

R04.06.130. Sick Leave.**A. Definitions**

1. A “qualifying event” is an absence
 - a. for an illness, injury, healthcare professional appointment and/or treatment of the employee;
 - b. to care for an immediate family member with an illness, injury, disability, healthcare professional appointment and/or treatment when care by the employee is necessary, or an absence within five days after the death of an immediate family member;
 - c. to avoid the passing on of a contagious disease by the employee;
 - d. to attend a funeral;
 - e. approved for University Family and Medical leave, except absences for a qualifying exigency and absences after the first three days off work due to a work-related injury or illness; or
 - f. for an illness which continues for more than three days when the employee is on annual leave.
2. “Immediate family member” refers to an employee’s spouse, financially interdependent partner, parent, child, sibling, stepparent, grandparent, parent of a spouse or financially interdependent partner, grandparent of a spouse or financially interdependent partner, and child of a financially interdependent partner.
 - a. “Parent” refers to the biological parent of an employee, or an individual who stood in place of the parent of the employee when the employee was either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.
 - b. “Child” refers to a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent.
3. “Medical certification” means certification from a health care provider that sets forth the following information:
 - a. The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
 - b. The approximate date on which the serious health condition commenced,

and its probable duration;

- c. A statement or description of appropriate medical facts regarding the patient's health condition for which sick leave or FML leave is requested. The medical facts must be sufficient to support the need for leave. Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;
- d. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability;
- e. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care for the family member;
- f. If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;
- g. If an employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
- h. If an employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required leave.

An employee who requests leave to care for a covered service member shall obtain a certification as described in 29 CFR 825.310.

B. Leave Accrual

- 1. Eligible exempt and nonexempt employees accrue 4.62 hours sick leave per 80 paid hour pay period.

- a. Exempt and nonexempt full-time and part-time employees accrue sick leave based on hours paid.
 - b. Overtime and premium paid hours do not qualify for sick leave accrual.
 - c. Extended temporary employees accrue sick leave based on hours paid.
2. At termination, all sick leave accumulations are lost. Employees who are rehired into a leave eligible position within three years after layoff will have their previous accrued sick leave reinstated.
 3. Temporary employees and student employees earn no sick leave; however, appropriate sick leave credit, not to exceed 60 hours, is granted retroactively to temporary employees employed on at least a half-time basis who change to regular status without a break in service.
 4. Sick leave does not accrue during sabbatical leave, unpaid hours, terminal leave (leave taken during pay period(s) immediately prior to an identified termination date), special assignments, overload, summer appointments, additional assignments, contract extensions, or periods for which workers' compensation benefits are paid.
 5. Sick leave will accrue on an hours paid basis when a continuing employee returns to a new fiscal year contract.
 6. Full payment for accumulated unused sick leave will be made to the employee's estate if the death occurs while the employee is employed by the university.

C. Conditions for the use of sick leave:

1. Sick leave will be granted only for a qualifying event.
2. The use of sick leave for absences covered by FML leave requires approval of the regional human resources office. The employee must provide the regional human resources office with sufficient medical certification or recertification upon request.
3. The use of sick leave for absences that are not approved for FML leave requires the approval of the employee's immediate supervisor. The employee must submit medical certification or other evidence of the qualifying event to document the employee's need for sick leave for absences that exceed ten workdays. The supervisor may also request evidence of an illness of less than ten days or medical appointments. During periods of sick leave in excess of two biweekly pay periods (4 weeks) the employee must provide the supervisor with medical certification at predetermined regular intervals stating the condition of the employee's availability for return to work.

4. The employee must make proper notification as follows:
 - a. The employee who is absent because of illness must notify, or if unable have another notify, the supervisor within the first hour of the normally scheduled work day. If the need for sick leave is a result of an emergency condition, the employee's supervisor must be notified as soon as possible.
 - b. During a qualifying event of any duration, the employee must provide the supervisor with as much advance notice as possible of the anticipated beginning and ending dates of the absence.
 - c. An employee must provide at least 30 days advance notice before sick leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered servicemember. If 30 days notice is not practicable, such as required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.
 - d. Unless the employee's absence is expected, the employee must continue to notify the supervisor each normal work day of an absence for the qualifying event.
5. Sick leave may not be used in advance of accrual.
6. The qualifying event period in excess of an employee's accrued sick leave will be charged against the employee's annual leave accumulation.
7. Sick leave will not be used during a holiday or a regular day off. An employee may use sick leave during the calendar year end holiday closure upon submission of written evidence of illness or a professional appointment or treatment.
8. Sick leave may be used to arrange or attend a funeral. The eligibility rules for bereavement leave are as follows:
 - a. The sick leave must be approved by the employee's supervisor.
 - b. Sick leave may be used for an absence within five days after the death of an immediate family member. Sick leave of up to five consecutive work days may also be used to arrange or attend the funeral of a member of the employee's immediate family.
 - c. Up to one work day of sick leave may be taken to attend the funeral of a friend or relative not in the immediate family.
 - d. The supervisor will determine the number of employees who may attend

the funeral of a deceased employee. An employee attending such a funeral must report sick leave for the time away from the job.

