

## Absences

### Employment Policies

Approved: 04/23/2020

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1. **Personal Days:** Personal Days are provided for use by all Administrators, Exempt and Non-Exempt Staff employees for a maximum of two working days per fiscal year (July 1 - June 30). An additional personal day will be provided (replacing the Birthday Holiday) after having served five years of full-time continuous employment from their original hire date in a full or part-time regular budgeted position.

For on-going regular employees, accrual takes place on July 1 of each year. New hires will be eligible for personal days on the first of the month following the completion of six months of continuous employment. Unused personal days will not carry forward from year to year.

Personal Days must be submitted on an Absence Report, in addition to recording the absences in Banner for non-exempt employees, and approved by the supervisor. Requests should be made in advance and are subject to the supervisor's approval.

2. **Family Bereavement Days:** All Faculty, Administrators, Exempt and Non-Exempt Staff will be eligible for a maximum of three working days for bereavement per year to be used in connection with the death of an immediate family member. Accrual takes place on July 1 of each year and unused bereavement days will not carry forward from the previous year.

For purposes of this policy, an immediate family member is defined as follows:

- Spouse;
- Parents, including step-parents or in-laws;
- Grandparents, including step or in-laws;
- Child, including step, half or adopted;
- Grandchild, including step, half or adopted;
- Brother, including in-laws and step, half or adopted;
- Sister, including in-laws and step, half or adopted; or
- Any other relative residing in the same household as the employee.

Bereavement Days must be submitted on an Absence Report, in addition to recording the absences in Banner for non-exempt employees, and approved by the supervisor.

To ensure consistency, questions regarding immediate family should be referred to the Director of Human Resources for specific clarification.

3. **Holidays:** The University will be closed to observe the following holidays:
  - Martin Luther King Day;
  - Memorial Day;
  - Independence Day;
  - Labor Day;
  - Fall Break (week of Thanksgiving);
  - Winter Break - December 24 through January 1.

When Independence Day falls on a Saturday, the Friday before will be observed. When Independence Day falls on a Sunday, the following Monday will be observed.

Non-exempt employees who are required to work on a holiday shall also be compensated at their regular rate for hours worked. In order to receive payment for a holiday, the employee must have leave accumulation (vacation, sick leave, personal or bereavement leave) to cover the day before and the day after the holiday if they are absent.

All employees will receive one floating holiday in lieu of the President's Day holiday. The floating holiday accrual will be applied in Banner leave accruals as of July 1 of each fiscal year. This holiday will require a supervisor's approval, as with other elective absences, and will not carry over from year to year.

### **Birthday Holiday**

See 1. Personal Days

4. **Jury Duty:** All employees who are requested by proper authorities to appear as a witness or serve as a member of a jury are entitled to their regular compensation and no deduction will be made for time absent. Absence due to jury duty should be reported to immediate supervisor as soon as possible, with a copy of the jury duty notice forwarded for the employee's personnel file.
5. **Leave of absence (Without pay):** An unpaid leave of absence is used when accumulated paid leave hours are exhausted or are inappropriate to use, and no compensation is provided for the absence. However, the employee, if qualified to return to work, will be returned to the same position, or to one at a similar level of responsibility. All leaves of absence are subject to approval of the supervisor. A doctor's certificate may be required for leave of absence due to illness.

The University will continue to pay for health, dental, vision, life, accidental death & dismemberment (AD&D), and long-term disability (LTD) benefits for the employee if the employee is on Family Medical Leave Act (FMLA) during the leave of absence without pay. However, if the employee is not on FMLA, all employer paid benefits will end when the employee begins the leave of absence without pay. If the FMLA leave time has expired or is not applicable, then the University paid benefits will end. Continuation of health, dental, and vision coverage will be offered through COBRA. Conversion options will be offered for the life insurance coverage. If employees do not return from FMLA leave, then they will be responsible for reimbursing the University for all benefits paid during the period of leave without pay (see FMLA section 6B). While on a leave without pay, the employee will not accrue leave benefits.

Group insurance may be continued if the employee is on an approved leave without pay for the purpose of advancing his/her education. The University will continue to pay for the employee's basic coverage and the employee will pay for any optional coverage. The individual is obligated to return to work at MWSU for at least one year or remit the cost of the benefits provided.

