



## **HRM 60-201: LEAVE/LEAVE WITHOUT PAY**

### **PURPOSE**

This policy is to document an employee's rights under the law and the procedures to follow when applying and processing a leave of absence.

### **PERSONAL LEAVE WITH PAY POLICY**

Personal leave with pay is earned by all regular employees who work 50% time or greater except nine-month faculty, students, temporary employees, intermittent employees and rehired retirees according to employment status and length of annual employment periods. Personal leave may be used for vacations, personal business, and illnesses and injuries requiring absences of one day or less. Personal leave may also be utilized during Family and Medical Leave which is granted to eligible employees because of childbirth or placement of a child through adoption or foster care; due to the serious health condition of a child, spouse, or parent; or, in the case of an employee's own serious health condition (see Family and Medical Leave).

Personal leave may only be taken at times agreed upon by an employee and the department/unit head and must be requested and approved in advance, except when personal leave is required for medical reasons. Compensatory time balances must be exhausted before personal leave may be used (see HRM 60-311). Department/unit heads are responsible for the periodic review of leave activity and balances within their department. Personal leave, except as required for medical reasons, may be denied by the department/unit head if the employee's absence would unduly affect the functioning of the unit. Approval of personal leave may not be arbitrarily withheld or withheld without justifiable cause. However, personal leave will not be approved for outside employment after an employee has submitted a written notice of resignation.

A department/unit head may require that personal leave be taken only at specified times based on departmental needs and schedules; however, if personal leave usage is to be specified, an affected non-contract employee must be notified, in writing, in the letter of offer and thereafter at the beginning of the fiscal year. If personal leave usage is to be specified for a contract employee, the employee must be notified, in writing, in the letter of offer and thereafter when annual contracts are issued.

Personal leave credit is earned proportionally according to employment status and computed on the basis of continuous service. Leave accruals are added to an employee's balance on the last working day of the month and will be available for use beginning the first day of the next month. The following monthly and annual accrual rates are based on employment for 40 hours per week for twelve months annually.

<u>Continuous Service</u>	<u>Accrual Rate Monthly</u>	<u>Days Per Year</u>
1 month to 3 years	12 hours	18 days
37 months to 8 years	14 hours	21 days
97 months to 15 years	16 hours	24 days
over 15 years	18 hours	27 days

- B. An employee who works more than 20 hours per week and/or less than twelve months annually earn personal leave credit on a pro-rata basis of the full-time accrual rates shown above.
- C. There is no limit to the accumulation of earned personal leave.
- D. An employee may not be granted personal leave with pay in an amount greater than earned and accumulated.
- E. An employee who has separated from employment with the University for more than eight hours and later is re-employed will begin a new period of employment and will accrue personal leave according to accrual rates for one month to three years of service. An employee who has separated from employment with the University for eight hours or less and is reemployed will accrue personal leave based on previous continuous service.
- F. An employee may be granted a maximum of 240 hours of personal leave within the six-month period immediately preceding separation from University employment. This would not include personal leave being used for medical reasons as documented on a medical certification form. Leave may be taken only with approval of the employee's supervisor and may be denied if such leave causes a problem in the workload distributed within the unit. Any exception to this must be approved through the appropriate administrative channels and forwarded to the Director of Human Resources Management for action and review.
- G. Personal leave records for employees are maintained by the department processing the Application for Leave forms.

**PROCEDURE**

An employee must request leave in advance and an Application for Leave form ([www.hrm.nysstate.edu](http://www.hrm.nysstate.edu)) should be completed prior to taking leave. Departments not keying their own leave forms should submit the forms to the Department of Human Resources Management. If the employee is unavailable for signature, the department/unit head will process an application for leave if the employee has accrued leave. Adjusted applications for leave will be processed as soon as the employee is available for signature. In no case will adjustments be made to an application for leave after the employee has submitted a signed and completed Application for Leave except when an administrative error has occurred when processing the leave.

This policy has been superseded.

Personal Leave: Nine-Month Faculty

Personal leave policy provisions are not applicable for nine-month faculty members. Duty and non-duty requirements for these faculty members are determined by individual assignments, annual academic calendar, related activities, and special conditions as may be determined by departmental and University programs. However, a nine-month faculty member who earned personal leave while in a twelve-month position, may use the accrued personal leave during their nine-month contract period (August 16 – May 15) until the personal leave is exhausted.

