

Rule 5-200A: Scope, Eligibility and Limitations for Leaves of Absence (Health-Related)

I. Purpose and Scope

To outline the Rules associated with the University's Policy 5-200 on health-related leaves of absence with or without pay, including sick leave, long term medical leave and Family and Medical Leave Act leave. Faculty Parental Leaves of Absence are governed by Policies 6-315 and 8-002.

II. Definitions

- A. "Benefit-eligible Employee" means an employee holding a permanent position at not less than 75% of full time.
- B. "Child" means a biological, adopted or foster child, stepchild, legal ward or a child of a person standing in loco parentis.
- C. "Deans" are defined in Policy 2-005.
- D. "Domestic Partner" means a person with whom the employee meets the following criteria: (a) they are both over the age of eighteen (18); (b) they reside together in a permanent residence and have done so for at least six months and will remain members of the same household for the period in question; (c) they have a serious and committed relationship which they intend to continue indefinitely; (d) they are emotionally committed to one another and jointly responsible for the common welfare and financial obligations of their household or one is chiefly dependent upon the other for financial assistance; (e) they are not related in any way that would prohibit legal marriage; and (f) neither is legally married to anyone else or the domestic partner of anyone else.
- E. "Faculty" includes the Regular Faculty, Library Faculty, and Auxiliary Faculty, as those are defined in Policy 6-300.
- F. "Immediate Family", for the limited purposes of this Rule and Policy 5-200 only, means:
 - 1. For University employees: grandparent, Parent, Spouse, Domestic Partner, sibling, Child, and grandchild. In-laws, foster or step relatives in the relationships listed, including relatives of an employee's Spouse or Domestic Partner, are also included. Immediate Family also includes someone for whom the employee is Next of Kin.

2. For University of Utah Hospitals and Clinics (UUHC) employees: Spouse, Domestic Partner, Parent, and Child who is either under the age of eighteen or over the age of eighteen and incapable of self-care on a daily basis because of a mental or physical disability that substantially limits one or more major life activities.

G. "Next of Kin" is defined as the closest living relative.

H. "Non-Faculty Academic Employees" - , as is defined in Policy 5-100, Comprising Academic Staff, Educational Trainees, Postdoctoral Fellows, and Medical Housestaff (as each of those categories is defined in Policy 6-309).

I. "Parent" means a biological parent or an individual who performed all parental duties in lieu of a biological parent. "Responsible Officer" means the cognizant department chairperson, principal investigator, director, dean or University officer with a direct supervisory reporting relationship to the employee.

J. "Senior Administrative Officers" includes the University President, Vice Presidents, and other senior administrative officers of the University. See Policy 5-308, Benefits Eligibility Chart, for a list of positions.

K. "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition as defined in the Family and Medical Leave Act.

L. "Spouse" means a husband or wife as defined or recognized under Utah law for purposes of marriage in Utah.

M. "Staff" or "Staff Member" is defined in Policy 5-001.

III. Rule

A. Sick Leave (Leave With Pay)

1. General Sick leave is a benefit which provides payments in lieu of compensation to Benefit-eligible Employees who are unable to perform the functions of their position because of an illness, injury, or Serious Health Condition or because they are needed to care for an Immediate Family Member with an illness, injury, or Serious Health Condition. In general, employees should arrange routine health care appointments during nonworking hours; however, in cases where these appointments must take place during regular working hours, employees should try to schedule appointments at times that minimize disruption of work-place productivity. Non-exempt employees may charge the time used for these appointments to sick leave. Whenever possible, supervisors should be notified of such appointments at least 48 hours in advance. In addition, eligible

employees may use sick leave for Family and Medical Leave Act (FMLA) leave as provided under Section B below.

2. Eligibility and Accrual

- a. Benefit-eligible Employees holding positions at 1.0 FTE accumulate sick leave at the rate of eight hours (one day) for each month of continuous service to a maximum accrual of 1040 hours (130 days). Benefit-eligible Employees holding positions at .75 FTE or more but less than 1.0 FTE accumulate sick leave on a prorated basis.
- b. Benefit-eligible Employees on an appointment for less than twelve months will be regarded as in the continuous service of the University only during the period covered by that appointment, regardless of the fact that compensation is paid over a longer (e.g., twelve-month) period.