For faculty, professional leave without pay may be granted under certain conditions by applying to the Provost and Vice President for Academic Affairs. The application should be routed by way of the applicant's chairperson. The appropriate Dean's approval should be attached to the application before it is forwarded to the Provost and Vice President for Academic Affairs.

Administrative and Exempt Staff need approval from their immediate supervisor, Vice President, and the President for professional leave of absences.

6. **Military Training/Leave:** Employees will be granted leave with pay, not to exceed a total of twenty-one calendar days (normally fifteen working days) for required military training/leave during a University fiscal year. If an employee is required to attend military training/leave in excess of the fifteen calendar days, the employee may (subject to approval of the supervisor) utilize accumulated vacation for the absence. In the absence of accumulated vacation (in the case of staff, for example), the employee may (subject to approval of the supervisor) utilize personal leave for the absence. In the event of an emergency mobilization order, the employee is eligible to be retained on leave of absence without pay for the duration of the length of the mobilization orders. In order to be eligible for military training/leave, the employee must furnish the immediate supervisor and the Human Resources Department with a copy of the official orders.
7. **Sabbatical Leave:** The purpose of sabbatical leave is for the professional development of the employee and for the increased effectiveness of the individual to the institution and higher education. Sabbatical leave is open to any full-time employee who: (a) will have served five years on the staff; (b) has appropriate authorities; (c) has a proper and satisfactory record of performance as a teacher or administrator, as a counselor, and as a citizen in the University community.

Leaves should seldom be for more than one academic year plus contiguous summers. A faculty member may have the option of one academic year at one-half salary or one-half an academic year at 100% of salary. Sick leave does not accumulate. An administrator or exempt staff member may have the option of one full year at one-half salary or one-half year at the three-fourths salary. If funds are available, grants for support during the summer months will be offered.

Leaves for a period of one year will not interfere with scheduled salary increases. Group insurance will be continued by the University. The individual is obligated to return to teaching or administrating at Missouri Western State University for at least two years or remit all salary paid while on leave plus benefits paid. Additionally, during the first semester upon his or her return, the awardee is obligated to file a report sent to the appropriate supervisor/supervisors and vice president. Each faculty awardee is also required to provide a copy of the leave report to the Faculty Senate and to the members of her or his department.

[Faculty Sabbatical Leave](#) : Refer to Faculty Sabbatical Leave

[Faculty Sabbatical Leave Approval Procedures for Faculty](#): Refer to Faculty Sabbatical Leave

Approval Procedures for Administrators and Exempt Staff: Copies of the leave proposal should be submitted to the administrator's and exempt staff's immediate supervisor. Formal approval of the proposal for sabbatical leave will be made by the applicant's immediate supervisor and the President, with final action taken by the Board of Governors. The President will base the decision on the following: (a) eligibility, (b) type of leave, (c) how the individual plans to make use of time, and (d) future effectiveness. Preference will be given to the applicant's request for a leave, either for financial or educational reasons, even if the administrative member is eligible and the purpose of the leave is valid.

8. **Sick Leave:** Sick leave is defined to mean any period of time an employee is absent from work due to illness, injury, or any physical incapacitation without loss of normal pay. Sick leave may be used for illness of the employee or an immediate family member as defined in Section 2 – Family Bereavement Days. A doctor's certification may be required at any time.

It is the responsibility of the Human Resources Department to review all absences to ensure the use and approval of specific leaves are consistent throughout the University and in accordance with the policy guide. To ensure consistency, questions regarding the leave requests will be forwarded to the Director of Human Resources for specific interpretation of leave requests.

Sick leave is accrued for each regular, full-time employee on a monthly basis to a maximum allowance of 126 days (1008 hours). Administrators, Exempt and Non-Exempt Staff accrue approximately 13 days per year at the rate of 8.67 hours per month; and Faculty accrue 10 days each academic year plus two additional days for instructing in summer school. Sick leave is prorated for employees working half-time or more but less than full-time.

Sick leave accrual will begin on the first of the month following the date of hire. Sick leave will accrue and be available for use each month following the end of the payroll period. An employee terminating employment with the University must complete the full month of employment in order to receive the monthly accrual for their final month of employment.