**MAJOR MEDICAL LEAVE WITH PAY**

**POLICY**

Major medical leave is earned by all regular employees who work 50 percent time or greater; except students, temporary employees, intermittent employees, and rehired retirees according to employment status and length of annual employment periods.

Major medical leave may be used concurrently with family and medical leave for the illness or injury of the employee or a member of the employee's immediate family and childbearing (see Family and Medical Leave). Major medical leave may also be used for death in the immediate family (see Leave for Death in the Immediate Family) or to obtain health care services.

- A. An employee earns major medical leave credit proportionally according to employment status and computed on the basis of continuous service. Major medical leave is credited monthly after the completion of each calendar month of service. The following monthly and annual accrual rates are based on employment for 40 hours per week for twelve months:

<u>Continuous Service</u>	<u>Accrual Rate Monthly</u>	<u>Accrual Rate Annually</u>
1 month to 3 years	8 hours	12 days
37 months to 8 years	7 hours	10.5 days
97 months to 15 years	6 hours	9 days
over 15 years	5 hours	7.5 days

Nine-month faculty accrue credit for major medical leave as follows:

<u>Continuous Service</u>	<u>Accrual Rate Monthly</u>	<u>Accrual Rate Annually</u>
1 month to 3 years	13 1/3 hours	15 days
37 months to 8 years	14 1/5 hours	16 days
97 months to 15 years	15 2/5 hours	17 days
over 15 years	16 hours	18 days

**This policy has been superseded.**

- B. An employee who works more than 20 hours per week and/or less than twelve months annually earns major medical leave credit on a pro-rata basis of the full-time rates shown above.
- C. There is no limit to the accumulation of earned major medical leave.
- D. Major medical leave may be used after an employee has used eight consecutive hours of personal or compensatory leave for each absence for illness or after eight consecutive hours of leave without pay if the employee has no accrued personal or compensatory leave. Major medical leave may be used without prior use of additional personal leave for regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease or condition requiring scheduled health care as certified in advance by a physician on the University's required medical certification form. If the original medical certification form indicates specific dates of scheduled health care, no additional medical certification is required, otherwise an appointment card or new medical certification form must accompany each Application for Leave indicating that the scheduled visit is for continuing treatment of a chronic disease or condition.
- E. When an employee's absence is due to a work related injury and payment is being received under the Workers' Compensation Law, the employee may use only enough leave as necessary (which may be less than eight (8) hours of accrued personal and/or major medical leave in a day) to make up the difference in workers' compensation's temporary disability benefits payment and 100 percent of their wages earned in state service at the time of the injury.
- F. Nine-month faculty may use major medical leave for the first eight hours of absence due to illness.
- G. The immediate family is defined as spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son- or daughter-in-law, mother- or father-in-law, or brother- or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the employee stands or stood in loco parentis.
- H. An employee may not be granted major medical leave with pay in an amount greater than earned and accumulated.
- I. For each absence due to illness after 32 consecutive working hours (combined personal, compensatory and major medical leave), a department/unit head must require that the illness be certified in writing by a doctor of medicine, osteopathy, dental medicine, podiatry, or chiropractic on the University's required medical certification form. However, if deemed necessary, a department/unit head may require that the illness be certified in writing by a doctor (as listed above) at any time.
- J. An employee who has separated from University employment for more than eight hours and later is reemployed will begin a new period of employment and will accrue major medical leave according to accrual rates for one month to three years of service. An employee who has separated from University employment for eight hours or less and who is reemployed will accrue major medical leave based on previous continuous service.

This policy has been superseded.

- K. An employee on an approved leave of absence for one year or less who later returns to duty is eligible for accumulated major medical leave which was earned prior to taking leave.
- L. Major medical leave records are maintained by the department processing the Application for Leave forms.

### **MAJOR MEDICAL LEAVE for ADOPTION or FOSTER CARE**

An employee may use up to six (6) weeks of earned major medical leave for the placement with the employee of a child for adoption or foster care, and to care for the newly placed child. Major medical leave used for adoption or foster care must be used within one year of placement.

The employee must submit an Application for Leave form indicating major medical leave along with supporting documentation showing official court record(s) of adoption or foster care placement.

### **PROCEDURE**

An employee must request leave by completing the Application for Leave form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)). The leave form will be processed by the employee's department if the department has gained permission to key leave. Those departments not keying their own leave forms should submit the forms to the Department of Human Resources Management. If an employee is unavailable for signature, the department/unit head will process an Application for Leave if the employee has accrued leave. If an employee is unable to obtain medical certification ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) when required, only personal leave may be utilized. Adjusted applications for leave will be processed as soon as the employee is available for signature. In no case will adjustments be made to an Application for Leave, after an employee has submitted a signed and completed Application for Leave, except when an administrative error has occurred when processing the leave.

