation days} = 25 \text{ vacation days}$
  - Of which already granted: 5 vacation days => remaining vacation: 20 vacation days

## Example 2:

- A part-time employee (3 work days, 18 days of annual vacation) will change the distribution of her weekly working hours from 01.09.2016 to 5 working days with unchanged weekly working hours. She has not taken vacation by September.
- **Calculation:**
  - 1st section:  $18 \text{ days} / 12 \text{ months} \times 8 \text{ months} = 12 \text{ vacation days}$
  - 2nd section:  $30 \text{ days} / 12 \text{ months} \times 4 \text{ months} = 10 \text{ vacation days}$
  - Annual leave entitlement =  $12 \text{ vacation days} + 10 \text{ vacation days} = 22 \text{ vacation days}$
  - Of which already granted:  $0 \text{ vacation days} \Rightarrow$  remaining vacation:  $22 \text{ vacation days}$

# Example 3:

- A part-time employee (5 working days, 30 days of annual vacation) changes his working hours from May 23, 2016 (21st calendar week) to 3 working days with the same weekly working hours. At the turn of the year, 10 days of remaining vacation were transferred to 2016. In January the employee had taken eight days off.
- **Calculation:**
  - 1st section:  $30 \text{ days} / 52 \text{ weeks} \times 20 \text{ weeks} = 11.54 \text{ vacation days}$
  - 2nd section:  $18 \text{ days} / 52 \text{ weeks} \times 32 \text{ weeks} = 11.08 \text{ vacation days}$
  - Annual leave entitlement =  $11.54 \text{ vacation days} + 11.08 \text{ vacation day} = 22.62 \text{ vacation days}$
  - Rounded: 23 days of vacation
  - Current vacation entitlement from May 23, 2016:
    - 10 days (remainder from 2015)
    - + 23 days (total entitlement 2016)
    - - 8 days (taken in January 2016)
    - 25 days (still available in 2016)

# Application process - approval

- The approval of the vacation requires an application from the employee.
- An application procedure cannot be waived, even if there is no change compared to the time frame specified in a vacation plan or vacation list.
- The respective head of the unit or their representative must decide on the application **at their discretion but taking only official considerations into account.**  
(i.e. no extraneous considerations)

# Application process - approval

- The vacation request may not be granted only if there are important reasons.
- Possible reasons for rejections:
  - Urgent operational issues
  - Vacation requests from other colleagues
  - Social aspects, such as vacation wishes of employees with school-age children during school holidays

# Application process - approval

- The scientific staff may normally take the vacation only during the semester break.
- If an agreement on the granting of the vacation cannot be reached, the employee concerned must / can contact the personnel department.
- The **university management** will make the final decision.
- **Attention:** If no agreement can be reached on the date of the vacation, the rejection of a vacation application is subject to co-determination => staff council participation!

# Retraction of vacation request

- As a rule, the employer can only justify a retraction of the approved vacation if, before the start of the vacation or during the vacation, maintaining normal business operation would be endangered due to unforeseen circumstances.
- The assumption of any costs (e.g. cancellation fees, additional travel costs) should be clearly defined in advance.
- Of course, there is still the possibility to postpone the vacation that has not yet started by mutual agreement if there are special situations.

# Entitlement to vacation in the event of illness

- If the employee becomes ill during the vacation, the days of the illness as **proven by a medical certificate** are not counted towards the vacation.
- An illness during the vacation does not mean that these days may be appended at the end of the already approved vacation period without consulting with the university. In any case, this will require a new request.
- **Note:** In the event of illness during the vacation, the employer must be immediately informed about the illness and the expected duration of the illness.



# Conversion ban

It is inadmissible to convert vacation time once granted to special leave or work leave according to the tariff or statutory provisions.

# Reduction from previous employment

- If vacation time has already been taken during an employment with another employer in the current vacation year, this will be counted toward the allotted vacation time for the year.
- In this case, a holiday certificate from the previous employer is required.

# Secondary employment while on vacation

- During the vacation of employees, **employment contrary to the vacation / recreational purpose is prohibited.**
- Employment is both employed and self-employed activity.
- The following are **not** prohibited, for example:
  - Working in your own household, in your own house or farming (gardening or field work, repairs in your own apartment), helping to build your own house, doing favors for relatives (e.g. harvest help) and neighbors, regardless of whether they are provided free of charge or for a small fee (e.g. tip), provided that they do not contradict the recreational purpose.