Employees unable to report to work shall notify their chairperson or their supervisor at least one hour before their regularly scheduled starting time. It is the supervisor's responsibility to notify the Human Resources Department of any and all absences other than vacation that exceed three (3) days in length.

The 1008 hour cap for record-keeping purposes for reporting to MOSERS at time of retirement will be removed retroactive to July 1992. All unused sick leave is reported to MOSERS upon termination of employment. You will receive one month of creditable service for every 168 hours (21 days) of unused sick leave reported to MOSERS.

#### Sick Leave Calculation Faculty

- a. The department must report sick leave whenever a faculty member is absent from class or during posted office hours due to illness. The absence should be reported even if the class is covered by someone else. If no class or office hours are missed, no absence would be reported. If a Western Institute course is considered as part of the instructor's workload, absences would be reported to the Department Chair.

- b. Absences should be reported in 3.75 hour segments (3.75 hours or 7.5 hours only, with 7.5 hours being the maximum reported per day and 3.75 hours being the minimum reported). For example, if an instructor missed only one morning class, the absence would be reported as a 3.75 hour absence; if a faculty member taught an evening class in addition to daytime courses, a maximum of 7.5 hours would be counted.
  - c. In the event of an extended illness (two weeks or longer), the faculty member should report 7.5 hours/day for the five day work week.
9. **Maternity leave:** Maternity leave, normally defined as Sick Leave, is absence due to the employee's pregnancy, childbirth, or related medical conditions. For additional information, please refer to the Family Medical Leave Act (FMLA) under "Serious Health Conditions that Qualify under FMLA – Section 3Cc."
10. **Vacation:** For Administrators, Exempt and Non-Exempt Staff, vacation time is time off with pay for relaxation. Vacation hours may reach an equivalent of two years' accumulation. If no vacation is taken, the amount that exceeds the maximum accrual will be forfeited. All leave requests are to be approved by the supervisor and, since each situation is unique, supervisors may assign vacation if deemed necessary.

Full-time Administrators and Exempt Staff on twelve-month contracts receive 160 hours of vacation annually, accrued as 13.34 hours per month.

Non-Exempt Staff employees with less than six years of service will be provided 96 hours of vacation annually. These hours shall accrue at the rate of 8 hours per month beginning with the first of the month following the date of hire.

Non-Exempt Staff employees with six to ten years of service will be provided 120 hours of vacation annually. The 120 hours shall accrue at the rate of 10 hours per month beginning with the first month of service in the sixth year of employment.

Non-Exempt Staff employees with 11 or more years of service will be provided 160 hours of vacation annually. The 160 hours shall accrue at the rate of 13.34 hours per month beginning with the first month of service in the 11<sup>th</sup> year of employment.

Any Administrator, Exempt, or Non-Exempt Staff employee who changes positions that negatively affect their monthly vacation accrual will be paid their total accrued time from their current position prior to beginning the new position. Example: changing from a full-time position to a half-time position.

The determination of length of service for vacation benefits will be used on the number of consecutive years of employment or approved leaves of absence. Persons on leaves of absence without pay may not continue to accrue additional vacation or sick leave. Normally, an employee reinstated within three months of separation will be considered to have no break in service for vacation, sick, personal and bereavement leave.

Employees that are rehired after three months will have leave accrual begin as of the rehire date.

Vacation accrual will begin on the first of the month following the date of hire. Vacation leave will accrue and be available for use each month following the end of the payroll period. An employee terminating employment with the University must complete the full month of employment in order to receive the monthly accrual for their final month of employment. Vacation time will not be used to extend an employee's last day of employment. No vacation may be taken unless there is sufficient accrual to cover the time off work.

To provide clarification for reporting purposes leave is reported as 7.5 hours per day (except for WRDCC employees).

Absences for vacation, sick leave, personal days, bereavement leave, and leave of absence are to be reported on an Absence Report Form for Faculty, Exempt employees and Administrators and submitted to the Human Resources Department each week. Absences for Non-Exempt employees are reported through the University's timekeeping program. FMLA absences for all employees must be filed on an Absence Report form and submitted to Human Resources no later than one week prior to each payroll date in addition to recording the absences in Banner. Forms are available on the Human Resources web page.