### **DONATED LEAVE**

#### **POLICY**

An employee may donate accrued personal or major medical leave to other state employees suffering from a catastrophic injury or illness, or to another employee who has a member of his/her immediate family suffering from a catastrophic injury or illness. Donated leave and Family and Medical Leave (FMLA) must be used concurrently.

Catastrophic injury or illness is defined as a life-threatening injury or illness of an employee or a member of an employee's immediate family which totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the state for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries, are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, which result in intermittent absences from work and which are long-term in nature and require long recuperation periods may be considered catastrophic.

Immediate family is defined as spouse, parent, stepparent, sibling, child or stepchild.

- A. An employee donating leave must maintain 56 hours of personal leave and 50 percent of major medical leave.
- B. An employee may not donate leave after giving notice of separation for any reason or after termination.
- C. Agencies having more than 500 employees may receive donated leave only from employees within the same agency. Therefore, while Mississippi State University (MSU) employees may donate leave to employees in other agencies, if the agency has less than 500 employees, MSU employees can only receive donated leave from other MSU employees.
- D. In order to receive donated leave, an employee must have been employed for at least one year and worked at least 1250 hours during that year.
- E. An employee must have exhausted all earned personal and major medical leave before being eligible to receive any leave donated by another employee.
- F. The maximum period of time that an employee may use donated leave without returning to work is 90 days, which begins on the first day that the recipient employee uses donated leave.

#### PROCEDURE

- A. An employee donating the leave (donor employee) is required to designate the employee who will receive the leave (recipient employee) and the amount of earned personal and major medical leave that is to be donated. An employee should complete the Application to Donate Leave form (HRM 228B) for this purpose. The form must be submitted by the department/unit head to the Department of Human Resources Management. This form can be found on the Human Resources website at [www.hrm.msstate.edu](http://www.hrm.msstate.edu).
- B. Before an employee may receive donated leave, Part I of the Application to Receive Donated Leave form (HRM 208A) must be completed. The patient=physician must complete Part III of the form which provides MSU with the beginning date of the catastrophic injury or illness, a description of the injury or illness, a prognosis for recovery and the anticipated date that the employee will be able to return to work. The form must be submitted to the Department of Human Resources Management. This form can be found on the Human Resources website at [www.hrm.msstate.edu](http://www.hrm.msstate.edu).
- C. Once an employee receives donated leave, an Application to Use Donated Leave form (HRM 228) must be completed. The form must be submitted by the department/unit head to the Department of Human Resources Management. This form can be found on the Human Resources website at [www.hrm.msstate.edu](http://www.hrm.msstate.edu).
- D. If the total amount of leave donated to a recipient employee is not used by that employee, the donated leave will be returned to the donor employee(s) on a pro-

rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees.

## **LEAVE FOR DEATH IN THE IMMEDIATE FAMILY**

### **POLICY**

When absent from duty due to a death in the immediate family (spouse, parent, step-parent, sibling, child, step-child, grandchild, grandparent, son-or daughter-in-law, mother- or father-in-law, or brother- or sister-in-law), an employee may use up to three days of earned major medical leave per occurrence. If additional time is needed for that absence, major medical leave and/or personal leave policies and procedures apply (see Personal Leave with Pay, and Major Medical Leave with Pay), as appropriate.

### **PROCEDURE**

An employee must request leave by completing the Application for Leave form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)). The leave form will be processed by the employee's department if the department has gained permission to key leave. Those departments not keying their own leave forms should submit the forms to the Department of Human Resources Management.

## **ADMINISTRATIVE LEAVE**

### **POLICY**

Jury Duty: An employee summoned to jury duty, as verified by the Clerk of the Court, will be granted administrative leave for all hours required for such duty, not to exceed the number of hours in the normal work day. If the jury duty does not require an absence for the entire work day, the employee is expected to return to work immediately upon release by the court.

Witness: An employee subpoenaed as a witness in a court or administrative hearing, as verified by the Clerk of the Court, not involving personal litigation or service as a paid expert witness, will be granted administrative leave.

If an employee is subpoenaed in the line of duty to represent the University as a witness or defendant, this appearance will be considered as a part of the job assignment (time worked) rather than being covered by administrative leave.

