

# The University of Wisconsin System UNCLASSIFIED PERSONNEL GUIDELINE # 10

**Subject: Faculty and Academic Staff Sick Leave and Colleague Coverage Policy**

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(Replaces 06/21/04 Edition)

## **10.01 Policy Statement**

Paid sick leave is a significant fringe benefit for a UW System unclassified employee, as is colleague coverage. They are provided in accordance with Section 36.30. Wis. Stats., Chapter UWS 19, Wis. Adm. Code, (1973) and 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 accumulated sick leave is converted at the highest basic pay rate for any eligible faculty and academic staff to an account to pay health insurance premiums upon the retirement, death, or layoff of an insured employee.

Section 40.05 (4)(bc), Wis. Stats., provides for any eligible faculty and academic staff the conversion of sick leave on the effective date of the annuity or lump sum payment. Conversion will be at the highest basic pay rate while employed by the state to an account to pay health insurance premiums.

Section 40.05(4)(bp), Wis. Stats., establishes sick leave record keeping requirements subject to the approval of the Department of Administration, which must be met in order to avoid limits on the amount of sick leave that may be converted to pay health insurance premiums.

Section 230.12 (9), Wis. Stats., provides supplemental sick leave credits to faculty and academic staff upon reaching 15 years of service, within certain maximums, that increase each year thereafter. At retirement these supplemental credits 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. When the credited account is exhausted, the retirement annuity pays the premium. This benefit also allows, within limitations, the restoration of an additional 500 hours credit resulting from 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 Resolution # 506, Guidelines implementing Chapter UWS 19, Wis. Adm. Code.

Board of Regent Resolution # 9068, Certification of Medical Necessity.

This policy covers leave usage of faculty, academic staff, and limited appointees. For the purposes of this document, faculty assistants, lecturers and instructors with teaching responsibilities shall be accorded the same sick leave provisions as members of the teaching faculty. Visiting faculty whose home institutions do not provide for sick leave shall also be covered by the provisions.

The following definitions are used in implementing these policies:

"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.

"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.

"GRANDCHILD" means the child of a child.

"GRANDPARENT" means the parent of a parent.

"INITIAL APPOINTMENT" means the date of hire into an unclassified appointment where rights guaranteed under Chapter UWS 19.03, Wis. Adm. Code, which relate to "Cancellation and Reinstatement", and have not been exercised.

"PARENT" means a natural parent, foster parent, adoptive parent, stepparent or legal guardian of an employee or an employee's spouse.

"SPOUSE" means an employee's legal husband or legal wife or domestic partner.

"TEACHING" means for the purposes of colleague coverage to include class time preparation, actual class room instruction and scheduled office hours available to students for educational guidance. Any other administrative or research responsibilities will not qualify for colleague coverage.

## **10.02 Eligibility for Sick Leave and Colleague Coverage**

All faculty, academic staff, and limited appointees earn sick leave while in pay status unless the following conditions apply:

1. The employee is not expected to work at least one-third (440 hours) of what is considered full time employment, or
2. The employee's expected duration of employment is less than one year.

An employee who is not expected to work at least one-third time shall earn sick leave if subsequently employed for at least one year for at least one-third of what is considered full time employment during the immediately preceding 12 month period.

Once a faculty or academic staff member becomes eligible to earn sick leave, he or she shall continue to earn sick leave, during any period of employment, unless employment is terminated for 12 or more consecutive months or unless the employee receives a lump sum separation benefit from the Wisconsin Retirement System.

Rehired annuitants who have had their sick leave certified to the Department of Employee Trust Funds to pay health insurance premiums and who return to work as a member of the faculty or academic staff, in a position that meets the requirements of UWS 19.02, will earn one day of sick leave for each full month of employment (pro-rated for less than full time or less than a full month). Such sick leave cannot be used before it is earned and any unused sick leave 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**

Staff members whose "initial appointments" are for nine months or more shall be granted 22 working days of sick leave upon which they may draw. After 18 months additional non-lapsing leave is earned by such members at the rate of 1 day per month for persons holding annual appointments and 6 days per semester for persons who hold academic year appointments with a maximum annual accumulation limited to not more than 12 days. Unused sick leave shall accumulate from year to year in the staff member's account.

Except for the 22 days of sick leave granted to the staff member upon initial appointment, sick leave may be taken only after it has been earned (i.e., it may not be anticipated). A staff member who uses paid sick leave remains in pay status and continues to accumulate sick leave. A staff member shall not accumulate sick leave while on an unpaid leave of absence. Previously accumulated sick leave shall not be affected by unpaid leaves of absence.