3. Use of Sick Leave

- a. Sick leave accrual and usage for staff will be recorded through the Payroll/Benefits System.
- b. Sick leave accrual and usage for Faculty and Non-Faculty Academic Employees will be monitored by academic departments.
- c. To meet business needs, departments may create internal policies for Staff employees which restrict and govern the use of sick leave. Prior to implementation, departmental policies for Staff Members must be approved by the Human Resources Division.
- d. Sick leave may not be used for vacation purposes, but after all sick leave has been exhausted, additional absences due to an illness, injury, or a Serious Health Condition of the employee or a member of the employee's Immediate Family, must be charged to earned vacation time. Except as provided in Section III.B.3. below, employees are required to exhaust vacation and sick leave before taking unpaid leave.
- e. The University or employing department may require certification of all absences charged to sick leave.
- f. If an employee is on sick leave for a period of more than three consecutive days or for a reason that qualifies as a Serious Health Condition, such leave may be designated as Family and Medical Leave Act leave in accordance with the Family and Medical Leave Act ("FMLA"). The Human Resources Division will notify the employee, in writing, that such leave is being designated as FMLA leave within five business days

of becoming aware that such sick leave may also qualify as FMLA leave. All of the conditions of FMLA leave, including certification and notice of intent to return to work, may apply to such leave. Under certain circumstances, the University may retroactively designate sick leave as FMLA leave. Leave under the Family and Medical Leave Act is not an additional leave; rather, it is to be used concurrently with sick leave.

4. Extended Sick Leave (With Pay) In exceptional cases after all accrued sick leave and earned vacation time has been exhausted, extended sick leave with pay may be authorized by the cognizant vice president upon recommendation of the Human Resources Vice President subject to the following limitations:
 - a. Extended sick leave is not available for the care of a member of the employee's Immediate Family with an illness, injury, or Serious Health Condition.
 - b. Extended sick leave may not exceed thirty (30) days unless authorized by the President, upon recommendation of the Human Resources Vice President and cognizant vice president.
 - c. In no event shall extended sick leave be granted for a period extending beyond the earliest day on which benefits under either the University's disability insurance program or the Social Security Act are expected to become payable to the employee or, if the employee is not covered thereunder, would become payable if coverage existed.
 - d. If the employee returns to work before the expiration of authorized extended sick leave, the unused portion of the leave will be canceled. The employing department is responsible for notifying the Human Resources Division of the date of the employee's actual return to work.
5. Conversion of Sick Leave to Vacation
 - a. Benefit-eligible Employees, except Senior Administrative Officers, Deans, Faculty, and Non-Faculty Academic Employees, may convert up to four days (32 hours) of accrued sick leave to vacation annually provided the following conditions are met: The employee has accumulated 48 days (384 hours) of sick leave by January 1, and during the following calendar year the employee uses fewer than four days of sick leave (32 hours).
 - b. The conversion will be calculated based on the number of sick leave days used during the calendar year:

- i. If 0 days of sick leave are used, 4 days will be converted to vacation with the remaining 8 days accrued as sick leave.
 - ii. If 1 day of sick leave is used, 3 days will be converted to vacation with the remaining 8 days accrued as sick leave.
 - iii. If 2 days of sick leave are used, 2 days will be converted to vacation with the remaining 8 days accrued as sick leave.
 - iv. If 3 days of sick leave are used, 1 day will be converted to vacation with the remaining 8 days accrued as sick leave.
 - v. If 4 or more days of sick leave are used, the employee is not eligible for the sick leave conversion.
- c. Employees who have reached the maximum sick leave accrual of 130 days (1,040 hours) at the beginning of the year will have up to 4 days of sick leave converted to vacation annually as long as they use 8 or fewer days of sick leave throughout the year.
- d. Conversion of eligible sick leave to vacation will occur automatically but may be returned to sick leave if the Human Resources Division is directed to do so in writing by the employee within a reasonable time following the conversion.
- e. Conversion of sick leave will not increase the maximum allowable limits on vacation accrual. (See [Policy 5-301 \(/human-resources/5-301.php\)](/human-resources/5-301.php): Vacation Policy).

