

VII-7.45 – POLICY ON SICK AND SAFE LEAVE FOR NONEXEMPT AND EXEMPT STAFF EMPLOYEES

(Approved by the Board of Regents December 5, 1997; Amended on June 22, 2012; Amended on February 14, 2014; Amended on June 21, 2019.)

I. PURPOSE AND APPLICABILITY

This policy governs the accrual and use of sick and safe leave, and applies to all Regular Status Exempt and Nonexempt employees of the University System of Maryland who are appointed at least 50% time, except to the extent that the provisions of a collective bargaining agreement between an Institution and one of its bargaining units provides otherwise.

II. GENERAL

- A. Sick and safe leave (“SSL”) is paid leave granted to employees in an effort to provide some protection against the loss of earnings due to absences for health and allied reasons; and when certain absences are necessary due to domestic violence, sexual assault, or stalking, pursuant to the Maryland Healthy Working Families Act and the provisions of this Policy.
- B. A full-time employee shall earn SSL leave at the rate of fifteen (15) eight-hour workdays per year (i.e. 120 hours per year), accrued on a biweekly basis. Employees who are appointed at least 50% time shall earn SSL on a pro rata basis. SSL is accumulated and carried forward from year to year without limit.
- C. An employee may request that his/her mental or physical illness, injury, or condition occurring during a period of annual or personal leave(s) be charged to SSL. Verification may be required by the President or designee as provided in Section V of this Policy.
- D. An employee who returns to regular USM service within three (3) years of separation shall have the unused sick and safe leave earned during the prior service restored, provided the employee returns to a position eligible to earn sick leave, pursuant to the provisions of USM “*Policy on Reemployment and Reinstatement for Nonexempt and Exempt Staff Employees*” (VII-9.61).¹
- E. Except as otherwise noted in this Policy, “family member” is defined as:
 - 1. The employee’s:

¹ Any SSL that was used to provide creditable service for any employee pursuant to Maryland Annotated Code (Md. Code Ann.), State Personnel and Pensions Article, Section 20-206 shall be treated as leave that has been used and is not eligible for restoration.

- a) Child, adopted child, foster child, or stepchild; a child for whom the employee has legal or physical custody or guardianship; or a child for whom the employee stands *in loco parentis*, regardless of the child's age;
 - b) Legal guardian;
 - c) Grandparent, adopted grandparent, foster grandparent, or step grandparent;
 - d) Grandchild, adopted grandchild, foster grandchild, or step grandchild;
 - e) Sibling, adopted sibling, foster sibling, or step sibling; or
 - f) Spouse; and
2. The employee's or spouse's:
 - a) Parent, adoptive parent, foster parent, stepparent; or
 - b) An individual who acted as the parent, or who stood *in loco parentis*, when the employee or spouse was a minor.
- B. An employee's use of SSL for the reasons set forth in Section III.A.5 below is limited to eight, eight-hour workdays per year (i.e. 64 hours per year).

III. PERMISSIBLE USE OF SICK AND SAFE LEAVE

- A. SSL shall be granted by the President or designee when an employee is absent because of:
1. Mental or physical illness, injury, or condition of the employee.
 2. A pre-scheduled and approved, or emergency medical appointment, examination, or treatment for the employee with an accredited, licensed or certified medical provider listed in Section V.C of this Policy that cannot be scheduled during non-work hours.
 3. Mental or physical illness, injury, or condition of the employee's family member, and medical appointments, examinations or treatments for the family member with an accredited, licensed or certified medical provider listed in Section V.C of this Policy that cannot be scheduled during non-work hours.
 4. Death of a relative.
 - a) For the death of a close relative, the President or designee shall grant the use of up to three (3) days of accrued SSL. If the death of a close relative requires an employee to travel, requiring staying away from home overnight, upon request the President or designee shall grant the use of up to a maximum of five (5) days of accrued SSL for this purpose.