9. Sick leave may be taken as terminal leave only in the event the employee meets requirements for taking such leave. Terminal leave must be approved by the chief human resources officer.
10. Sick leave is paid at the employee's regular rate of pay effective for the time period for which leave is taken.
11. Paid sick leave may be denied if an employee fails to timely notify the supervisor, fails to provide evidence of the qualifying event, or fails to provide medical certification.
12. Paid sick leave is discontinued immediately:
 - a. upon employee's return to work status;
 - b. upon determination by the employee's supervisor with professional medical advice that the employee is able to return to work;
 - c. upon refusal or failure by the employee to submit clear evidence of a qualifying event on request or as required (in this case, the leave may be retroactively disallowed);
 - d. when the employee is eligible and qualified for disability retirement under the applicable state retirement system or Social Security;
 - e. upon exhaustion of sick leave;
 - f. after the third day of disability, for an employee with a workers' compensation claim; or
 - g. upon the expiration of the employee's job assignment.
 - h. upon termination for any reason or no reason.
13. Sick leave requests which are not covered in regulation or requests for special consideration are to be submitted through administrative channels to the regional Human Resources office. The regional Human Resources office, after evaluation, will forward a copy of the request and its recommendations to the chief human resources officer for final determination.

D. Leave Share Program

1. Purpose: The leave share program is established to allow employees to donate sick leave to an employee who needs additional leave coverage for a medical emergency

that will require the prolonged absence of the employee from duty and will result in the substantial loss of income to the employee.

2. Definitions:

For the purpose of this regulation, the following terms will have the meaning as indicated below.

Employee: An employee is any person in the employment of the university in a position that is eligible to accrue sick leave, except for extended temporary employees.

Leave Share Donor: An employee who voluntarily requests transfer of accrued sick leave hours to the sick leave account of a leave share recipient.

Leave Share Recipient: An employee whose application to receive sick leave from the accrued sick leave account of Leave Share Donor(s) has been approved in accordance with subsection 3(c) and whose leave has been designated either as FML leave for a serious health condition in accordance with R04.06.144.B, University Family and Medical Leave or as bereavement leave in accordance with R04.06.130.C(8)(b).

Medical Emergency: A serious health condition of the employee or the employee's immediate family member, or the death of a member of the employee's immediate family, that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available. The employee's absence for the medical emergency must be designated as FML leave for a serious health condition in accordance with R04.06.144.B or as bereavement leave in accordance with R04.06.130.C(8)(b), and must exceed the employee's accrued leave balances by 80 or more work hours.

3. Procedures

a. Program Participation:

A full-time employee may participate in the leave share program for a maximum of 65 scheduled working days (520 hours) during a rolling 12 month period measured backward from the date the employee uses any donated sick leave. Part-time employees may qualify and participate according to their prorated proportion of full-time.

b. Application for Leave Share Hours

An employee or the employee's representative may request leave share hours by completing either the Family and Medical Leave (FML) application for a serious health condition or providing medical documentation of the death of a member of the employee's immediate family for bereavement leave, and submitting a completed leave share application.

c. Review of Application

The regional human resources director or designee will consider the application and determine whether the employee is eligible for leave share, whether the employee's absence is a medical emergency and has been designated as FML leave for a serious health condition in accordance with R04.06.144.B or as bereavement leave in accordance with R04.06.130.C(8)(b), and whether the employee has been on sick leave without pay (SLWOP) for the medical emergency for at least 80 work hours within a period of 28 calendar days.

d. Exclusions

Leave cannot be donated to employees receiving compensation under Workers' Compensation, Long Term Disability, or any other compensation plan, to extended temporary employees, to employees on parental leave, or to any employees not eligible to accrue and use accrued sick leave.

e. Administration of Approved Application

At the employee's request, the regional human resources office may issue a request for sick leave donations on behalf of the leave share recipient (anonymity may be requested).

An employee who wishes to donate sick leave to a leave share recipient will complete a sick leave donation form and submit it to the regional human resources office. The employee must have at least 80 hours of accrued sick leave remaining after donated hours are deducted. Donations will be accepted on a first come, first used basis. The sick leave donation form will not be valid for more than the number of hours needed by the recipient in a given pay period. Separate forms may be submitted each pay period for additional donations.

After the leave share recipient has used 80 hours of sick leave without pay (SLWOP) for the medical emergency within a period of 28 calendar days, the transfer of leave hours from the leave share donor(s) to the leave share recipient will be made on an as-needed basis by pay period. Forty hours of donated leave will be credited retroactively to the recipient.

The leave share recipient may not receive more than the actual number of hours needed. Leave share donations may not be used for the first 40 hours of the qualifying 80-hour SLWOP period. Donations may not be used beyond the leave share recipient's termination date, exhaustion of FML leave, exhaustion of bereavement leave, or exhaustion of leave share benefit, whichever occurs first, or beyond a leave share donor's termination date.

f. Impact on Leave Share Donor

According to Revenue Ruling 90-29, an employee who donates sick leave under a bona-fide employer-sponsored leave-sharing program for medical emergencies does not realize any income or incur any deductible expense or loss either upon the surrender or deposit of that leave or its use by the recipient.

Sick leave donated and used by the recipient is the property of the recipient and will not be returned to the donor.

g. Impact on Leave Share Recipient

In accordance with Revenue Ruling 90-29, amounts paid by an employer to a leave share recipient pursuant to a bona-fide employer-sponsored leave sharing plan for medical emergencies are included in the gross income of the recipient as compensation.

h. Request for Reconsideration of Denial

If an employee's application for leave share is denied, the applicant may request reconsideration within 10 working days by the chancellor (or designee) or, if the applicant is a statewide employee, the president (or designee). Any reconsideration constitutes the final administrative determination of the matter by the University and is not subject to appeal, grievance or arbitration. Any further review of such decisions must be pursued within 30 days of the final decision in accordance with Alaska Rule of Appellate Procedure 602(a)(2).

i. Prohibition of Coercion

An employee may not directly or indirectly intimidate, threaten, or coerce any other employee or otherwise interfere with such an employee's right to choose whether or not to donate, receive, or use sick leave under the leave share program.

h. Records

The leave share and FML application, decision, and other relevant documentation will be maintained separately from employee's permanent personnel file. A record of the number of hours used from the leave share program will be kept in the permanent payroll file.