

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 24**

**EMPLOYEE LEAVE
West Virginia University and Regional Campuses**

Section 1. General

- 1.1 Scope - Rule regarding annual leave, sick leave, medical leave, funeral leave, catastrophic leave, parental leave, the Family Medical Leave Act, personal leave of absence without pay, military leave, special emergency leave without pay, witness and jury leave and leave usage during facility disruption, utility service interruption and inclement weather for employees of the West Virginia University Board of Governors.
- 1.2 Authority - West Virginia Code §18B-1-6
- 1.3 Effective Date – June 17, 2005

Section 2. General Leave Coverage

- 2.1 Eligibility for annual and sick leave shall be based on the following:
 - 2.1.1 Classified and Non-classified Employees
 - 2.1.1.1 Employees working on a regular and continuing basis for at least 1,040 hours over a minimum of nine (9) months within a twelve (12) month period are eligible for leave as specified in this document.
 - 2.1.1.2 Employees working less than 1,040 hours within a twelve (12) month period are not eligible for leave benefits.
 - 2.1.1.3 Temporary employees are not eligible for leave.
 - 2.1.2 Faculty/Faculty Equivalent Academic Professionals (FEAPs) Employees
 - 2.1.1.1 Faculty/FEAP employees on twelve-month appointments are defined as leave eligible employees and accrue leave according to the appropriate sections of this rule.

2.1.1.2 Faculty/FEAP employees on annual appointments of less than twelve months do not accrue annual or sick leave. Thus, they are not eligible to participate in the catastrophic leave program.

2.2 Leave Accrual

2.2.1 All leave eligible employees on payroll as of the 15th of the month earn ½ of their monthly leave accruals.

2.2.2 All leave eligible employees on payroll as of the last day of the month earn ½ of their monthly leave accruals.

2.2.3 During a terminal leave period, no type of leave may be accrued. The terminal leave period is the period for which an employee may receive pay following the employee's last active day at work.

2.2.4 Employees on leave of absence without pay shall not accrue annual or sick leave or years of service credit for any and all full months in which they are off the payroll.

2.2.5 Each institution shall keep on file a record showing the current leave status of each employee.

2.3 Leave Usage

2.3.1 Annual and sick leave may not be taken before it is accrued.

2.3.2 A recognized institutional holiday occurring during an employee's leave period shall not be considered as a day of leave, provided the employee is not in a terminal leave period.

Section 3. Annual Leave

3.1 Leave Accrual

3.1.1 Classified Employees

3.1.1.1 Leave eligible classified employees occupying 1.0 FTE positions shall be eligible for annual leave on the following basis:

Less than 5 years' service: 1.25 days per month;
5 but less than 10 years' service: 1.50 days per month;
10 but less than 15 years' service: 1.75 days per month;
15 or more years' service: 2.00 days per month.

3.1.1.2 Leave eligible classified employees expected to work at least 1,040 hours over a minimum of nine (9) months within a twelve (12) month period on a regular and continuing basis, but less than 1,950 hours over a 12 month period shall accumulate annual leave on a pro rata basis.

3.1.1.3 Length of service shall be total years of service to the state of West Virginia including experience with WV state institutions of higher education and other state agencies.

3.1.1.3.1 Annual appointment periods of nine (9) months at 1.0 FTE or more shall be credited for one (1) year of service for annual leave calculation purposes.

3.1.1.3.2 Years of service shall be prorated for all employees with appointments of less than 1.0 FTE.

3.1.2 Faculty/FEAP Employees

3.1.2.1 Leave eligible Faculty/FEAP employees occupying 1.0 FTE positions shall be eligible for 2.00 days per month of annual leave.

3.1.2.2 Leave eligible Faculty/FEAP employees occupying positions which are less than 1.0 FTE shall accumulate annual leave on a pro-rata basis.

3.1.3 Non-classified Employees

3.1.3.1 Non-classified employees occupying 1.0 FTE positions shall be eligible for 2.00 days per month of annual leave.

3.1.3.2 Non-classified employees expected to work at least 1,040 hours over a minimum of nine (9) months within a twelve (12) month period on a regular and continuing basis, but less than 1,950 hours over a 12 month period shall accumulate annual leave on a pro rata basis.