11. **Voting Time:** The state of Missouri requires that three consecutive hours exist for persons to reach voting polls; however, the employer may set the consecutive hours. Normally, MWSU allows the period of 4 pm to 7 pm for voting.
12. **Worker's Compensation Absence:** In the unfortunate event that an employee sustains an occupational injury in the course of, or arising out of employment, the following procedures should be followed to ensure the employee is compensated timely and fairly.
  - A) Employee is injured.
  - B) Employee notifies supervisor immediately.
  - C) Employee or supervisor notifies the Risk Manager and completes an Employee Incident/Injury Report Form/Workers' Compensation Form within 24 hours.
  - D) Risk Management submits a report to the Central Accident Reporting Office (CARO), Human Resources and Payroll, if medical attention is required. If the workers' compensation injury requires the employees to be off work for longer than 3 days, the employee is required to complete and submit FMLA documentation for the injury period. See FMLA policy and procedures in item 13 below or contact the Benefits Coordinator for additional information.
  - E) Time entry instructions for employee/supervisor.
    - 1) The first 3 days of absences after the day of the injury should be recorded utilizing accrued leave time.
    - 2) If a person must be off work due to the occupational injury or illness beyond three (3) days, then the division of Worker's Compensation provides compensation in the amount of two-thirds (2/3's) of the employee's average weekly wage. The employee is responsible for submitting accrued leave time for the remaining one-third time (1/3) in order to keep their wages whole. If there is a University holiday during this period the employee will receive holiday pay for the 1/3 portion of their time.
    - 3) If the employee is off more than 14 days as a result of the injury, the accrued leave time previously reported during the first 3 days will be credited back to

the appropriate accrual for future use. In these cases, the portion of workman's compensation retroactively paid will be deducted from the employee's next pay period.

Employee must submit to the Payroll Department all copies of payments from Workers' Compensation as soon as possible. The Payroll Department will make the necessary adjustments to ensure the employee does not receive more than 100% of their gross wages, dependent upon their available accrued time.

Employees who return to work after being released from worker's compensation but must have follow up visits to their physician, physical therapist, etc., must report those absences utilizing accrued leave time. If no accrued leave time is available the employee will not be paid for those absences.

### 13. **Family and Medical Leave Act (FMLA) of 1993: Family and Medical Leave Act (FMLA) of 1993:**

#### **A) Purpose and History of FMLA**

In 1993, the Federal Government passed the Family and Medical Leave Act (FMLA). This law was enacted because many employers had not been sensitive to work/family situations. FMLA enables eligible employees (see #2 below) to take **unpaid** leaves for certain family and medical events. The law provides these eligible employees with up to 12 weeks of unpaid leave and allows them to return to their job or an equivalent position after the leave has expired. In 2008, the law was amended to allow Military Family Leave.

This policy and procedure is a summary of the FMLA law and regulations and how they are administered at MWSU and is not intended to be a substitute for the FMLA, subsequent amendments, or the regulations. Nothing in this policy statement is intended to supersede or contradict relevant Federal or State laws.

#### **B) Employees Eligible to Take FMLA**

To be eligible, **all** of the following criteria must be met:

- 1) You have been employed with MWSU at least 12 months prior to the commencement of the leave (12 months need not be consecutive), and
- 2) You have worked at least 1250 hours during the 12 month period prior to the commencement of the leave (unpaid leaves do not count toward this 1250 hour requirement, only time worked is counted), and
- 3) You are employed at a worksite at which 50 or more employees are employed within 75 miles (all MWSU employees fulfill this requirement).

#### **C) Situations Covered by FMLA**

- 1) **Family Leave** – Used for the birth of a son or daughter, and to care for the newborn child, or the placement with the employee of a son or daughter for adoption or foster care. These leave types must be completed within 12 months of the birth. Adoption or foster placement and supporting documentation must be given to MWSU (see Section 9(A) (3) below). For purposes of confirmation of family relationship, MWSU may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship.

