

# The University of Wisconsin System UNCLASSIFIED PERSONNEL GUIDELINE #10

## Subject: Unclassified Staff Sick Leave Policy

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### 10.01 Policy Statement and Definitions

(1) Paid sick leave is a significant fringe benefit for a UW System unclassified employee. Board of Regents policies are intended to provide uniformity and accountability for proper leave use and reporting across all UW institutions. Accurate leave reporting is part of the UW System's responsibility to the public and is essential to ensure the on-going availability of this valuable benefit.

#### (2) Definitions within this document:

- (a) "CHILD" means a natural, adopted, or foster child, a stepchild, or legal ward who is either under age 18, or age 18 or older if incapable of self-care.
- (c) "GRANDCHILD" means the child of a child.
- (d) "GRANDPARENT" means the parent of a parent.
- (b) "IMMEDIATE FAMILY MEMBER" includes employee's spouse, parents and children of an employee, an employee's and employee's spouse's immediate family members, grandparents, grandchildren, aunts and uncles, brothers and sisters and their spouses, children over the age of 18 and their spouses, and any other relative who resides in the same household as the employee.
- (e) "INITIAL APPOINTMENT" means the an employee's first unclassified appointment that meets the requirements of §10.02 or any subsequent appointment eligible for sick leave where the employee is not eligible for restoration of sick leave under §UWS 19.03, Wis. Adm. Code.
- (f) "PARENT" means a natural parent, foster parent, adoptive parent, stepparent, or legal guardian of an employee or an employee's spouse.
- (g) "SPOUSE" means an employee's legal husband or legal wife or domestic partner.
- (h) "UNCLASSIFIED EMPLOYEE" means a member of the faculty or academic staff or a limited appointee of an institution within the University of Wisconsin System.

### 10.02 Eligibility for Sick Leave

- (1) All faculty, academic staff, and limited appointees who are covered under the Wisconsin Retirement System (WRS) earn sick leave while in pay status.<sup>1</sup> Visiting faculty who are not eligible for WRS coverage nonetheless are eligible for sick leave through the University if their home institutions do not provide it.
- (2) An employee who is not initially expected to meet the service and duration requirements for WRS coverage can later become eligible either through a change in expectations or by actually working at least 440 hours during the immediately preceding 12-month period.

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<sup>1</sup> WRS coverage is mandatory for all unclassified employees other than WRS annuitants, graduate assistants, and employees-in-training, if the employee is expected to work at least one-third of full time (440 hours per year) and to remain employed for at least one year. For academic year employees, a year means nine months with an expectation of renewal. Visiting faculty are eligible after the first twelve months of employment. See §40.22(2), Wis. Stats., UWS 19.02, Wis. Admin. Code.

- (3) Once an employee becomes eligible to earn sick leave, he or she continues to earn sick leave in sick-leave eligible positions during all subsequent University employment, unless employment is terminated for 12 or more consecutive months or the employee receives a lump sum separation or retirement benefit from the WRS.
- (4) A WRS annuitant who is appointed to work as a member of the unclassified staff in a position that is eligible for WRS coverage receives sick leave as described in §10.03. The annuitant may choose whether to resume active WRS coverage. If WRS coverage is elected, sick leave remaining at the end of the appointment is certified to the Department of Employee Trust Funds to increase the employee's accrued sick leave balance. If the annuitant does not elect WRS coverage, any sick leave remaining at the end of the appointment is lost. This sick leave cannot be added to any escrowed sick leave to pay health insurance premiums.