Administrative leave will not be granted for court attendance if the employee is engaged in personal litigation or service as a paid expert witness. In these instances, however, the employee may be approved to use accrued personal leave. If the employee makes an appearance as an expert witness for which professional compensation will be received, the University's policies on Outside Employment (see HRM 60-415 and OP 56.02) and Anti-Kickback & Procurement Ethics in Public Contracting (see OP 65.03) may apply.

Disaster, Emergency or Extreme Weather Conditions-When University is Closed: The president may close the University and grant administrative leave with pay in the event of

local or state-wide disaster, emergency or extreme weather conditions. Selective functions will be identified as essential during closings. Employees in these areas will be made aware of this designation and may be required to report to work at the request of the department/unit head.

If disaster, emergency, or extreme weather conditions vary throughout the state, it is the responsibility of the appropriate vice president to make a recommendation to the president regarding the need to grant administrative leave in each location.

Disaster, Emergency or Extreme Weather Conditions-When University is Open: In the event the president does not close the University, an employee must use personal or compensatory leave to cover the absence. If personal or compensatory leave is not available, the leave will be without pay.

Disaster, Volunteer Service: An employee may be granted administrative leave with pay for not more than 20 working days in a twelve month period to participate in disaster relief services with the State of Mississippi or in contiguous states. Leave may be granted when the following conditions are met:

- the employee must be a certified disaster service volunteer of the American Red Cross;
- the service of the employee is specifically requested by the American Red Cross;
- during the period of absence, the employee will participate in specialized disaster relief services within the State of Mississippi or contiguous states; and,
- the disaster is designated at Level II and above as defined by the American Red Cross National Regulations and Procedures.

Upon receipt of written confirmation by the American Red Cross that the above conditions have been met, administrative leave may be granted unless it unduly affects the department/unit. An employee on such leave shall not be deemed to be an employee of the state for purposes of workers' compensation or for purposes of claims against the state allowed under Chapter 46, Title 11, Mississippi Code 1972.

Investigative Leave: The president or the responsible vice president may place an employee on investigative leave when the presence in the work place may result in damage to property, violence, or compromise an investigation.

#### **PROCEDURE**

For administrative leave for jury duty, witness service, or disaster volunteer service, an employee must submit supporting documentation to the department/unit head for approval.

For administrative leave due to investigation, the responsible administrator, in consultation with the Department of Human Resources Management, must obtain approval through the appropriate administrative channels.

## MILITARY LEAVE/VETERAN'S RE-EMPLOYMENT RIGHTS

### POLICY

In accordance with the Uniformed Services Employment and Re-employment Rights Act of 1994, an employee who is in "uniformed service" (full-time and reserve components of the Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, and the commissioned corps of the Public Health Service) and ordered to duty to participate in training at encampments, field exercises, maneuvers, out-door target practice, fitness-for-duty examinations or for other exercises is entitled to leave of absence from respective duties, without loss of pay, time, annual leave, or efficiency rating.

An employee is eligible to take military leave if;

1. the employee or an appropriate officer of the branch of the uniformed service in which the employee will be serving gives advance written or oral notice of the employee's military service to the department. The department can request supporting documents from the employee upon the employee's return from military leave; and,
2. the combined length of the employee's previous military absences from the University does not exceed five years.

Under federal law, an employee is entitled to re-employment upon discharge from the service including, but not limited to, reinstatement to the former position or similar position, reinstatement of benefits, and protection from arbitrary discharge. For detailed information regarding veterans' re-employment rights, contact the Department of Human Resources Management.

Paid Leave - The first 15 days of military leave in any calendar year may be with pay if the employee provides a copy of orders to duty/verification of military service. An employee may be granted personal leave for the period in excess of 15 days by the department/unit head when requested (see Number 1).

Unpaid Leave - If an employee does not wish to utilize accrued personal leave or provide a copy of orders to duty/verification of military service, the employee must be granted leave without pay until relieved from military duty.

### PROCEDURE

Employees requesting paid military leave must:

- Submit to the department/unit head a completed Application for Leave form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with an attached copy of orders to duty/verification of military service.
- Indicate on the Application for Leave the dates of military leave (not to exceed 15 days per calendar year) or the dates of personal leave.

Employees requesting unpaid military leave must:

- Submit to the department/unit head a completed Application for Leave of Absence Without Pay form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with an attached copy of orders to duty/verification of military service.
- Indicate on the Application for Leave of Absence Without Pay form the dates of leave without pay.
- If the leave of absence without pay exceeds one month, the employee should contact the Department of Human Resources Management regarding continuation of benefits during the approved leave of absence.