3.2 Annual Leave Usage

3.2.1 The work requirements of the institution shall take priority over the scheduling of annual leave or other leave for an employee. When operationally possible, the supervisor shall grant earned annual leave at the convenience of the employee. However, departmental needs must be met, and annual leave should not be taken without prior request and approval of the employee's supervisor.

3.2.1.1 If an employee does not follow established procedures for requesting leave, the charge to annual leave shall be processed as an unauthorized leave.

3.2.2 After all sick leave is exhausted, at the request of the employee, accumulated annual leave shall be granted because of illness.

3.3 Annual Leave Accrual Maximums

3.3.1 The maximum for accumulated annual leave shall be twelve times the employee's monthly accrual.

3.3.2 The maximum for accumulated annual leave may be increased up to 24 times the employee's monthly accrual upon approval by the Department of Human Resources. Such extension of the employee's maximum accrual may not be extended beyond one (1) year.

3.4 Up to fifteen (15) days of unused/unpaid annual leave may be transferred from other eligible agencies of WV state government and state higher education institutions to other higher education institutions. Certification of the balance which existed in the agency or institution from which the employee is transferring must accompany the request for transfer and bear the signature of an officer of that agency. A request for transfer must be made within one (1) year from the last day of employment with the other agency or institution.

3.5 An employee is entitled to be paid for unused/unpaid annual leave at termination of service, but in no case may this exceed the limits set in 3.3.2 above. The employee may elect a lump-sum payout of annual leave, choose to remain on payroll in a terminal leave period equaling the number of annual leave days he/she has accumulated or transfer unused/unpaid annual leave to another eligible state agency.

3.5.1 In the event of an employee's death, the value of accumulated annual leave will be paid to the employee's estate.

Section 4. Sick Leave

4.1 Sick Leave Accrual

4.1.1 Leave eligible employees occupying 1.0 FTE positions shall accumulate sick leave at the rate of 1.5 days per month.

4.1.2 Leave eligible employees occupying positions which are less than 1.0 FTE shall accumulate sick leave on a pro-rata basis.

4.1.3 Sick leave may be accumulated without limit.

4.2 Sick Leave Usage

4.2.1 Sick leave may be used by the employee when ill or injured or when in need of medical attention or when death occurs in the immediate family per Section 5 of this policy.

4.2.2 An employee may use sick leave for a member of the immediate family who is ill, injured, or in need of medical attention. **Immediate family** for this purpose is defined as: father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, step children, or others considered to be members of the household and living under the same roof.

4.2.3 An employee is required to notify his/her supervisor (prior to the beginning of his/her shift (unless not feasible due to hospitalization, etc.) or immediately if the employee becomes ill or unable to work for any reason while at work and to follow the institution's established procedures for absences from work. The notification shall be given to the immediate supervisor or designee, as determined by established procedures of the institution.

4.2.4 Medical Documentation

4.2.4.1 The institution may require evidence from an employee for verification of an illness or other causes for which leave may be granted under this rule, regardless of the duration of the leave. Such verification shall be provided to Human Resources. Documentation regarding employees' medical conditions is not required to be submitted to the employee's department.

4.2.4.2 Sick leave for more than five (5) consecutive days shall not be granted to an employee for illness without satisfactory proof of illness or injury, as evidenced by a statement of the attending physician or by other proof satisfactory to the institution.

4.2.4.3 An employee having an extended illness or serious injury shall, before returning to duty, obtain satisfactory medical clearance to help ensure adequate protection and shall indicate the employee's ability to perform his/her duties. Such medical clearance shall be presented in writing within the requested timeframes.

4.2.5 In cases, except those involving catastrophic sick leave as defined in Section 7.1.1, where all accumulated sick leave has been used and annual leave is available, it shall be the option of an employee either to use any accumulated annual leave until it has also expired, rather than being removed from the payroll, or to retain the accumulated annual leave for use after return to work, but be taken off the payroll immediately after the accumulated sick leave has expired.