### **10.03 Accrual of Sick Leave**

- (1) An unclassified employee whose initial appointment is eligible for WRS coverage is granted 22 working days of sick leave which may be used for reasons described in §10.04(1). After 18 months, additional non-lapsing leave is earned by such members at the rate of one day per month for persons holding annual appointments and six days per semester for persons who hold academic year appointments, with a maximum annual accumulation of not more than 12 days. No additional sick leave accrues for nine-month academic unclassified employees during summer session employment.
- (2) Part-time unclassified employees have an initial entitlement and a subsequent monthly accrual rate in proportion to the percent of their appointment. If the percent of appointment changes, the initial entitlement and the subsequent monthly accrual rate shall be adjusted prospectively.
- (3) If leave is reported completely, accurately, and in a timely manner, unused sick leave accumulates in the unclassified employee's account from year to year without limit.
- (4) Except for the 22 days of sick leave granted to the unclassified employee upon initial appointment, sick leave may be taken only after it has been earned (i.e., it may not be anticipated).
- (5) While using sick leave, an unclassified employee remains in pay status and continues to accumulate sick leave. Sick leave does not accrue during an unpaid leave of absence. Previously accumulated sick leave is not affected by unpaid leaves of absence.
- (6)
  - (a) If an unclassified employee terminates employment with the University of Wisconsin System before attainment of 20 years of state service, retirement, or death, the sick leave account is terminated. If a former University unclassified employee returns within three years to the University's employ in any position that is eligible for WRS coverage, the previous sick leave balance is reinstated.
  - (b) Sick leave may be reinstated after the expiration of the three year period if the former unclassified employee submitted an application for a specific position within three years of termination and was ultimately hired into that position.
  - (c) If a former unclassified employee returns to an unclassified position after more than 3 years, in a position that is eligible for WRS coverage, and is not eligible to have sick leave reinstated, the appointment shall be treated as an initial appointment and the employee shall be granted up to 22 days of sick leave as provided in this section.

### **10.04 Use of Sick Leave**

- (1) Employees may use accumulated sick leave for:
  - (a) Absence due to personal illness, injury, disability, pregnancy, or adoption;
  - (b) Attendance upon an immediate family member whose health or medical condition requires the employee's direct care; and
  - (c) The death of an immediate family member.

- (2)** Teaching responsibilities not met because of an absence specified in UWS 19.01, Wis. Adm. Code, must be reported as leave, regardless of whether a qualified instructor covers the aforementioned responsibilities. Teaching responsibilities include class time preparation, actual classroom instruction, and scheduled office hours available to students for educational guidance.
- (3)** The rate of sick leave compensation shall be calculated on the employee's base salary, on the date(s) the sick leave is used.
- (4)** Special Circumstances Governing Use of Sick Leave
  - (a)** Sick Leave use outside the regular contract year
    - 1. Unclassified employees who are under contract with the University of Wisconsin to teach or perform other duties for compensation during a period outside their regular contract year may use sick leave during the contract period for reasons described in §10.04(1).
    - 2. Sick leave may be used during the contract period if the unclassified employee is unable to fulfill his/her contractual duties due to an illness or other medical necessity that begins before the effective date of the contract.
    - 3. Sick leave may not be charged for hours that the unclassified employee did not work because the class or other duties were cancelled by the University due to lack of enrollment, lack of funding, or similar reasons.
    - 4. Sick leave used outside the regular contract year should be reported in actual hours.
  - (b)** Sick Leave During Winter and Spring Sessions Breaks. Academic year employees are in pay status during winter and spring session breaks and are required to fulfill their university obligations, research, and/or educational pursuits and to observe their official work schedules. If, due to illness or other reasons described in §10.04(1), they are not able to fulfill their academic obligations, sick leave must be charged.
  - (c)** Paid sick leave benefits and sick leave accrual stop when income continuation insurance benefits begin.
- (5)** Certification of Medical Necessity. Requirement for Faculty, Limited Appointees, and Academic Staff who use Sick Leave.
  - (a)** UW institutions shall require written certification from a health care provider of the medical necessity for use of sick leave for absences of more than 5 consecutive full working days, except where the use of sick leave is authorized in advance, pursuant to the Wisconsin or Federal Family and Medical Leave Act.
  - (b)** Where an institution is aware of an emergency that prevents communicating with or obtaining information about the condition of the employee, such written certification shall not be required until such time as communication is possible and appropriate, given the condition of the employee.
  - (c)** In cases of suspected abuse of the sick leave privilege, the institution shall be authorized to require written certification from a health care provider to verify the medical necessity for the employee's absence regardless of the length of absence.

## 10.06 Other Leave Options

When an unclassified employee is absent for a reason specified in 10.04(1), the following options may be used instead of sick leave to account for the absence:

- (1) Other paid leave (vacation, Annual Leave Reserve Account, or personal or floating legal holiday credits); or
- (2) Leave without pay<sup>2</sup>.

