

Legislative History Document

Rule 5-200A: Scope, Eligibility and Limitations for Leaves of Absence (Health-Related) – University Employees (Other than UHC Staff)

It has become a national trend in both public and private sector employment to offer paid parental leave benefits. Several Pac-12 institutions as well as other Utah higher ed institutions offer paid parental leave to their employees. Human Resources collaborated with Administration and Staff Council to create a policy that is both supportive of the University as well as supportive of staff as they balance career and family life.

The parental leave policy provides for up to 50% pay for up to six weeks for eligible employees. To be eligible, the employee must hold a full-time benefits eligible position for the previous 12 months. In addition, the leave must be used concurrently with the Family and Medical Leave Act (FMLA). If both parents are employed as non-faculty employees, the time can be divided between the two.

Research indicates that employees who receive paid leave feel greater loyalty to the organization. This in turn helps increase employee morale and retention. This policy is another great benefit offered to employees at the U and will aid the University in remaining an employer of choice and a great place to work.

This policy was presented to the Academic Senate Executive Committee on September 17, 2018 and presented on the Debate Calendar of the Academic Senate on October 1, 2018. The rule was debated and approved during that same meeting. President Watkins presented the rule as information to the Board of Trustees on October 9, 2018.

The effective date of the changes will be 1/1/2019.

Rule 5-200A: Scope, Eligibility and Limitations for Leaves of Absence (Health-Related) – University Employees (Other than UHC Staff) - Revision 2

Effective Date: 1/1/2019

I. Purpose and Scope

A. Purpose

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, parental leave benefits and Family and Medical Leave Act leave for certain categories of University Employees (other than UUHC Staff).

B. Scope

This Rule applies for all University Employees except for Staff Employees of the University Hospitals and Clinics (UUHC), who are instead governed by [Rule 5-200B](#). For all Faculty Employees of the University, this Rule applies for all topics covered in this Rule, except Section III.C, regarding parental leave benefits. Parental leave benefits for Tenure-line Faculty Employees ~~Faculty Parental Leaves of Absence~~ are governed by [Policies 6-315](#) and [8-002](#) rather than by Section III.C of this Rule.

II. Definitions

The following definitions apply for the limited purposes of this Rule.

- A. The definitions of Employee-related terms provided in [Policy 5-001](#) apply for purposes of this Rule, including the following: "Benefits-eligible Position", "Employee", "Full-time", "Hourly", and "Staff" or "Staff Member." ~~provided in [Policy 5-001](#), Employee Definitions, apply for purposes of this Rule.~~
- B. "Child" means a biological, adopted or foster child, stepchild, legal ward, or a child of a person standing in loco parentis
- C. "Dean" is 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. “Eligible Caregiver” for the limited purpose of determining eligibility for Parental Leave benefits (Section III.C) means an Employee who provides the majority of child contact hours during the Employee’s regular working hours.
- F. “Faculty” includes members of the Tenure-line, Career-line, Adjunct and Visiting Faculty, as those terms are defined in [Policy 6-300](#).
- G. “Immediate Family”, for the limited purposes of this Rule and Policy 5-200 only, means 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.
- H. “Next of Kin” is defined as the closest living relative.
- I. “Non-Faculty Academic Employees” is defined in [Policy 5-001](#), Comprising Academic Staff, Educational Trainees, Postdoctoral Fellows, and Medical Housestaff (as each of those categories is defined in [Policy 6-309](#)).
- J. "Parent" means a biological parent or an individual who performed all parental duties in lieu of a biological parent.
- K. "Responsible Officer" means the cognizant department chairperson, principal investigator, director, dean or University officer who directly supervises the Employee.
- L. “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.~~
- M. "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition as defined in the Family and Medical Leave Act.

- N. "Spouse" means ~~a husband or wife as defined or recognized under Utah law for purposes of marriage in Utah.~~ an individual with whom an Employee has entered into marriage as defined or recognized under state law or as otherwise defined in the Family and Medical Leave Act regulations.

III. Rule

A. Sick Leave (Leave With Pay)

1. General

- a. Sick Leave is a benefit which provides payments in lieu of compensation to Employees in Full-time, Benefits-eligible Positions 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.
- b. 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. Employees in Hourly positions 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.
- c. Employees who qualify for leave under the Family and Medical Leave Act (FMLA) may use Sick Leave for FMLA leave as provided under Section B below.