- b) “Close relative” as used in Section III.A.4 shall mean a spouse, child, stepchild, mother, father (or someone who took the place of a parent), mother-in-law, father-in-law, grandparent of the employee or spouse, grandchild, son-in-law, daughter-in-law, brother, sister, brother-in-law, or sister-in-law.
 - c) The President or designee shall grant the use of up to a maximum of one (1) day of SSL for reasons related to the death of the employee’s or his/her spouse’s aunt, uncle, niece, nephew.
5. Subject to the use limits set forth in Section II.F above, domestic violence, sexual assault, or stalking committed against the employee or the employee’s family member, and the SSL is being used:
- a) To obtain for the employee or the employee’s family member:
 - i. Medical or mental health attention that is related to the domestic violence, sexual assault, or stalking;
 - ii. Services from a victim services organization related to the domestic violence, sexual assault, or stalking; or
 - iii. Legal services or proceedings related to or resulting from the domestic violence, sexual assault, or stalking; or
 - b) During the time that the employee has temporarily relocated due to the domestic violence, sexual assault, or stalking.
6. Parental Leave, subject to the provisions of the USM “Policy on Parental Leave and other Family Supports for Staff” (VI -7.49).
7. Pregnancy-related disabilities, childbirth, and immediate recovery therefrom.
8. Birth of a child or placement of a child with the employee for adoption within six months following birth or adoption.

IV. DIRECTED USE OF SSL/MEDICAL EXAMINATIONS

- A. The President or designee, in accordance with the Institution’s policy on Family and Medical Leave, may direct an employee to use accrued SSL if he/she determines that an employee is unable to perform the responsibilities of his/her position due to mental or physical illness, injury, or condition.
- B. While in either active work status or on any type of employee-related SSL, an employee may be required to undergo a medical examination(s) and evaluation(s), and may be required to provide verification of fitness for duty, as directed by the President or designee to ascertain whether the employee is able to regularly and routinely perform the responsibilities of his/her position.

1. If the examination is conducted by a physician selected by the USM Institution, the Institution shall bear the costs of such medical examination. The employee may, however, see his/her own physician at the employee's own cost.
2. If the examination(s) reveal that an employee is unable to regularly and routinely perform the responsibilities of his/her position, action may be taken by the President or designee in accordance with policies on voluntary separation, termination, reasonable accommodation, modified duty or disability retirement, if applicable.
3. In cases where there is a conflict between the evaluation, prognosis, diagnosis or recommendation of the employee's personal health care provider and the physician selected by the USM Institution, the President or designee may choose which health care provider's report to follow; or may require subsequent medical examinations and evaluations in deciding what steps should be taken regarding the employee's sick leave status or continued employment. If subsequent medical examinations and evaluations are required, the expense of such shall be borne by the USM Institution. The decision of the President or designee is final.

V. VERIFICATION OF ABSENCES CHARGED TO SSL

- A. In order to assure medical attention for an employee or to prevent the abuse of SSL, the President or designee may require an employee to submit verification of the need to use accrued SSL, advanced or extended sick leave, including to authenticate the need for the employee to care for an ill family member.
- B. Verification may include, but may not be limited to:
 1. A written statement from the medical provider (as listed in Section V.C of this Policy) indicating that the employee is required to be absent from work due to mental or physical illness, injury, or condition;
 2. The duration of absence from work;
 3. Prognosis of employee's ability to return to work;
 4. Title and original signature of an accredited, licensed or certified medical provider;
 5. Documentation of the birth or placement of a child with the employee for adoption or foster care; and
 6. Any other information necessary to verify that the employee's use of SSL is in accordance with this Policy and other applicable USM policies.
- C. Medical verification as outlined in this Policy may be obtained by an accredited Christian Sciences practitioner, or by the appropriate of any of the following licensed or certified medical providers:

1. Physician;
2. Physical Therapist;
3. Clinical Psychologist;
4. Dentist;
5. Oral Surgeon;
6. Chiropractor;
7. Podiatrist;
8. Certified Nurse Practitioner;
9. Certified Nurse-Midwife;
10. Licensed Clinical Social Worker;
11. Licensed Clinical Professional Counselor;
12. Optometrist;
13. Physician Assistant; or
14. Any other health care provider from whom the Institution's group health plan's benefits manager will accept certification of the existence of a Serious Health Condition to substantiate a claim for benefits pursuant to the provisions of USM *"Policy on Family and Medical Leave for Nonexempt and Exempt Staff Employees"* (VII-7.50).