## **FAMILY AND MEDICAL LEAVE**

### **POLICY**

The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks of unpaid, job protected leave per fiscal year. It also requires that group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibility by taking reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interest of employees and promote equal employment opportunity for men and women.

The following is a list of an employee's rights and benefits as an eligible FMLA employee:

- 12 weeks of unpaid FMLA leave in a 12 month period
- continuation of group health benefits during FMLA leave
- restoration to the same or an equivalent job upon return to work
- retention of accrued benefits
- protection from discrimination as a result of taking of FMLA leave

All regular benefits eligible (50% time or greater) employees of Mississippi State University are entitled to family and medical leave. An employee who works 50% time or greater but less than 100% time is entitled to leave on a pro-rata basis. Family and medical leave of up to a twelve (12) week period during the fiscal year will be granted upon proper request for one or more of the following reasons:

1. for the birth and care of a new born child of the employee;
  - a. a mother can use FMLA leave for the birth of a child, for prenatal care and incapacity related to pregnancy and for her own serious health condition following the birth of a child.
  - b. a father can use FMLA leave for the birth of a child and to care for his spouse who is incapacitated (due to pregnancy or child birth).

2. for placement with the employee of a son or daughter for adoption or foster care (including leave for pre-adoption or placement procedures);
3. to care for a , spouse, son, daughter, or parent, (but not parent “in-law”) with a serious health condition,
4. to take medical leave when the employee is unable to work because of a serious health condition (including on-the-job-injury); or
5. for qualifying exigencies: (a) short-notice deployment; (b) military events and related activities; (c) child care and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities to address other events that arise out of active duty status, provided the employer and the employee agree that it is an exigent circumstance and agree to time and duration arising out of the fact that the spouse or a son, daughter, or parent of the employee is on active duty, (or has been notified of an impending call or order to active duty), in the Armed Forces in support of a contingency operation.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

A covered service member is a current member of the armed forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

1. An employee may use accrued personal and/or major medical leave and remain in a paid status, as applicable for any period of absence due to a family and medical leave qualifying event as certified on the medical certification form.

**NOTE:** An employee may be granted an FMLA leave of absence without pay only after applicable accrued personal leave, major medical, and compensatory time are exhausted.

When an employee is receiving payment from workers’ compensation insurance, the employee may use only enough leave as necessary (which may be less than eight (8) hours of accrued personal and/or major medical leave in a day) to make up the difference in the workers’ compensation’s temporary disability benefits payment and 100 percent of their wages earned in state service at the time of the injury. However, the entire period of absence is considered family and medical leave as certified on the medical certification form.

If accrued personal and/or major medical leave is not sufficient to cover the entire period of the leave requested, an unpaid leave of absence will be granted for the remainder of the twelve (12) week leave period (see Leave of Absence).

2. Leave requests due to childbirth or placement of a child through adoption or foster care will only be honored within twelve months of the birth or placement.
3. An employee may request and be granted intermittent leave or a reduced work schedule for the birth or placement of a child.
4. Leave due to childbirth or placement of a child through adoption or foster care may be extended beyond twelve (12) work weeks by an employer's department head, if it is the intention of the employee to return to university employment at the expiration of the extended leave. An employee may utilize accrued personal or major medical leave, as applicable, or an unpaid leave of absence (if all paid leave is exhausted) during the extended leave; however, an unpaid leave of absence may not be extended beyond one year.
5. When requested, an employee must be granted intermittent leave or a reduced work schedule when medically necessary (see Number 1).
6. Major medical leave for the illness or injury of an employee or the employee's family member must be extended beyond the initial twelve (12) weeks provided by this policy if the employee has accrued major medical and personal leave. While an employee may also be granted an unpaid leave of absence, it may not be extended beyond one year and may be granted only after applicable accrued personal leave, major medical leave, and compensatory time are exhausted.
7. The University will continue to pay the employee only contribution to the State & School Employees' Health Insurance Plan for up to twelve (12) weeks, whether the leave is paid or unpaid. If additional paid or unpaid leave is granted, the employee must contact the Department of Human Resources Management to determine the effect upon continued health care coverage.
8. An employee taking leave is guaranteed the right to return to the previous or an equivalent position with no loss of benefits at the end of the leave.