- 2) **Medical Leave** – Used for serious health conditions (as defined in C below) that are considered qualifying events under FMLA. MWSU will require a completed Certification of Health Care Provider Form for the serious health condition (see Section 9(A) (1) below). It may be used for:
  - (a) Your **own** serious health condition that makes you unable to perform the functions of your job.
  - (b) The care of one of the following individuals with a serious health condition: (MWSU may require reasonable documentation and/or statement of family relationship to verify legitimacy).
    - (i) **Spouse** - A husband or wife for purposes of marriage as defined by Missouri law, including common law marriage to the extent permitted by Missouri law.
    - (ii) **Son or daughter** – A biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in place of a parent, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.
    - (iii) **Parent** - A biological parent or an individual who stands or stood in place of a parent to you when you were a son or daughter.
- 3) **Serious Health Conditions that Qualify Under FMLA (Section 114 of 29 CFR 825)** – The following is a summary of medical situations which **might** qualify for a medical leave under FMLA:
  - (a) **Inpatient Care**
    - (i) Hospital or any residential medical care facility (i.e., an overnight stay)
    - (ii) Includes any period of incapacity or subsequent treatment in connection with the inpatient treatment
  - (b) **Absence plus treatment**
    - (i) A period of incapacity of more than three consecutive calendar days due to serious illness or injury
    - (ii) Includes two visits to a health care provider. These visits must occur within 30 days of the beginning of the period of incapacity and the first visit to the health care provider must take place within seven days of the first day of incapacity.
  - (c) **Pregnancy**
    - (i) Any period of incapacity due to pregnancy or prenatal care
  - (d) **Chronic conditions requiring treatment**
    - (i) Requires periodic visits (at least two visits to a health care provider per year) for treatment
    - (ii) Continues over an extended period of time
    - (iii) May cause episodic rather than a continuing period of incapacity
    - (iv) Examples: asthma, diabetes, epilepsy
  - (e) **Permanent/long-term conditions requiring supervision**
    - (i) Period of incapacity which is permanent or long-term
    - (ii) Individual must be under the continuing supervision of a health care provider
    - (iii) Individual need not be receiving active treatment
    - (iv) Examples: Alzheimer’s disease, severe stroke, terminal stages of a disease
  - (f) **Multiple treatments for non-chronic conditions**
    - (i) Periods of absence to receive multiple treatments (including recovery) for restorative surgery after an accident or injury, or conditions that would

likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

(ii) Examples: chemotherapy, radiation treatment, physical therapy for severe arthritis, kidney dialysis

(g) **Other examples of serious health conditions** (Provided the conditions of this section are met. This list is not meant to be inclusive)

(i) Heart attacks or heart conditions requiring bypass surgery

(ii) Most forms of cancer

(iii) Back conditions requiring extensive therapy or surgery

(iv) Severe nervous disorders

(v) Pregnancy, miscarriages, complications or illnesses related to pregnancy (e.g., severe morning sickness), and need for prenatal care

(vi) Childbirth and recovery from childbirth

(vii) Appendicitis

(viii) Pneumonia

(ix) Severe arthritis

(x) Certain serious injuries caused by accidents on or off the job

(xi) Treatment for substance abuse (but not absences caused by use of substance)

**4) Non-Qualifying Health Conditions** - The following is a non-exhaustive summary of medical situations that would **not** ordinarily meet the FMLA definition of “serious health condition,” unless complications arise or inpatient hospital care is required:

a) Short-term illnesses

(i) Common cold

(ii) Upset stomach

(iii) Flu

(iv) Ear aches

(v) Minor ulcers

(vi) Headaches other than migraine

(vii) Routine dental or orthodontic problems including periodontal disease

b) Other health conditions or medical reasons generally not considered serious

(i) Cosmetic treatments (unless inpatient care is required or unless complications develop)

(ii) Routine physical examinations

(iii) A regimen of treatment that can be initiated without a visit to a health care provider

**5) Active Duty Family Leave** –Used by an employee whose spouse, son, daughter, or parent is on active military duty, or has been notified of an impending call to active military duty to deal with any “qualifying exigency” arising from the call to active military duty with the National Guard and Reserves. Qualifying exigencies are the need to make necessary arrangements related to the departure of the service person. MWSU may require that a request for the Active Duty Leave be supported by a certification stating the call to active duty.