## 10.07 The Designated Work Week

- (1) For the purposes of collecting and reporting sick leave, each full-time unclassified employee will designate a work week consisting of 40 hours as required by §40.05 (4)(bp)3.a., Wis. Stats. The work week will be pro-rated for a less than full-time appointment. The work week will include all scheduled classes, office hours and research, as well as other regular University meetings and professional activities.
- (2) For purposes of this section, a normal work week is deemed to consist of 40 hours worked within a fixed and regularly recurring period of seven consecutive days. Hours worked per day may vary.
- (3) The work week will be defined either by:
  - (a) Automatic consent to the standard business week Monday through Friday from 7:45 AM to 4:30 PM; or
  - (b) By mutual agreement, in writing, with the department chair or other designated supervisor.

## 10.08 Amount of Sick Leave to be Charged

- (1) Sick leave for full-time unclassified employees shall be charged in increments of one-half day for full-time appointments. Absences of between one-quarter and three-fourths day shall be charged as one half-day. Absences of between three-fourths and one and one quarter day shall be charged as one day.
- (2) Employees with less than full-time appointments should report actual hours absent. Sick leave used during Summer and Inter Sessions by academic year employees should be reported in actual hours.

## 10.09 Bone Marrow and Human Organ Donation

Board of Regents Policy 20-15 (October 6, 2000) approves the application of §230.35 (2d), Wis. Stats., to unclassified staff. This affords unclassified staff the opportunity to donate bone marrow or a human organ to a specific recipient. In such situations, unclassified staff are guaranteed specific surgical leave/recovery time:

Bone Marrow Donations: Up to 5 work days in pay status  
Human Organ Donation: Up to 30 work days in pay status

The above leave periods are guaranteed. They are not subject institutional approval nor should they be charged to any leave category. Should additional leave/recovery time be required, a leave category must be charged subject to institutional approval, or the donor may be placed on leave without pay.

The donor must complete an institutional notification form<sup>3</sup> notifying the institution of his/her intent to donate bone marrow or a human organ.

The guaranteed leave meets the requirements and conditions of the Wisconsin (WFMLA) and/or Federal Family Medical Leave Act (FMLA). Leave taken in connection with a bone marrow or organ donation should be charged to the employee's FMLA/WFMLA allocation if available.

Section 10.11 provides details of the terms and conditions of WFMLA and FMLA. The specific subsections of 10.11 which apply to the donation of bone marrow and/or a human organ are 10.11 (A)(1) or 10.11 (B)(1).

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<sup>2</sup> Leave without pay shall be charged in full or half day amounts in order to retain the exempt status of an unclassified employee under the federal Fair Labor Standards Act.

<sup>3</sup> Intent to donate bone marrow or a human organ, form UW1256, [www.uwsa.edu/ohrwd/benefits/leave/donate.pdf](http://www.uwsa.edu/ohrwd/benefits/leave/donate.pdf)

## 10.10 Reporting and Recording Sick Leave

### (1) Reports

- (a) The UW Service Center will provide each unclassified employee with a report of his/her leave balances at least once each month. This process should allow for review by the unclassified employee for accuracy of the record.
- (b) Each UW System unclassified employee is required to complete, sign, and file a monthly leave report with his/her designated unit record keeper whether or not leave is used. The leave report must contain the written attestation *"I certify that my leave report is accurate. I understand that misrepresentation can lead to disciplinary action."* The monthly leave report must also be signed by the unclassified employee's department chair, director, supervisor, or designee. The designated signatory for the Chancellor's monthly leave report is the Provost/Vice Chancellor (deputy) or the CBO/Vice Chancellor. The designated signatory for the System President's monthly leave report is the Executive Senior Vice President.
- (c) The report or its contents must be transmitted to a divisional or campus-wide office and to the UW Service Center at least once per month. A report must be submitted for each unclassified employee from each institution regardless of whether sick leave was used.
- (d) Each institution must establish sick leave procedures that require the signature of the unclassified employee and the signature of a department chair, director, supervisor, or designee and a report to the employee of his or her sick leave balances.
- (e) The University of Wisconsin System Administration must develop a standard sick leave reporting form for data sent by the employee to the unit record keeper and for reports made by institution to the University of Wisconsin Service Center. Such forms shall conform to all the requirements of UPG #10.

### (2) Reduction of Sick Leave Accrual for Unclassified Staff Failing to Report Leave Usage

Effective with sick leave accrued in fiscal year 2007-08, any employee who fails to file a report on leave usage as required by UW System policy in one or more months of any year shall not be permitted to accrue sick leave for that year in an amount exceeding the cap established by §40.05(4)(bp)1., Wis. Stats. (i.e., 8.5 days for an annual unclassified employee or 6.4 days for an academic year unclassified employee).