B. Family and Medical Leave Act Leave (Leave Without Pay)

1. Eligibility

- a. An employee may request leave under the Family and Medical Leave Act ("FMLA") if he/she meets the eligibility requirements of the FMLA.
- b. An eligible employee may request and will be granted unpaid FMLA leave for one or more eligible reasons specifically defined in the FMLA.
- c. An eligible employee may take leave under the FMLA to care for a Parent, Spouse, Child, and/or the employee's Domestic Partner. For purposes of this Section V only, the term "Child" means a biological, adopted or foster child, stepchild, legal ward or a child of a person standing in loco parentis, who is either under the age of eighteen or over the age of eighteen and incapable of self-care on a daily basis because of a mental or physical disability that substantially limits one or more major life activities.

- d. For purposes of calculating the amount of FMLA leave an eligible employee may request, the term "during any twelve (12) month period" means a rolling twelve (12) month period measured backward from the date the requested leave will begin.

2. Notification and Certification of Need for FMLA Leave

- a. An eligible employee must notify the University of the need for FMLA in the manner and within the time periods defined in the FMLA.
- b. Upon proper notification by the employee, the University will provide the employee with information regarding the employee's rights under the FMLA. The employee shall be required to submit certification in the manner prescribed by the FMLA to confirm that the reason meets the specifications of the FMLA.

- ## 3. Substitution (Concurrent Use of Paid Leave and FMLA Leave)
- An employee must substitute any accrued paid leave (i.e. sick leave and vacation) for any unpaid FMLA leave except that an University employee may retain up to ten (10) days of vacation (this exception does not apply to UUHC employees). Upon exhaustion of any accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for FMLA purposes exceed the amount of leave required under the FMLA.

4. Benefits and Return from Leave

- a. The eligible employee may maintain current benefits during the FMLA leave as if he/she were actively at work in accordance with the FMLA. The employee will be responsible for paying his/her share of the premiums for such coverage.
- b. Unless the employee is separated as a result of a reduction in force or end of a contract, an employee who takes an FMLA leave for the intended purpose of the leave shall be entitled, on timely return from the leave and completion of all required documentation, to be restored to the position of employment in accordance with the requirements of the FMLA.

- ## C. Long-Term Medical Leave (Leave Without Pay)
- Under certain circumstances, the University may permit an employee who has exhausted all accrued sick leave and FMLA leave or an employee who is not eligible for sick leave or FMLA leave to take long-term medical leave without pay for the employee's own Serious Health Condition. In general, long-term medical leave is not available to employees holding positions that are temporary in nature (i.e. with a duration of less than four consecutive months), or to employees who are employed on an hourly, intermittent, or as-needed basis.

1. Request for Long-Term Medical Leave

- a. A request for long-term medical leave without pay shall, whenever possible, be submitted in writing to the employee's Responsible Officer prior to the date upon which the requested leave is to commence. If unusual circumstances make it impossible in the exercise of reasonable diligence for the employee to submit the request in advance of the date upon which the requested leave is to commence, approval may be given to a retroactive commencement of the leave.
- b. The written request should state (1) the reason for the long-term medical leave request; (2) the proposed date on which the requested long-term medical leave is to commence; (3) the employee's intent to return to work upon conclusion of the leave; and (4) the estimated date on which the employee reasonably expects to return to work.
- c. The employee shall provide a health care provider's statement supporting the need for a long-term medical leave.
- d. The cognizant vice president, upon recommendation of the Responsible Officer and the Human Resources Vice President, shall approve or deny the request for a long-term medical leave. If the cognizant vice president concludes that the requested leave should be approved, but has reasonable grounds to believe that in order to assure satisfactory discharge of the duties of the position, consistent with the present or anticipated physical or mental condition of the employee, the leave should commence at a different date than requested by the employee, the approval of the request may be subject to the condition that the leave will begin at a specified date other than the requested date.
- e. Prior to the commencement of an approved long-term medical leave, the employee contact the Human Resources Division Benefits Office to discuss continuation of benefits during the long-term medical leave.

2. Length of Long-Term Medical Leave

- a. It is recognized that the duration of a Serious Health Condition cannot be precisely known in advance. Accordingly, long-term medical leaves may be granted for an estimated or indefinite period of time, not to exceed one year.
- b. Unless the President approves an extension of the long-term medical leave beyond one year, applicable procedures for separation of employment at the end of a year-long medical leave shall be initiated by the Responsible Officer.