2. Eligibility and Accrual

- a. Employees holding Benefits-eligible 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). Employees

holding Benefits-eligible Positions at .75 FTE or more but less than 1.0 FTE accumulate Sick Leave on a prorated basis.

- b. Employees with 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 Human Resources.
- d. Sick Leave may not be used for vacation purposes; however, Employees may choose to use Vacation leave for absences eligible for Sick Leave. 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 Leave. 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 FMLA. Human Resources 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 FMLA is not an additional leave; rather, it is provided concurrently with Sick Leave.

4. Extended Sick Leave (With Pay)

In exceptional cases after all accrued Sick Leave and earned Vacation Leave time has been exhausted, Extended Sick Leave with pay may be authorized by the cognizant vice president upon recommendation of the Chief Human Resources Officer 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 Chief Human Resources Officer 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 the Employee were enrolled in long term disability coverage.
- 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 Human Resources of the date of the Employee's actual return to work.

5. Conversion of Sick Leave to Vacation

- a. Employees (except Senior Administrative Officers, Deans, Faculty, and Non-Faculty Academic Employees) in Full-time, Benefits-eligible Positions, 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 Human Resources 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 maximum allowable limits on Vacation accrual. (See [Policy 5-301](#): Vacation Policy.)

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

1. Eligibility

- a. An Employee may request leave under the 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 B 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 stated 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 a University Employee may retain up to ten (10) days of Vacation. 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 provided under the FMLA.
4. Benefits and Return from Leave
 - a. An 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. Parental Leave Benefits

This Section III.C governs the University's Parental Leave benefit for all categories of University Staff except for the following: it does not apply for Staff Employees of the University Hospitals and Clinics and it does not apply for Faculty Employees.

1. Eligibility for a Parental Leave Benefit

- a. To be eligible for a Parental Leave benefit under this Section III.C, an Employee:
 - i. Must hold a Full-Time, Benefits-Eligible position with the University and have been continuously employed full-time by the University for at least the preceding 12 consecutive months;
 - ii. During the leave period, must serve as an Eligible Caregiver (as defined for this purpose) of her or his own newborn child, a partner's newborn child, or of a newly adopted child; and
 - iii. The child must have been born or adopted on or after January 1, 2019.
- b. Only one University Employee is eligible for the Parental Leave benefit for a given instance of childbirth or adoption. In the event both parents are University Employees eligible for the benefit under this Rule, either one or the other may use the Parental Leave benefit, or they may choose to divide the Parental Leave benefit between them (each taking a portion of the overall maximum benefit).
- c. The Parental Leave benefit provided under this Rule does not apply to a birth parent who does not anticipate becoming the legal parent of the child following birth. In such case, the birth parent may be covered by other sections of this Rule or other Regulations regarding sick leave and FMLA leave.

2. Notification

- a. An eligible Employee must complete the Parental Leave application form and submit it to their supervisor. The supervisor should sign the form, acknowledging receipt of the application. The fully signed application

should then be forwarded to the Absence Management Team in Human Resources.

- b. Employees should submit the application at least 90 days before the leave is expected to begin.

3. Parental Leave Benefit

- a. Upon approval of a Parental Leave application, the eligible Employee will be granted a leave of absence without being required to perform the duties of their position during that leave period, and will receive pay for fifty percent (50%) of their regular work hours for a period of up to six (6) weeks.
- b. Employees must use accrued Sick and Vacation leave for regular work hours not paid as a Parental Leave benefit, before taking unpaid leave, except as allowed in subparagraph III.B.3.
- c. The Parental Leave benefit shall begin no sooner than the date of birth (unless the Employee's health care provider certifies that an earlier begin date is medically necessary) or the date of adoption of the child. The Parental Leave benefit shall be completed no more than 12 months following the birth or adoption.

4. Parental Leave and the Family Medical Leave Act (FMLA)

A Parental Leave benefit period shall run concurrently with an Employee's FMLA leave. In no event will an Employee's Parental Leave extend the amount of leave provided under the FMLA.

5. Right to Return and Obligation to Return

- a. An Employee granted a Parental Leave benefit shall return to work at the end of the Parental Leave benefit period or FMLA leave, whichever is longer. In the event the Employee terminates employment and does not

return to work, the amount of the Parental Leave benefit shall be repaid and may be deducted from the Employee's vacation payout, if any.

b. At the conclusion of the Parental Leave benefit period, the Employee will return to the same position held at the time the leave began or to an equivalent position with equivalent pay, benefits, and working conditions, provided the Employee can perform the essential functions of the position.

c. An Employee receiving a Parental Leave benefit is still subject to a reduction in force (RIF) or reassignment that would have occurred otherwise had the Employee been working.