### (3) Records

- (a) The employee's signed sick leave report must be retained for five years.
- (b) Each department or equivalent unit shall maintain records of sick leave entitlement for its unclassified employees.
- (c) Each Institution shall report sick leave usage and adjustments to System Administration, as required.

## **10.11 Coordination of University Sick Leave Guidance with the Wisconsin Family Medical Leave Act (WFMLA) and the Federal Family Medical Leave Act (FMLA).**

The WFMLA and FMLA guarantee employees specified periods of job-protected leave when necessitated by certain family events or personal illness or injury. The employee may sometimes use sick leave during this leave. It is the University's policy to comply fully with state and federal FMLA. The summary in this section does not include all provisions of the law. Individuals should consult their payroll and benefits office for information on their specific situations.

### **(1) Wisconsin Family and Medical Leave Act**

- (a)** An employee qualifies for WFMLA if he or she has worked for the state for more than 52 consecutive weeks, including leaves of absence, military service, and other time off, and was in pay status, including paid leave, for at least 1,000 hours during the preceding 52-week period.
- (b)** The employee may use any combination of leave without pay and any accrued leave, including sick leave, to cover absences granted under WFMLA.
- (c)** Under the WFMLA, leave is available as follows:
  - 1. Two weeks medical leave per year for personal illness/injury.
  - 2. Two weeks family leave per year to care for a child, legal spouse, or parent (including natural parent, foster parent, treatment foster parent, adoptive parent or legal guardian of the employee or the employee's spouse) with a serious health condition.
  - 3. Six weeks family leave for the birth of a child, adoption, or placement of a child as a pre-condition for adoption. This leave must begin not earlier than 16 weeks prior to and not later than 16 weeks after the qualifying event.
  - 4. If both parents work for the University each is eligible under WFMLA to use six weeks of sick leave for birth, adoption, or placement for adoption. Each parent is also eligible for up to two additional weeks of sick leave to care for the child or other family member who needs care for medical reasons. When both employees work for the same department within the University the employees should make a reasonable effort to consider the impact on the employing department.
- (d)** The leave may be taken in more than one increment and may include a reduced work schedule or intermittent absences.
- (e)** The year is the fiscal year for unclassified employees, and the calendar year for classified employees.
- (f)** Notice requirements
  - 1. The employee must give the employer advance notice of the need for leave as is reasonable and practical. The employee may schedule leave for his or her own personal illness or injury, or that of a family member, as medically necessary but must provide the employer with a written schedule of absences to the extent possible.
  - 2. The employee may schedule family leave "after reasonably considering the needs of his or her employer."<sup>4</sup> Family and medical leave may be taken intermittently or as a partial absence, but the employee must schedule such intermittent or partial leave so it does not unduly disrupt the employer's operations. The employee is deemed to meet this requirement by providing the employer with a written schedule of proposed absences that is sufficiently definite to allow the employer to schedule replacement workers.

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<sup>4</sup> §103.10(3)(c), Wis. Stats.

- (g) The period immediately following the birth of a child when the biological mother is physically unable to work is not considered family leave. Subject to the two-week per year maximum, a birthing mother may take two weeks medical leave under WFMLA for her own medical condition in addition to six weeks family leave to care for the newborn. All of this leave can be covered by sick leave.

University policy on use of sick leave for absences due to illnesses of the employee or family member is more generous than the two-week allocation under WFMLA . For example, a birthing mother can generally use up to six weeks sick leave (per doctor's orders) to recover from child birth in addition to the six weeks family leave, for a total of twelve weeks.

## (2) Federal Family and Medical Leave Act

- (a) An employee qualifies for federal FMLA if he or she has worked for the state for at least 12 months, including summers for academic employees, and has been actively at work for at least 1,250 hours during the previous 12 months. Under federal rules, full-time faculty members and other exempt employees are deemed to meet the 1,250-hour standard unless the employer can clearly show that the employee did not work 1,250 hours during the prior 12 months. Paid leave, such as vacation and sick leave, does not count toward the 1,250-hour requirement.
- (b) FMLA does not guarantee the employee the right to use accrued leave to cover an absence. Thus for leaves which do not qualify for WFMLA, the employee is not eligible to use sick leave unless sick leave use is authorized under another provision of this UPG #10.
- (c) Under FMLA, the employee may take up to 12 weeks of leave per year on a full-time, part-time, or intermittent basis for one or more of the following reasons:
  1. For the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.
  2. To care for the employee's child, legal spouse, or parent (but not the spouse's parent) with a serious health condition.
  3. For birth, adoption, or placement of a child for foster care. This leave must end within twelve months after the event.
- (c) An employee who is exempt from the Federal Fair Labor Standards Act may report unpaid leave taken under federal FMLA in less than full day increments without affecting his/her exempt status.
- (d) Leave entitlements under WFMLA and FMLA run concurrently. When the new fiscal year (calendar year for classified employees) begins, the employee may qualify for a new leave entitlement, depending on the hours worked in the previous year.