4.3 When an employee transfers from another eligible agency of state government or from other state institutions of higher education to another institution, the employee's accumulated sick leave may be transferred. Written verification of the accumulated amount of sick leave to be transferred must be provided by the state agency or institution of higher education wherein the employee accumulated the sick leave within one (1) year of the date of employment with the institution.

- 4.4 Sick leave provisions are contingent upon continued employment. When the services of an employee have terminated, all sick leave credited to the employee shall be considered cancelled as of the last working day with the institution, and no reimbursement shall be provided for unused sick leave except in the event of retirement, in which case sick leave may be converted to insurance coverage based on employee eligibility for this benefit or for provisions lawfully provided for at that time. Employees who resign in good standing and are later reemployed may have their total accumulated sick leave reinstated, provided the date of termination is one (1) year or less from the date of reemployment. However, if the employee returns to work after more than one (1) year from the date of termination, no more than 30 days of accumulated sick leave may be reinstated.

Section 5. Medical Leave

- 5.1 Any employee requesting a medical leave must provide the Department of Human Resources, through established procedures, with satisfactory medical evidence (such as a statement from the attending physician) that he/she is unable to work. The medical statement shall include a diagnosis, prognosis, and expected date that the employee can return to work. If the evidence is satisfactory, the Department of Human Resources may authorize a medical leave only for the period of disability specified by the attending physician.
- 5.2 Medical Leave shall be with pay for all time that can be covered by use of sick leave, annual leave and/or catastrophic leave (as contained in Section 7 of this policy). Medical Leave without pay may be granted when all available leave has been exhausted
- 5.3 The employee shall be expected to report to work on the first workday following expiration of the disability period. An employee, prior to return to duty, shall obtain satisfactory medical clearance to help ensure adequate protection and which shall indicate the employee's ability to perform his/her duties. Such medical clearance shall be presented in writing to the Department of Human Resources. The employee will not be permitted to return to work until authorized by Human Resources.
- 5.3.1 Failure of the employee to report promptly at the expiration of a medical leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of employment by the institution.

- 5.4 A medical leave may be granted for no more than a twelve (12) consecutive month period. Employees who may need an extended medical leave beyond twelve (12) consecutive months may apply for an extension through institutional procedures or may consider other options, such as disability.
- 5.5 An employee who is separated from employment following a medical leave of absence of twelve (12) consecutive months may elect group health insurance coverage through COBRA. If such coverage is elected, the former employee is responsible for the full (employer and employee portions) premium cost of such coverage.
- 5.6 Any employee who is separated from employment following a medical leave of absence of twelve (12) consecutive months and who had chosen to maintain her/his accumulated annual leave will receive payment for such accumulated annual leave in a lump sum payment.
- 5.7 On-the-job injuries or occupational illnesses which involve no more than three (3) days of disability leave or absence from work shall not be charged against the employee's accumulated sick leave as long as they are the next three (3) consecutive working days after injury or illness occurred. If on-the-job injuries or illnesses require a leave beyond the three-day period, it shall be the option of the employee either to use earned and accumulated sick and annual leave until both may be exhausted or to reserve for future use any earned and accumulated sick and annual leave and receive only Workers' Compensation benefits for which adjudged eligible. Once the employee has elected one of the above described options in writing that decision is final.
- 5.8 Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom shall be, for all job-related purposes, temporary disabilities and shall be treated the same as any other illness or disability would be treated for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth, the same criteria shall be used as would be used in the case of another type of illness or disability.

Section 6. Funeral Leave

- 6.1 Funeral leave is intended to provide the employee time to arrange for and attend the funeral and related services of an immediate family member, including travel time.

- 6.1.1 Immediate family is defined for this purpose as: parents, siblings or children by blood or law; spouse; grandparents and grandchildren; or others considered to be part of the household living under the same roof.
- 6.1.2 Up to five (5) days of funeral leave may be charged as sick leave. Additional time necessary to meet the obligations outlined above shall be charged as annual leave.
- 6.2 Funeral leave is not provided for estate legal obligations and/or an extended bereavement period. Annual leave may be requested for these purposes.