VI. ADVANCED SICK LEAVE

- A. An employee who sustains a temporary, recoverable mental or physical illness, injury, or condition, or serious disability may request advance use of sick leave ("Advanced Sick Leave" or "ASL"), subject to the following conditions:

The employee shall:

1. Have exhausted all other types of accrued leave; and
 2. Have a satisfactory record of work performance and no record of sick leave or SSL abuse.
- B. Advanced Sick Leave is not an entitlement. The granting of requests for ASL shall be at the discretion of the President or designee based on operational needs and the employee's record of work performance and record of sick leave or SSL abuse.

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- C. ASL shall not be granted in instances where the mental or physical illness, injury, or condition, or serious disability occurred on the job, and the employee has been granted accident leave or temporary total disability benefits by the Workers' Compensation Commission.
- D. Written requests for ASL shall be submitted to the President or designee and shall be supported by written verification by an accredited, licensed, or certified medical provider or appropriate documentation of the birth or adoption of a child, if the employee is requesting parental leave, as outlined in Sections V.B and V.C of this Policy.
- E. Sick leave may be advanced as follows:
 - 1. In the first year of service, Advanced Sick Leave will be prorated based upon the employee's length of service and FTE at the time the ASL is requested.
 - 2. Thereafter, ASL is advanced at the rate of fifteen (15) working days per year of service to a maximum of sixty (60) working days in any one calendar year.
- F. The use of ASL constitutes a debt for which payment shall be enforceable upon the employee's return to work or upon the employee's separation from employment, whichever is earlier. Upon return to work the minimum rate of payback for ASL shall be at one-half the rate that SSL and annual leave are earned. An employee may elect to pay back the ASL debt by applying any earned leave to the debt, or by reimbursing the USM with cash.
- G. Annual, sick and holiday leaves earned, and personal leave credited while on ASL shall be applied as earned/credited.
- H. Additional requests for ASL will not be granted until all previously granted ASL has been repaid. The only exception to this provision is in cases where the maximum amount of advanced sick leave had not been requested originally and additional ASL, consecutive to that already granted, is needed to cover the employee's continued absence arising from the original mental or physical illness, injury, or condition.
- I. The President or designee may refer an employee who is on advanced sick leave as follows:
 - 1. The employee may be referred to an USM Institution-named physician for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.

2. If there is a conflict between the employee's physician and the USM Institution-named physician, the provisions of Section IV.B.3 shall apply.

VII. EXTENDED SICK LEAVE

- A. An employee who is appointed at least 50% time and who sustains a temporary, recoverable mental or physical illness, injury, or condition, or serious disability may request Extended Sick Leave (“ESL”), subject to the following conditions:

The employee shall:

1. Have been in USM and/or State service for at least five (5) years;
 2. Have exhausted all types of accrued leave and Advanced Sick Leave; and
 3. Have a satisfactory record of work performance and no record of sick leave or SSL abuse.
- B. Extended Sick Leave is not an entitlement. The granting of requests for ESL shall be at the discretion of the President or designee based on operational needs and the employee’s record of work performance and record of sick leave or SSL abuse.
 - C. The maximum cumulative total of ESL available to an employee while in USM or State service is twelve (12) work months (52 work weeks).
 - D. Annual, sick and holiday leave earned, and personal leave credited while on ESL shall be applied as earned/credited.
 - E. Written requests for extended leave shall be submitted to the President or designee and shall be supported by written verification by an accredited, licensed or certified medical provider as outlined in Section V of this Policy.
 - F. The President or designee may refer an employee who is on ESL as follows:
 1. The employee may be referred to an Institution-named physician for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.
 2. If there is a conflict between the employee's physician and the Institution-named physician, the provisions of Section IV.B.3 shall apply.

VIII. OTHER

USM Human Resources policies are available on the USM’s website at <https://www.usmd.edu>.

IMPLEMENTATION PROCEDURES:

Each President shall identify his/her designee(s) as appropriate for this policy, develop procedures as necessary to implement this policy, communicate this policy and applicable procedures to his/her Institutional community, and post it on its Institutional website.