## 10.12 Sabbaticals

Consistent with the intent of Academic Planning Statement #3.3 (ACPS 3.3) and § 36.11(17) and 40.02(22)(em), Wis. Stats., faculty granted sabbatical leave shall earn sick leave at the same rate as was in effect immediately before the sabbatical leave began. A faculty member who is absent from work during a sabbatical leave for a reason described in §10.04(1) must report the sick leave usage.

## 10.13 Authority

Sick leave benefits are provided in accordance with §36.30, Wis. Stats., and Chapter UWS 19, Wis. Adm. Code, (1973), consistent with the Federal Family Medical Leave Act (FMLA) and the Wisconsin Family and Medical Leave Act (WFMLA).

Other state statutes affecting sick leave include:

Section 40.05(4)(b), Wis. Stats., provides that upon the retirement, death, or layoff of an insured employee, the employee's accumulated sick leave is converted at his or her highest basic pay rate to an account to pay health insurance premiums .

Section 40.05 (4)(bc), Wis. Stats., provides the same benefit to any employee who leaves state service before retirement but after at least 20 years of creditable service. The conversion occurs on the effective date of the annuity or lump sum retirement payment.

Section 40.05(4)(bp), Wis. Stats.: Section 40.05(4)(bp)1 limits the amount of accumulated sick leave that may be converted to 8.5 days per year for University of Wisconsin annual unclassified employees and 6.4 days per year for academic-year unclassified employees. Sections 40.05(4)(bp) 2–3 establish the sick leave record keeping and reporting requirements subject to the approval of the Department of Administration, which must be met in order for the limits on the amount of sick leave that may be converted to be waived.

Sections 40.95 and 230.12 (9), Wis. Stats., provides supplemental sick leave hours at retirement to employees with 15 or more years of continuous service, within certain maximums. These supplemental hours are added to the existing sick leave balance and the total is multiplied by the highest base rate of pay to pay future health care premiums. This benefit also allows, within limitations, the restoration of an additional 500 hours of sick leave if at least 500 hours of sick leave were used to cover a single illness occurring in the final three years of employment. These credits may not be converted into any type of cash equivalent.

In addition the Board of Regents and the UW System have approved the following guidelines relating to sick leave:

Board of Regents Policy 20-1 (formerly 73-10 and 75-9). This policy covers leave sick leave usage by faculty, academic staff, and limited appointees. For the purposes of that document, faculty assistants, lecturers and instructors with teaching responsibilities are accorded the same sick leave provisions as members of the teaching faculty. Visiting faculty whose home institutions do not provide for sick leave are also covered by the policy.

Board of Regents Policy adopted December 2007. This policy covers sick leave, vacation, and personal holiday leave reporting for Unclassified Staff. Sick leave, vacation, and personal holiday leave for full-time unclassified employees is charged in units of one-half days.

Board of Regents Policy adopted December 2007. Reduction of Sick Leave Accrual for Unclassified Staff Failing to Report Leave Usage. Any employee who fails to file a report on leave usage in one or more months of any year shall not be permitted to accrue sick leave for that year in an amount exceeding the cap of 8.5 days for an annual employee or 6.4 days for an academic year employee.

Board of Regents Policy adopted December 2007. Sick Leave Reporting and Teaching Responsibilities. Teaching responsibilities not met because of an absence specified in UWS 19.01, Wis. Adm. Code, must be reported as leave, regardless of whether a qualified instructor covers the aforementioned responsibilities.

The Wisconsin Family and Medical Leave Act is authorized in §103.10, Wis. Stats., and in ch. DWD 225, Wis. Admin. Code.

The Federal Family and Medical Leave Act is authorized in 29 USC 28 and in 29 CFR Part 825.