Section 7. Catastrophic Leave

- 7.1 The catastrophic leave program is available to provide salary continuation to leave eligible employees who have suffered a catastrophic illness or injury.
 - 7.1.1 Catastrophic illness or injury is defined as: a medically verified illness or injury that is expected to incapacitate the employee and create a financial hardship because the employee has exhausted all sick and annual leave and other paid time off.
 - 7.1.2 Catastrophic illness or injury also includes an incapacitated immediate family member as defined in Section 4.2.2 above, as appropriate, if this results in the employee being required to take time off from work for an extended period of time to care for the family member and if the employee has exhausted all sick and annual leave and other paid time off.
- 7.2 In order to participate in the catastrophic leave program, an employee must complete an application, provide all requested medical documentation and be approved for participation.
- 7.3 WVU maintains a procedure for direct transfer of sick or annual leave to an employee who has requested and been approved for catastrophic leave.
 - 7.3.1 Any leave donated by an employee, but not used by the employee to whom it was donated, shall be returned to the donating employee and reflected in his/her leave balance.
- 7.4 WVU maintains a catastrophic leave bank which provides for the deposit of sick and annual leave into a "bank" from which employees approved for catastrophic leave may withdraw leave.

- 7.5 Upon approval for an employee to receive catastrophic leave, any leave eligible employee may donate sick and/or annual leave in one-day (7.5 hour) increments by following the approved procedures. No employee shall be compelled to donate sick leave.
- 7.6 An employee receiving the transfer of leave shall have any time which is donated credited to his/her leave record in one-day increments and reflected as a day-for-day addition to his/her leave balance. The leave record of the donating employee shall have the donated leave reflected as a day-for-day reduction of the leave balance.
- 7.7 Use of donated credits may not exceed a maximum of twelve (12) continuous calendar months for any one catastrophic illness or injury. The total amount of leave received by transfer or withdrawn from a bank may not exceed an amount sufficient to ensure the continuance of regular compensation and shall not be used to extend insurance coverage post-retirement pursuant to West Virginia Code § 5-16-13 . The employee receiving donations of leave shall use any leave personally accrued on a monthly basis prior to receiving additional donated leave.

Section 8. Parental Leave

- 8.1 Parental Leave Program Description
 - 8.1.1 Parental leave is an unpaid leave program.
 - 8.1.2 During the parental leave, the institution shall continue group health insurance coverage provided that the employee pays the employer the full (employer and employee portions) premium cost of such group health plan.
 - 8.1.3 The position held by the employee immediately before the leave is commenced shall be held for a period not to exceed the twelve-week period of the parental leave and the employee shall be returned to that position.
- 8.2 Eligibility for Parental Leave
 - 8.2.1 An employee who has worked at least twelve (12) consecutive weeks for the state may request up to twelve (12) weeks unpaid parental leave.

- 8.2.2 The request must be due to birth or adoption by the employee or because of a planned medical treatment or care for the employee's spouse, son, daughter, parent, or dependent who has a serious health condition.
- 8.2.3 All annual leave must be exhausted before the parental leave begins. No more than a total of twelve (12) weeks of parental leave may be taken in any twelve (12) consecutive month period.
- 8.3 The employee should provide his/her supervisor with written notice two (2) weeks prior to the expected birth or adoption; or for the medical treatment; or for the supervision of a dependent. Failure to submit a written request may be cause for denial.
- 8.4 The employee must provide Human Resources with certification by the treating physician and/or documentation regarding dependency status.

Section 9. Family Medical Leave Act

- 9.1 The institution shall comply with the provision of the federal Family Medical Leave Act, which provisions shall run concurrently with parental leave and/or any other applicable leave programs.

Section 10 Personal Leave of Absence Without Pay

- 10.1 An employee, upon application in writing and upon written approval by the institutional president or his/her designee, may be granted a continuous leave of absence without pay for a period of time not to exceed twelve (12) consecutive months provided all accrued annual leave has been exhausted.
- 10.2 The president or the president's designee, at his/her discretion, may require the written approval of the supervisor before accepting the written application of an employee for a leave of absence without pay.
- 10.3 The president or the president's designee, at his/her discretion, shall determine if the purpose for which such a leave is requested is proper and within sound administrative policy.
- 10.4 At the expiration of leave of absence without pay, the employee shall be reinstated without loss of any rights, unless the position is no longer available due to a reduction in staff caused by curtailment of funds or a reduced workload.