6. Measurement/Reporting

a. The University will measure parental leave usage on an annual basis.

b. Human Resources will present usage data to the Executive Committee of the Academic Senate in the 2020 Spring semester.

c. The policy will be reviewed in 2021 Spring semester in the Academic Senate.

7. Appeals Process

a. The University will provide an appeals process in cases of hardship in which the relevant unit does not have sufficient resources to cover replacement costs of an individual on parental leave.

D. Americans with Disabilities Act ("ADA") Reasonable Accommodation

An Employee who is a qualified individual with a disability (as defined under the ADA) and who is not eligible for leave under the FMLA or who is unable to return to work at the end of FMLA leave, may apply for a reasonable accommodation under the ADA pursuant to [Policy 5-117](#). Additional leave, a job reassignment, or other more appropriate accommodation may be approved, unless the accommodation would be an undue hardship for the University.

E. Other Medical Leave (Leave Without Pay)

1. 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 a medical leave without pay for the Employee's own Serious Health Condition. In general, medical leave is not available to Employees holding positions that are Temporary or to Employees who are employed in positions that are not Benefits-eligible Positions. Based on the business needs of the department and other non-discriminatory criteria, eligible Employees may be approved for a medical leave of absence under one of the following options:
 - a. Option A – Medical Leave with Reinstatement: An Employee who has been on leave because of his/her own Serious Health Condition, including any time credited to Sick Leave, Parental 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.
 - b. Option B – Medical Leave without Reinstatement (benefits extension only): 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 leave of absence without reinstatement that will allow the Employee to retain health care coverage and certain University benefits for a limited period of time. In the event an Employee approved for leave under Option A – Medical Leave with Reinstatement is unable to return to work at the end of the six-month period, the employee will continue leave under Option B – Medical Leave without Reinstatement. The University has no obligation to reinstate, or to make any effort to reinstate, an Employee who has been on leave under

Option B – Medical Leave without Reinstatement. An application for reinstatement in such cases shall be treated as an application for initial employment.

2. ~~During the first six months of An Employee on~~ medical leave, either with or without reinstatement, ~~during the first six months of leave~~ an Employee may continue to receive pay by using ~~use~~ accrued Vacation, Sick, Parental Leave, and Personal Preference Leave.

F. 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. While an Employee receives pay using Sick Leave, Parental Leave, Vacation, Personal Preference, and Extended Sick Leave, retirement contributions will continue and the University will continue to contribute toward health coverage, life insurance, and disability insurance.
- b. To the extent FMLA leave is paid, retirement and benefit contributions will 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. Employer contributions for other 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 (Section III.B.4, above).

- c. During an unpaid medical leave, either with or without reinstatement, retirement and other benefits are not paid by the University. An Employee on 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.

3. 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

Procedure 5-200A: Procedures for Leaves of Absence (Health-Related) – University Employees (Other than UUHC Staff)

V. References

[Policy 5-001](#): Employee Definitions

[Policy 5-117](#): ADA Policy, Reasonable Accommodation and Access

[Rule 5-200B](#): Paid Time Off for University of Utah Hospitals and Clinics Staff Members

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

[Policy 5-301](#): Vacation Policy

[Policy 5-303](#): University Insurance Programs

[Policy 6-315: Faculty Parental Benefits -- Leaves of Absence with Modified Duties and Review Extensions](#)

[Policy 8-002: School of Medicine \(SOM\) Parental Leaves of Absence](#)

29 Code of Federal Regulations 825.100 et seq., Family and Medical Leave Act Regulations, as amended

VI. **Contacts**

Policy Owner (primary contact person for questions and advice): the University's Director of Benefits is responsible for the application of this Policy to all University Employees other than University of Utah Hospitals and Clinics Employees.

Policy Officer: the University's Chief Human Resources Officer (non-UUHC Employees). Only the Chief Human Resources Officer or his/her designee has the authority to grant exceptions to this Policy.

VII. **History**

A. Current Version:

Revision 2, effective date: _____

Approved by Chief Human Resources Officer _____.

Approved by the Academic Senate _____.

Presented to the Board of Trustees as an information item

_____.

B. Earlier versions:

1. Revision 1,

Effective dates: December 6, 2016 to _____

2. Revision 0

Effective dates: December 13, 2011 to December 5, 2016