Qualifying exigencies may include:

- Short-notice deployment (up to 7 days of leave)
- Attending certain military events
- Arranging for alternative childcare

- Addressing certain financial and legal arrangements
- Periods of rest and recuperation for the servicemen (up to 5 days of leave)
- Attending certain counseling sessions
- Attending post-deployment activities (available for up to 90 days after the termination of the covered service member's active duty status)
- Other activities arising out of the service member's active duty or call to active duty and agreed upon by the company and the employee

6) **Injured Service Member Family Leave** – Used by the spouse, son, daughter, parent or “next of kin” (defined as “nearest blood relative”) of a member of the Armed Forces (including a member of the National Guard or Reserves) so the employee can care for the service member who is undergoing inpatient or outpatient medical treatment, recuperation, therapy, or is otherwise on the temporary disability retired list, because of a “serious illness or injury” incurred during active duty.

- a) “Serious Illness or Injury” under a Service Member Family Leave is defined as any condition arising “in the line of duty” which makes the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.
- b) MWSU may require that a certification issued by the health care provider of the service member be provided.
- c) Qualifying employees are entitled to a combined total of 26 weeks of leave (including traditional FMLA leave) in a 12-month period, as opposed to the usual 12 weeks.

**D) How Leave May be Taken**

You may take up to 12 weeks of FMLA leave per plan year, the “rolling” 12-month period measured backward from the date of your first FMLA leave usage, (with the exception of an Injured Service Member Family Leave which is up to 26 weeks) in the following forms:

- 1) As twelve (12) consecutive weeks.
- 2) On an intermittent basis when medically necessary. An eligible employee may not use intermittent or reduced schedule leave after the birth to be with a healthy newborn child.
- 3) On an intermittent or reduced leave schedule under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.
- 4) An employee on an FMLA leave will not have time counted against their FMLA allowance when the employer's activities temporarily cease and employees are generally not expected to report for work (i.e. winter break).

**E) Continuation of Pay during FMLA Leave**

FMLA was designed to allow employees the minimum benefit of taking an unpaid leave while having their job protected. MWSU goes further than this law by allowing and requiring you to be paid for certain FMLA qualifying events, when you have accrued paid leave time available for use.

- 1) **Paid FMLA** - MWSU allows and requires you to be paid during an FMLA leave if you have any time in your paid leave banks, and the FMLA event qualifies for paid leave. FMLA leave runs concurrently with other types of leave. While you are on FMLA and using paid leave time, you will continue to accrue time in your leave banks.
- 2) **Unpaid FMLA** - If you do not have time in your leave banks or your FMLA event does not qualify for paid leave, you will go unpaid during the FMLA leave. While on an unpaid FMLA leave you will **not** accrue time in your leave banks.

**F) Benefits during FMLA Leave**

- 1) **Paid FMLA** – MWSU will continue benefits.
- 2) **Unpaid FMLA** - MWSU will maintain employer paid medical, dental, vision, life and LTD benefits while you are on an unpaid FMLA leave. Other benefits are **not** maintained at MWSU’s expense during unpaid FMLA leaves. Optional/supplemental insurance benefits fully paid by the employee may continue to be maintained at your expense provided advanced arrangements are made with Human Resources. If you do not return from FMLA or return for less than thirty (30) calendar days, you will be responsible for reimbursing MWSU for all fringe benefit expenses MWSU incurred while you were on FMLA, except as noted in ii below.
  - a) If payment arrangements are not made in advance, MWSU will withhold the premiums from your last check and/or your termination pay if you are due any. Any remaining balances will be your responsibility to reimburse to MWSU.
  - b) MWSU will not recover any premiums paid on your behalf if:
    - i) The continuation, recurrence or onset of a serious health condition which would otherwise entitle you to leave under the FMLA.
    - ii) Circumstances beyond your control (at discretion of MWSU) prevent you from returning to work.
- 3) **Employee Share of Premiums** - If you pay a share of the cost of your health insurance premiums, you will be responsible for maintaining those payments while you are on an FMLA leave.
  - a) **Paid FMLA Leaves** - MWSU will continue to deduct your share of your health insurance premiums from your paycheck, in the same manner as if you were still working.
  - b) **Unpaid FMLA Leaves** - Please contact the Human Resources Office to make arrangements for paying your share of your health insurance premiums while on leave. Premium payments will be due on the same day as COBRA, the 1<sup>st</sup> of the month.