3. Reinstatement

- a. Notice of Intent. An employee on long-term medical leave must give the Responsible Officer and Human Resources Division written notice not less than thirty (30) working days in advance of the date on which the employee wishes to terminate the long-term medical leave and return to work. An employee may be required to submit a fitness-for-duty certification by a health care provider before returning to work. If appropriate, the Human Resources Division, in consultation with the department, may require a second, independent certification from a health care provider at the department's expense.
- b. Six-month rule. An employee who has been on leave because of his/her own Serious Health Condition, including any time credited to sick leave, FMLA leave or accrued vacation, for six months or less during any twelve month period prior to the date of return to work shall be restored to the position of employment held when the leave commenced or to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.
- c. In order to facilitate discharge of the University's obligation of reinstatement under this "six-month" rule, unless otherwise authorized by the cognizant vice president, the Responsible Officer shall not fill the position with a permanent employee during the six-month period specified in the preceding paragraph.
- d. One-year rule. If an employee has been on leave because of his/her own Serious Health Condition, including any time credited to sick leave, FMLA leave or accrued vacation, for more than six months but less than one year during any twelve month period prior to returning to work, the University will make a good faith effort, subject to availability of funds and vacant positions, to restore the employee to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment or to another position for which the employee is qualified. The Responsible Officer is responsible for arranging such reinstatement. The University cannot, however, assure that an employee returning to work after a leave of more than six months duration will be reinstated.
- e. The University has no obligation to reinstate, or to make any effort to reinstate, an employee who has been on leave, including any sick leave, FMLA leave, or accrued vacation, because of his/her Serious Health Condition for more than one year. An application for reinstatement in such cases shall be treated as an application for initial employment.

f. If an employee on long-term medical leave accepts other employment during such leave or fails to return to work within three (3) business days after the expiration of the long-term medical leave, the University may treat such action as a voluntary resignation of employment and a waiver of any right to reinstatement.

4. Alternative to Long-Term Medical Leave (Without Reinstatement) If reinstatement is not requested or is determined not to be feasible by the Responsible Officer, the eligible employee will be separated from his/her current position and placed on a medical leave of absence that will allow the employee to retain health care coverage and certain University benefits for a limited period of time.

D. Employee Benefits During Health-Related Leaves of Absence

1. Time-Related Benefits Longevity for purposes of accruing vacation time is not lost during the preceding leaves without pay. However, vacation and sick leave benefits do not accrue during unpaid leaves.

2. Retirement and Insurance Benefits

a. Sick Leave and Extended Sick Leave During sick leave and extended sick leave, retirement and insurance benefits continue to be paid by the University.

b. Family and Medical Leave Act Leave To the extent FMLA leave is paid, retirement and insurance benefits continue to be paid by the University on the same basis as if the employee had continued in employment for the duration of the leave. To the extent FMLA leave is unpaid, retirement benefits will not be paid by the University during the leave. Insurance benefits will continue on the same basis as if the employee had continued in employment for the duration of the leave provided the employee pays his/her share of the premium and returns to work at the end of the leave (see Section V.E B.4., above).

3. Long-Term Medical Leave and Long-Term Medical Leave (Without Reinstatement)

Retirement and insurance benefits are not paid by the University during a long-term medical leave. An employee on long-term medical leave, however, may elect to continue his/her health care coverage and certain other benefits for a limited period of time by paying for such benefits.

4. Other Benefits Other benefits, including tuition reduction, ticket discounts and parking privileges continue during a health-related leave of absence.

IV. Procedures, Guidelines, Forms, and other Related Resources

V. References

Policy 5-001: Personnel Definitions

Policy 5-201: Leaves of Absence (Non Health-Related)

Policy 5-301: Vacation Policy

Policy 5-303, University Insurance Programs 29 Code of Federal Regulations 825.100 et seq., Family and Medical Leave Act Regulations, as amended

VI. Contacts

Policy Owner: Questions about this Policy and any related Rules, Procedures and Guidelines should be directed to the Director of Employment Services (/info/index.php).

Policy Officer: Only the Vice President for Human Resources (/info/index.php) and the Senior Vice President for Health Sciences (/info/index.php) or his/her designee has the authority to grant exceptions to this Policy.

VII. History

A. Current Version: University Rule 5-200, Revision 0

Approved by Academic Senate :November 7, 2011.

Effective date: December 13, 2011

B. Earlier Versions:

See Revision 18 of Policy 5-200: Personnel Definitions.

Effective dates: January 28, 2008 to December 12, 2011