- 10.5 Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of employment by the institution.
- 10.6 During a personal leave, the institution shall continue group health insurance coverage provided that the employee pays the employer the full (employer and employee portion) premium costs of such group health plan.

Section 11. Military Leave

- 11.1 An employee who is a member of the National Guard or any reserve component of the armed forces of the United States shall be entitled to and shall receive a leave of absence without loss of pay, status, or efficiency rating, for all days in which engaged in drills or parades, field service or active service to the State ordered by proper authority, or for field training or active service for the maximum period as provided by state and/or federal law.
- 11.2 The term "without loss of pay" shall mean that the employee shall continue to receive normal salary or compensation, notwithstanding the fact that such employee may receive other compensation from federal sources during the same period. Furthermore, such leave of absence shall be considered as time worked in computing seniority, eligibility for salary increases, credit for years of service and experience with the institution. An employee shall be required to submit an order or statement from the appropriate military officer in support of the request for such military leave unless military necessity prevents giving of such notice.

Section 12. Special Emergency Leave With Pay

- 12.1 Special emergency leave with pay may be granted by the president of the institution or his/her designee to full-time employees in the event of extreme misfortune to the employee or the immediate family. The leave should be the minimum necessary, and in no case may it exceed five (5) days within any twelve (12) consecutive month period. Typical events which may qualify an employee for such leave are fire, flood, or other events (other than personal illness or injury or serious illness or death in the immediate family) of a nature requiring emergency attention by the employee.

Section 13. Witness and Jury Leave

- 13.1 Upon application in writing, an employee may be granted leave with pay as indicated hereinafter in this section provided the employee is not a party to the action. Annual leave will not be charged under the provisions of this section.
- 13.1.1 When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness for the Federal Government, the State of West Virginia, or a political subdivision thereof, the employee shall be entitled to leave with pay for such duty and for such period of required absence.
- 13.1.2 When an employee serves upon a jury, or is subpoenaed in litigation, the employee shall be entitled to leave with pay for such duty and for such period of required absence.
- 13.2 When attendance in a court is in connection with an employee's usual official duties, time required in going and returning shall not be considered as absence from duty.
- 13.3 The employee shall report to work if he/she is excused by the court before the end of his/her regular work day. Provisions for employees who work a shift other than day shift shall be made according to institutional policy.

Section 14. Leave Use As It Relates to Facility Disruption and Utility Service Interruption

- 14.1 Utility Service Interruptions - When extended power and utility service interruptions occur or work facilities are not available for other reasons, administrators should make arrangements for employees' usual work routine to be accomplished at alternate work locations, or make affected employees available to other administrators for work in other areas. Also, if an administrator deems it advisable and the employee agrees, time off during the utility service interruption may be granted and charged against an employee's accumulated annual leave or Compensatory Time Off (CTO). Combinations of the above alternatives may be necessary, but in all cases interruptions of work schedules must be dealt with in accordance with applicable laws, including West Virginia Code §12-3-13. This law is interpreted to mean that if pay is associated with the absence from work, the absence must be charged to accumulated annual leave or Compensatory Time Off (CTO).

Section 15. Leave Use As It Relates to Inclement Weather

- 15.1 In the event that a weather emergency exists, the president, or his designee, in conjunction with local or state public safety officials, has the authority to comply with the emergency situation and close the institution or part of the institution. The president, or his designee, working with public safety officials, will determine when the emergency condition no longer exists. Should an employee be required to work by the president or her/his designee during a declared emergency, the time worked shall be compensated according to the provisions of Series 8. Work time lost by any employee during a declared emergency will be considered regular work time for pay purposes and will not require that the time be charged to annual leave nor will there be a requirement that the time be made up.
- 15.2 Absences from work due to weather conditions other than during a declared emergency must be charged against accumulated annual leave, accumulated compensatory time, or the employee must be removed from the payroll for the time in question. Where institutions employ the "floating holiday" or Personal day concept, the personal time may be charged. Sick leave may not be charged for absence due to weather. Time lost from work may be made up in the same work week at the discretion of the employee's supervisor.