**G) Concurrent Leaves**

- 1) Workers’ Compensation will run concurrently with the twelve (12) week FMLA entitlement if a work related injury meets the FMLA “serious health condition” requirement. If you will be paid by workers’ compensation insurance during a work-related injury leave, you may choose to supplement your workers’ compensation payments with accrued paid leave.
- 2) Any leave of absence or benefit clause (i.e. Short Term Disability Insurance) will run concurrently with the twelve (12) week FMLA entitlement, if you are

eligible and otherwise meet the FMLA “serious health condition” requirement. If you will be paid by MWSU’s Short Term Disability Insurance during your FMLA leave, you may choose to supplement your STD payments with accrued paid leave.

## **H) Designation of Leave**

### **1) General**

- a) In all circumstances, it is MWSU’s responsibility and right to designate a leave of absence as qualifying under the FMLA. If during a leave of absence MWSU learns you are off for a reason that qualifies for FMLA, MWSU’s policy is to designate FMLA retroactively to the earliest possible date when the need for the leave began, provided you are still on leave.
- b) Designation will be based on information received from you or your spokesperson and/or the medical certification. MWSU will act upon letters and forms filed and processed in conjunction with leaves, workers compensation and disability in making FMLA designations. Designation can occur the following two ways:
  - i) **By Employee Request** - If you request FMLA along with appropriate supporting documentation, MWSU will designate the leave as FMLA or non-FMLA as soon as possible, but generally within five (5) business days after receiving such a request. When MWSU designates FMLA retroactively, your leave banks will be charged for work time missed back to the earliest possible date.
  - ii) **Without Employee Request** - MWSU, absent a specific request, may designate a leave of absence as FMLA based on available information.
- c) MWSU will attempt to notify employees of the designation of their leave orally or by email and will provide written confirmation of the leave designation by hand delivery or by mail to the employee’s last known address. You are responsible for providing the University with your current mailing address at all times.
- d) If you disagree with the administration of this FMLA Policy, you should contact the Human Resources Benefits Coordinator. If the matter is not resolved to your satisfaction, you may appeal the matter to the Human Resources Director.

### **2) Preliminary Designation**

- a) A preliminary designation of FMLA leave may be made by the Human Resources Office based upon information provided by you or otherwise available to the Human Resource Office. However, all supporting documentation that you are required to submit to the Human Resource Office must be received within 15 calendar days after the preliminary designation is made.
- b) If the proper documentation has not been received within 15 calendar days from the start of the preliminary designation, the leave may be delayed until the required certification is provided.
- c) If Human Resources require a second or third opinion, the leave may be left as a preliminary designation until all medical opinions have been received.

- d) If information or medical certification fails to confirm that the leave falls under the FMLA guidelines, Human Resources will notify the employee within five (5) business days after receipt of all documentation.

## **I) Certification of Medical Condition for Purposes of FMLA**

### **1) Certification**

- a) **For Your Own Serious Health Condition** - Human Resources will require you, at your expense, to submit a Certification of Health Care Provider form from the attending health care provider to substantiate a medical leave.
  - i) All required medical certification documents must be submitted to Human Resources no later than 15 calendar days after MWSU has requested such documentation.
  - ii) If you don't provide the requested medical certification and other documentation to Human Resources in the time frame indicated above and there are no extenuating circumstances – the request for FMLA may be denied.
  - iii) If extenuating circumstances arise to prevent submission of certification, it is your responsibility to notify Human Resources in writing prior to the end of the 15 calendar day period.
- b) **For Serious Health Condition of Child, Spouse or Parent** - You will be required to submit a Certification of Health Care Provider form from the attending health care provider if the request is for the medical care of a son, daughter, spouse or parent. The same time requirements for submitting this exist as for #1 above.
- c) **For Family Leave** - Human Resources will not require medical certification if you are requesting Family Leave, however, supporting documentation will be required when you are requesting such leave for the birth of a child, adoption of a child, or placement of a child for foster care. Please call Human Resources to determine what type of documentation is needed for your specific situation. Again, the same time requirements for submitting the documentation exist as for #1 above.