At the time accrued paid leave is exhausted and an unpaid leave of absence begins, an employee must make arrangements with the Department of Human Resources Management for continuation of benefits coverage, including health, life, dental, and other applicable insurances. Service time in the Public Employees' Retirement System of Mississippi or the Optional Retirement Plan is not earned for any period of unpaid leave of absence. Also, personal and major medical leave days are not earned during the unpaid portion of a leave of absence.

Department/unit heads are responsible for notifying employees, in writing, of their entitlement to family and medical leave within five (5) business days of the time they become aware that an employee is taking leave for a reason that qualifies for family and medical leave. An employee must be allowed fifteen (15) calendar days to return the

Application for Leave or Leave of Absence Without Pay form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) and the required medical certification form.

An employee who fails to return to University employment at the end of an approved leave of absence will be liable to reimburse the University through the accounts receivable process for insurance premiums paid for the employee during the unpaid leave of absence, unless the failure to return is due to the continuation, recurrence, or onset of a serious health condition, or something beyond the employee's control.

Medical certification is required within thirty (30) days of the end of the approved leave to document reasons for failure to return to University employment following an approved leave of absence. Failure to provide the required medical certification will result in the employee's liability to reimburse the University for insurance premiums paid for the employee.

An employee who returns to work for at least thirty (30) calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first thirty (30) days after returning to work, is deemed to have returned to work.

An employee requesting family and medical leave must provide the department head with a medical certification form from a health care provider indicating a serious health condition for the employee's own health or that of a family member. The department head may request re-certification of a serious health condition no more often than every six (6) months unless circumstances change. If a department head questions the validity of the certification provided, the Department of Human Resources Management may be requested **(but in no case may it be the employee's direct supervisor)** to contact the employee's health care provider to authenticate or clarify the medical certification. **However, the health care provider may not be asked for additional information beyond that required by the medical certification form.** The employee may be required to obtain the opinion of a second health care provider designated or approved by the department head (at the department's expense). This request must be made through the appropriate administrative channels to the Director of Human Resources Management. The selected health care provider cannot be an employee of the University. If the opinions of the employee's and the department's designated health care providers differ, the department may require the employee to obtain certification from a third health care provider, again at the department's expense. This third opinion shall be final and binding. The third health care provider must be approved jointly by the department and the employee. Again, this request must be made through the appropriate administrative channels to the Director of Human Resources Management.

In the case of childbirth or placement of a child through adoption or foster care, certification must include: 1) documentation by the attending physician in the case of childbirth, or verification by a judge of the placement of a child in the case of adoption or foster care; and, 2) the probable duration of the leave requested.

In order to minimize disruptions to the work environment, an employee is encouraged to provide the department head with as much advance notice as possible when there is a need for family and medical leave. After a period of leave due to the serious health condition of an employee, the employee must present a fitness for duty certification to indicate the ability to return to work.

Definitions:

Serious health condition is defined by federal law as an illness, injury, impairment, or physical or mental condition that involves either:

- inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility including a period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
- continuing treatment by a health care provider, which includes:
  1. a period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment for a period of incapacity relating to the same conditions, that also includes:
    - treatment two or more times by or under the supervision of a health care provider, (i.e., in-person visits, the first within seven (7) days, and both within thirty (30) days of the first day of incapacity); or
    - one treatment by a health care provider (i.e., an in-person visit within (7) days of the first day of incapacity) with a continuing regimen of treatment (i.e., prescription medication, physical therapy);
  2. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
  3. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, required periodic visits (at least twice a year) to a health care provider, and may involve occasionally episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
  4. A period of incapacity that is permanent or long term due to a condition for which treatment may be ineffective. Only supervision by a health care provider is required, rather than active treatment; or
  5. Any absences to receive multiple treatments for restorative surgery for conditions that would likely result in a period of incapacity of three or more days if not treated.

Health Care Providers who may provide certification of a serious health condition include:

- doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices;
- podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state and performing within the scope of their practice under state law;

- nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under state law and performing within the scope of their practice as defined under state law;
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
- any health care provider recognized by the employer or the employer's group health plan's benefit manager; and,
- a health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

## PROCEDURE

### Leave of Absence With Pay

To request family and medical leave and be paid, an employee must use personal and/or major medical leave and must complete an Application for Leave form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with appropriate medical certification attached, as required, and submit the request to the department head for approval.

### Leave of Absence Without Pay:

To request unpaid family and medical leave, an employee must have exhausted all applicable accrued personal leave, major medical leave and compensatory time and complete an Application for Leave of Absence Without Pay form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with appropriate medical certification attached, as required, and submit the request to the department head for approval.