#### **A. Pro-ration of Accumulated Sick Leave (UWS 19.02)**

Initial entitlement and accumulation of sick leave as specified in the preceding section assumes full-time appointment of 9 months or more. Part-time appointees have an initial entitlement earned in proportion to the percent of their appointment.

#### **B. Cancellation/Reinstatement (UWS 19.03)**

When a faculty or academic staff member terminates employment with the University of Wisconsin System through other than retirement or death, sick leave is terminated. If a former University faculty or academic staff member returns to the University's employ in an unclassified position within 3 years, meeting the eligibility requirements of section 10.02, in accordance with Administrative Code UWS 19.03, the employee shall have their former sick leave balance restored or reinstated.

Sick Leave may be reinstated after the expiration of the 3 year period if the former staff member submitted an application for a specific position within 3 years of termination and was ultimately hired into that position.

If a former University faculty or academic staff member returns to an unclassified position after more than 3 years, meeting the qualifications of UWS # 10.02, and does not have any sick leave reinstated from prior employment the appointment shall be treated as an initial appointment as cited in UWS 19.02(2)(b) and, subject to section 10.03, be granted up to 22 days of sick leave.

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

A. Faculty and academic staff of the University of Wisconsin System may use their accumulated sick leave for:

1. Absence due to personal illness, injury, disability, pregnancy or adoption,
2. Attendance upon an immediate family member whose health or medical condition requires the employee's direct care; and
3. The death of an immediate family member.

## B. Special Circumstances Governing Use of Sick Leave

### 1. Sick Leave During Summer and/or Inter Sessions

Faculty and staff appointments whose basic appointments are for nine months or more and 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 for reasons described in s. 10.04 A. Eligibility to begin using sick leave or charge colleague coverage will begin on the effective date of the contract and conclude on the contract termination date. If a faculty or staff member becomes ill prior to the effective date of the contract and is unable to fulfill their contractual duties, eligibility to use sick leave and/or colleague coverage begins on the effective date of the Summer or Inter Session contract. Sick leave may not be charged for hours that the 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. Sick leave used should be reported in actual hours. No additional sick leave accrues during summer session employment.

### 2. Sick Leave During Winter and Spring Sessions Breaks

Nine (9) month faculty and academic staff appointments are in pay status during winter and spring session breaks and are required to fulfill their university obligations and/or educational pursuits. If, due to illness or other reasons described in s. 10.04 A., they are not able to fulfill their academic obligations/educational pursuits, sick leave must be charged.

### 3. Relationship of Sick Leave to Income Continuation Insurance

Paid sick leave benefits and sick leave accrual stop when income continuation insurance benefits begin.

## C. Certification of Medical Necessity Requirement for Faculty, Limited Appointees, and Academic Staff use of Sick Leave:

1. 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 Acts.
2. 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.
3. 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.

## **10.05 Colleague Coverage**

Colleague coverage for teaching faculty is a substantial benefit designed solely for the benefit of students and to provide continuity of studies. In any semester in which a faculty member who has teaching responsibilities is to use sick leave, the provisions of this policy for colleague coverage shall be invoked as follows:

1. Teaching responsibilities not met because of an absence specified in UWS 19.01, Wis. Adm. Code, and covered by colleagues will be reported in units of one-half days in the monthly colleague coverage report. Such coverage can be used during the semester in which the absence commences. In the following semester, a faculty member who continues to be absent as defined in 19.01, Wis. Adm. Code, will not be eligible to charge colleague coverage, but will be required to use sick leave, other paid leave, or leave without pay.
2. If a paid replacement is appointed to assume the faculty member's teaching responsibilities, the faculty member will not be entitled to colleague coverage for the absence.
3. Academic staff with less than 50% of their assigned responsibilities eligible for colleague coverage can record colleague coverage for only the eligible teaching responsibilities. Paid leave or leave without pay is to be charged for the balance of the appointment.
4. Colleague coverage must be reported in the institution's monthly colleague coverage report and will be reported in units of one-half day as is sick leave. Colleague coverage does not extend to administrative duties of Department Chairs, Assistant Deans, etc.