### **2) Inadequacy of certification**

- a) Human Resources will notify you in writing whenever the medical certification and/or other documentation is incomplete. You will have an extension of seven (7) calendar days from the receipt of notification to correct the problem.
- b) If Human Resources has reason to question the medical certification, you will be required to obtain a second opinion from a doctor selected by MWSU. The second opinion will be fully paid by MWSU.
- c) If the first and second opinions conflict, MWSU reserves the right to obtain a third opinion. The health care provider giving the third opinion will be approved by both parties in good faith. The third opinion will be fully paid by MWSU.
- d) The third opinion shall be final and binding.

### **3) Re-certification**

- a) If the leave is extended past the first medical certification and there is remaining FMLA leave time available for you to use, MWSU will require you to re-certify by submitting another medical certification form.

- b) MWSU may request a new medical certification form for an ongoing condition every six months in conjunction with an absence.
- c) MWSU may request a new medical certification form each leave year for medical conditions that last longer than one year.
- d) The re-certification will be at your expense.

**J) The Employee's Responsibilities**

- 1) You are required to notify the Human Resources Office and your supervisor as soon as you become aware of your need to take FMLA. When you intend to take family or medical leave because of an expected birth, placement for adoption or foster care, or because of a planned medical treatment that qualifies for leave under the FMLA, you must request leave at least thirty (30) calendar days before the leave is to begin.
- 2) You are responsible to make certain that all required medical certifications and other documentation as described in this policy are completed and have been received by Human Resources. You must also adhere to the policies and procedures of MWSU related to this procedure.
- 3) If you pay a share of the cost of your health insurance premiums, you will be responsible for maintaining those payments while you are on an FMLA leave.
  - a) **Paid FMLA Leaves** - MWSU will continue to deduct your share of your health insurance premiums from your paycheck, in the same manner as if you were still working.
  - b) **Unpaid FMLA Leaves** - Please contact the Human Resources Office to make arrangements for paying your share of your health insurance premiums while on leave. Premium payments will be schedule as COBRA, the 1<sup>st</sup> of the month.

**K) Returning to Work**

- 1) Before you return to work from FMLA for reason of your own serious health condition, you are required to provide to the Human Resources Office a doctor's statement documenting that you are medically able to return to work.
- 2) For intermittent leaves, if job safety concerns exist, MWSU may require a fitness-for-duty certification before you may return to work.
- 3) MWSU will comply with FMLA requirements regarding your reinstatement either to the same position you held when your FMLA leave began or to a position with equivalent pay, benefits and other terms and conditions of employment. Under this FMLA policy, the University cannot guarantee that you will be returned to your original job. In cases where you cannot be returned to your former position, the determination as to whether a position is an "equivalent position" will be made by MWSU.
- 4) You are entitled to return to work from an FMLA leave prior to the original date you requested for the leave to end. To do so, you must provide written notification of intent to return to work a minimum of two (2) working days prior to returning and must provided evidence of fitness for duty, if applicable.

**L) Key Employee**

- 1) General Rule- A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employer within 75 miles of the employee's worksite.

- 2) Substantial and Grievous Economic Injury- In order to deny restoration to a key employee, we must determine that the restoration of the employee to employment will cause “substantial and grievous economic injury” to our operations, not whether the absence of the employee will cause such substantial and grievous injury.
- 3) Rights of a Key Employee- If we believe that reinstatement may be denied to a key employee, we will give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employer must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer’s operations will result if the employee is reinstated from FMLA leave.

**M) Miscellaneous**

- 1) **Both Spouses Employed by MWSU** - When both you and your spouse are employed at MWSU, you shall be limited to a combined total of 12 weeks of FMLA leave when you both take FMLA for any of the following purposes:
  - a) The birth of a son or daughter or to care for the child after birth
  - b) The placement of a son or daughter with you for adoption or foster care
  - c) To care for the child after placement
  - d) To care for your son or daughter with a serious health condition
- 2) It is the supervisor’s responsibility to notify the Human Resources Department of any and all absences other than vacation that exceed three (3) days in length.