If a leave of absence without pay is approved:

1. The department/unit head processes the Employment Action Form with the approved application form attached to remove an employee from the payroll.
2. An employee should contact the Department of Human Resources Management about continuation of benefits during the approved leave of absence.
3. Upon return to work, the department/unit head completes the Employment Action Form to indicate an employee's return from leave and to reinstate the employee to the payroll.
4. Upon return to work, an employee must contact the Department of Human Resources Management about reinstatement of benefits.

## ORGAN DONOR LEAVE

An employee may use up to thirty days of organ donation leave in any twelve-month period to serve as a bone marrow donor, up to thirty (30) days of organ donation leave in any

twelve-month period to serve as an organ donor, or up to one (1) hour to donate blood every fifty-six (56) days, and up to two (2) hours to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave for donation of blood platelets may not be granted more than twenty-four (24) times in a twelve-month period. In accordance with Mississippi Statute 25-3-103 (2014), an employee shall not be required to use accumulated sick or vacation leave time before being eligible for organ donor leave.

An employee must request approval in advance for leave to donate bone marrow or organ(s), and provide appropriate medical certification signed by a licensed physician on the university's medical certification form. Leave requests for donation of blood in non-emergency situations must be submitted and approved in advance, and supported by an American Red Cross blood donation card, or the university's medical certification form signed by a licensed health care provider.

Should an employee request leave for emergency illness or injury requiring blood or organ donation to another individual, a completed medical certification form signed by a licensed physician must be submitted within fifteen (15) days after the employer's request for medical certification.

## **SEPARATION LEAVE PAYOUT/TRANSFERRING LEAVE**

### **POLICY**

An eligible employee separating from employment is paid in a lump sum for the unused portion of earned personal leave time, not to exceed 240 hours, unless transferring to another state agency in Mississippi. Unused personal leave in excess of 240 hours will be counted as creditable service for an employee participating in the Public Employees' Retirement System. Unused personal leave in excess of 240 hours will be forfeited by an employee participating in the Optional Retirement Plan.

Upon retirement from regular employment, a faculty member who is employed on a nine-month basis shall be paid for accrued major medical leave not to exceed 240 hours. Unused major medical leave in excess of 240 hours shall be counted as creditable service for an employee participating in the Public Employees' Retirement System. Unused major medical leave in excess of 240 hours is forfeited by an employee participating in the Optional Retirement Plan.

If an employee presents medical evidence that the health condition is such that employment with the University must be terminated, the employee may present a written resignation letter and be paid for earned major medical leave not to exceed 960 hours. The employee may apply for disability benefits with the Public Employees' Retirement System, if applicable, and elect to remain in a paid leave status until approved for disability retirement or accrued leave is exhausted.

Should an employee die prior to separation from the University, payment for the total amount of accumulated personal leave at the time of death is made to the person designated by the employee for this purpose or, in the absence of such designation, to the beneficiary of the employee as recorded with the Public Employees' Retirement System or the Optional Retirement Plan, as appropriate. Unused major medical leave will be counted as creditable service for an employee participating in the Public

Employees' Retirement System. Unused major medical leave is forfeited by an employee participating in the Optional Retirement Plan.

#### Transferring Credit for Leave Days

When an employee transfers from one unit to another within the University, cumulative earned personal and major medical leave credits are retained at the time of the transfer provided employment is continuous. The department accepting the transferred employee assumes liability for personal and major medical leave earned by the employee. Accrued personal and major medical leave is transferable with employees between or among any and all State of Mississippi agencies, junior colleges, and senior colleges. New employees to the University from another state agency or institution in Mississippi may transfer leave credits to the University upon proper certification from the former employing State unit provided their employment is continuous. Employment is considered continuous in both situations provided not more than eight hours of unemployment is involved between the transfer from one unit to the other.

When an employee transfers to another agency or institution within the State, the University will, at the request of the employee, certify the unused personal and major medical leave as of the date of the transfer.