#### **10.06 Categorization of Employees and Methods of Determining Amount of Sick Leave to be Charged**

1. Sick leave or colleague coverage shall be reported in either one-half or full day increments. Reported sick leave or colleague coverage may not exceed 40 hours for a given week. Unclassified employees holding less than full-time appointments report sick leave or colleague coverage based on actual hours used. Sick leave used during Summer and Inter Sessions will be reported in actual hours.
2. 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 less than a full time appointment. The work week will include all scheduled classes, office hours and research, as well as other regular University meetings and activities. The work week will be defined by either (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 and in accordance with the Fair Labor Standards Act (FLSA). FLSA defines a normal work week to consist of 40 hours worked within a fixed and regularly reoccurring period of seven consecutive 24 hour periods. Hours worked per day may vary providing the sum total equals at least 40 hours during the designated 7 day period.

#### **10.07 Amount of Sick Leave or Colleague Coverage to be Charged**

Sick leave, or if applicable colleague coverage, for full-time unclassified employees shall be charged in units of one-half days for full-time appointments. Absence of one quarter day up to three fourths day shall be charged as one half day. Absence of three fourths day up to one and one quarter day shall be charged as one day. Employees with less than full-time appointments report actual hours absent. Sick leave used during Summer and Inter Sessions will be reported in actual hours.

The rate of sick leave compensation shall be calculated on the employee's base salary, on the date(s) the sick leave is used.

#### **10.08 Bone Marrow and Human Organ Donation**

Board of Regents Resolution 8228 (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 is 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, see UPG#10 Attachment 3, Intent to Donate Bone Marrow or a Human Organ, 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 of UPG #10 provides details of the terms and conditions of WFMLA and FMLA. The specific sub-sections 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).

### **10.09 Other Leave Options**

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

- A. Colleague coverage (see s. 10.05 and/or RPD 73-10, as amended for teaching responsibilities only, if appropriate,
- B. Other paid leave (vacation or floating legal holiday) credits or
- C. Leave without pay<sup>1</sup>.

### **10.10 Reporting Sick Leave and Colleague Coverage**

#### A. Records

Each department or equivalent unit shall maintain records of sick leave entitlement for its faculty and academic staff members.

1. UW System unclassified employees must file a written report with their designated unit record keeper at least once each month detailing sick leave used and/or colleague coverage provided in lieu of sick leave. A report must be filed whether or not sick leave is used or colleague coverage is provided.
2. A report, summarizing sick leave usage and colleague coverage provided in lieu of sick leave for each employee, must be signed by the department chair, designee or supervisor. The report or its contents must be transmitted to a divisional or campus-wide office at least once per month. A report must be submitted for each unclassified employee regardless of whether sick leave was used or colleague coverage was provided.
3. Each unclassified employee must be provided with a report of his/her official sick leave

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<sup>1</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.

balance at least once each month. This process should allow for review by the unclassified employee for accuracy of the record.

4. To meet these guidelines, each institution must establish sick leave procedures that require the signature of the unclassified employee, the signature of a department chair, designee or director (supervisor) and a report to the employee of his or her sick leave balances.
5. The office that retains the signed sick leave report form of the unclassified employee should do so for five years.
6. Each institution must develop a standard sick leave and colleague coverage reporting form for data sent by the employee to the unit record keeper and for reports made by the department chairs and directors to an institution central office. Such forms shall conform to all the requirements of UPG# 10.
7. Each Institution shall report sick leave and colleague coverage earnings, 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.

##### **A. Wisconsin Family Medical Leave Act**

An employee qualifies for WFMLA if he or she has worked for the state for more than 52 consecutive weeks and was in pay status for at least 1,000 hours during the preceding 52-week period.

The employee may use any accrued leave, including sick leave, to cover absences granted under WFMLA.

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. If both parents work for the state, both are eligible for 6 weeks of family leave under this provision.

The year is the fiscal year for unclassified employees, and the calendar year for classified employees.

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 schedule of absences to the extent possible.

The employee may schedule family leave "after reasonably considering the needs of his or her employer" (s. 103.10(3)(c), Wis. Stats.). 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 schedule of proposed absences that is sufficiently definite to allow the employer to schedule replacement workers.

The period immediately following the birth of a child when the biological mother is physically unable to work is not considered family leave. A birthing mother may take two weeks medical leave under WFMLA in addition to six weeks family leave to care for the newborn. All of this leave can be covered by sick leave.

University policy for absences due to illnesses of the employee or family member are more generous than the two-week allocation under WFMLA. 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 totaling twelve weeks.

#### B. Federal Family Medical Leave Act

An employee qualifies for federal FMLA if he or she has worked for the state for at least 12 months 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.

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 the birth, adoption, or placement of a child for foster care.

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.

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 a different provision of this UPG #10.

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 s. 10.04 A must report the sick leave usage.