### **GENERAL LEAVE OF ABSENCE**

#### **POLICY**

A leave of absence without pay may be granted to regular employees, after applicable accrued personal, major medical, and compensatory leave are exhausted, for a period of one month up to one (1) calendar year at the discretion of the employees' responsible Administrator. Leave may be granted for, but not limited to, medical disability of an employee or family members (see Family and Medical Leave), enrollment in educational course work relating to the employee's position, temporary relocation of the employee's spouse, or family emergency. In the case of professional development beneficial to the employee and the University, the employee would not have to first exhaust accumulated leave. An employee will remain benefits eligible if either working or utilizing paid leave for one half of the pay period. A leave of absence will not be approved for outside employment purposes, except when the outside employment is of benefit to the employee and the University. The responsible administrator must consider the individual circumstances, including the impact the leave of absence will have on the department, the specialization and/or critical nature of the position, and the practicality of replacing the employee for the period of the leave of absence. The leave will not be granted unless the employee intends to return to work at the University at the expiration of the leave of absence.

Service time in the Public Employees' Retirement System of Mississippi is not earned for any period of leave of absence without pay nor are contributions made to the Optional Retirement Plan. Also, personal and major medical leave days are not earned during the leave of absence. Insurance coverage may be retained during the leave provided that prior arrangements are made through the Department of Human Resources Management and total premiums for coverage are paid by the employee.

## PROCEDURE

The following procedure is followed:

- 1) An employee completes the Application for Leave of Absence Without Pay form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with approval through the appropriate administrative channels.
- 2) If approved, the department/unit head processes the Employment Action Form with the approved application form attached to remove the employee from the payroll.
- 3) The department/unit head processes the application form and notifies the employee of the decision.
- 4) If approved, the employee contacts the Department of Human Resources Management about continuation of benefits during the approved leave of absence.
- 5) Upon return to work, the department/unit head must complete the Employment Action Form to indicate the employee has returned from leave and to reinstate the employee to the payroll.
- 6) Upon return to work, the employee must contact the Department of Human Resources Management about reinstatement of benefits.

## PROFESSIONAL LEAVE OF ABSENCE

### POLICY

A professional leave of absence without pay may be granted for a period of up to two (2) years during any ten (10) year period of state service at the discretion of a regular employee's responsible administrator. During a professional leave, service must be performed with a public institution or public agency of the state, or another state or federal agency. Additionally, the professional leave must benefit both the employee and the University. The responsible administrator must consider the individual circumstances, including the impact the leave of absence will have on the department, the specialization and/or critical nature of the position, and the practicality of replacing the employee for the period of the leave of absence. As a condition of granting such a leave, the employee shall agree to return to University employment on a full-time basis immediately following the termination of the approved leave for a period of time equivalent to the period of the professional leave.

### Benefits

An employee shall receive creditable service for the period of the professional leave of absence provided the employee has at least four years of membership service credit and pays to the Public Employees' Retirement System the actuarial cost of such credit for each year of professional leave of absence. Payment may be purchased in not less than quarter year increments prior to retirement. An employee participating in the

Optional Retirement Plan will not make contributions into the Plan for the period of the professional leave of absence. Personal and major medical leave are not earned during the professional leave of absence; however, earned leave credits on record at the beginning of the leave of absence are not forfeited provided the employee returns to duty as outlined above. Insurance coverage may be retained during the leave of absence provided that prior arrangements are made through the Department of Human Resources Management and total premiums for coverage are paid by the employee.

## PROCEDURE

The following procedure is followed:

- 1) An employee applies by completing the Application for Leave of Absence Without Pay form ([www.hrm.msstate.edu](http://www.hrm.msstate.edu)) with approval through the appropriate administrative channels.
- 2) If leave is approved, the department/unit head processes the Employment Action Form with the approved application form attached to remove the employee from the payroll.
- 3) The department/unit head processes the application form and notifies the employee of the decision.
- 4) If leave is approved, the employee should contact the Department of Human Resources Management about continuation of benefits during the approved leave of absence.
- 5) Upon return to work, the department/unit head must complete the Employment Action Form to indicate the employee has returned from leave and to reinstate the employee to the payroll.
- 6) Upon return to work, the employee must contact the Department of Human Resources Management about reinstatement of benefits.

## REVIEW

The Chief Human Resources Officer is responsible for review of this policy as needed but no less frequently than four years.

**This policy has been superseded.**

Recommended by:

/s/ Judy A. Spencer  
Chief Human Resources Officer

05/26/2015  
Date

/s/ Jerome A. Gilbert  
Provost and Executive Vice President

05/29/2015  
Date

Reviewed by:

/s/ Timothy N. Chamblee  
Assistant Vice President & Director  
Institutional Research and Effectiveness

06/25/2015  
Date

/s/ Joan Lucas  
General Counsel

06/22/2015  
Date

APPROVED:

/s/ Mark Keenum  
President

07/08/2015  
Date

**This policy has been superseded.**