
EARNED SICK TIME

PURPOSE

The purpose of this policy is to clarify application of the Earned Sick Time Law, M.G.L. c. 149, § 148C at Westfield State University (“University”).

SCOPE

All employees of the University whose primary place of employment is Massachusetts shall be eligible to accrue and use paid sick time. This policy applies to any eligible employee who is not otherwise entitled to sick leave accruals covered by one of the University’s collective bargaining agreements or the policies pertaining to excluded or non-unit employees, or an employee holding a position that is considered “not eligible” under the law.

Student interns/student workers attending the University are not eligible for earned sick time when they are working under the following conditions:

- a) participating in a federal work-study program or a substantially similar financial aid or scholarship program;
- b) providing support services to residents of a residence hall, dormitory, apartment building, or other similar residence operated by the institution at which the student is matriculated in exchange for a waiver or reduction of room, board, tuition, or other education-related expenses; or
- c) exempt from Federal Insurance Contributions Act (FICA) tax pursuant to 26 U.S.C. § 3121(b)(10);

Student interns/student workers may be eligible for earned sick leave for work performed on campus, if the above conditions do not apply (e.g. work performed during the summer for an administrative office).

A full list of exceptions are provided on the Commonwealth of MA Attorney General’s Web site at <http://www.mass.gov/ago/docs/workplace/earned-sick-time/est-faqs.pdf>.

ACCRUAL OF SICK TIME

In general, sick time accrues at the rate of one (1) hour for every thirty (30) hours worked

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per calendar year, up to a maximum of 40 hours.

For exempt employees covered by this policy, earned sick time accrues based on their regular schedule; and part-time faculty covered by the MSCA or DGCE collective bargaining agreements accrue earned sick time based on a factor of "2.75 hours worked" for each classroom hour of instruction.

USE OF SICK TIME

Employees may use up to 40 hours of accrued sick time per benefit year. Accrual of sick time begins on the employee's first date of actual work.

Sick time is provided to allow employees to:

1. care for the employee's own physical or mental illness, injury, or other medical condition that requires home, preventative, or professional care;
2. care for a child, parent, spouse, or parent of a spouse who is suffering from a physical or mental illness, injury, or other medical condition that requires home, preventative or professional care;
3. attend routine medical and dental appointments for themselves or for their child, parent, spouse, or parent of a spouse;
4. address the psychological, physical, or legal effects of domestic violence; or travel to and from an appointment, a pharmacy, or other location related to the purpose for which the time was taken.

Use of sick time for other purposes is not allowed and may result in an employee being disciplined.

Employees may not use sick time if the employee is not scheduled to be at work during the period of use. An employee may not accept a specific shift assignment with the intention of calling out sick for all or part of that shift.

Earned sick time may be used for full or partial day absences. The smallest amount of sick time that an employee can take is one hour. For uses beyond one hour, employees can use sick time in 15 minute increments, but in no event may the earned sick time used be less than the actual time off.

Sick time cannot be used as an excuse to be late for work without an authorized purpose.

If an employee's absence from work requires the University to call in a replacement

worker to cover the absent employee's job functions, the University may require the absent employee to use an equal number of hours of sick time as were worked by the replacement. If the employee lacks sufficient accrued sick time to cover all such time worked by the replacement, the University will provide sufficient job-protected unpaid leave to make up the difference in that shift.

ABSENCE NOTIFICATION PROCEDURES

If an employee needs to be absent, to be late, or to leave work early (for purposes that are permissible under the earned sick time law), the employee must give advance notice to his or her supervisor, except in an emergency.

Notice should be provided through a notification system established by the employee's department in a manner that the employee customarily uses to communicate with the supervisor for absences or requesting leave.

If the absence is foreseeable (for example, if the employee will be absent to attend a previously scheduled appointment), the employee must provide at least seven days' advance notice, unless the employee learns of the need to use earned sick time within a shorter period of time.

If the absence is not foreseeable, the employee must provide notice to his or her supervisor at least one hour before the start of the employee's shift. If one hour of notice is not reasonable due to an accident or sudden illness, notice must be provided as soon as practicable.

If an employee is going to be absent on multiple days, the employee or the employee's surrogate (e.g., spouse, adult family member, or other responsible party) must provide notice of the expected duration of the leave or, if unknown, provide notice of continuing absence on a daily basis, unless the circumstances make such notice unreasonable.

Further, employees may also be eligible for leave in accordance with the University's [Domestic Violence Leave Policy](#)

DOCUMENTATION OF USE OF SICK TIME

The University may require an employee to submit a doctor's note or other documentation

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to their supervisor to support the use of sick time if the absence¹:

1. exceeds 24 consecutively scheduled work hours or three consecutive days on which the employee is scheduled to work;
2. occurs within two weeks prior to an employee's final scheduled day of work (except in the case of temporary employees); or
3. occurs after four unforeseeable and undocumented absences within a three month period.

Required documentation must be submitted within seven days of the absence. Additional time will be allowed for good cause shown.

If the employee is absent from work due to domestic violence, the University must accept any of the following documentation: 1) a restraining order or court document; 2) a police record documenting the abuse; 3) documentation that the perpetrator of the abuse has been convicted of one or more of the offenses enumerated in M.G.L. c. 265 where the victim was a family or household member; 4) medical documentation of the abuse; 5) a statement provided by a counselor, social worker, health worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee in addressing the effects of the abuse on the employee or the employee's family; or 6) a signed written statement from the employee attesting to the abuse.

If an unscheduled absence occurs due to domestic violence, the employee must produce valid documentation of the reason for the absence within 30 days of the unauthorized absence.

If an employee fails to timely comply with the sick time law's documentation requirements, the University may recoup the sick time paid from future wages.

OPTIONAL VERIFICATION OF USE OF SICK TIME

¹ Where documentation is required, employees who do not have health care coverage through a private insurer, the Massachusetts Healthcare Connector and related insurers, or through a University provided health insurance plan, may provide a signed, written statement evidencing the need for the use of the earned sick time, without being required to explain the nature of the illness, in lieu of documentation by a health care provider. The University may use the Attorney General's model form as a guide for their own policies and may include a check-off listing of the statutory reasons for permissible use of earned sick time on such form. The University using their own verification form shall not require any additional information beyond what is required under M.G.L. c. 149, § 148C.

The University may require an employee to personally verify in writing that he or she has used sick time for an allowable purpose, but the employee shall not be required to explain the nature of the illness or the details of the domestic violence. A doctor's note or other documentation will not be required.²

For purposes of leave under this policy, the University may not require further information about details of a medical condition and/or the details of the domestic violence.

UNIVERSITY'S EXPECTATIONS REGARDING ATTENDANCE

Employees should remember that regular, reliable attendance and timeliness is expected.

If an employee commits fraud or abuse by engaging in an activity that is not consistent with allowable purposes for sick time, the employee may be subject to disciplinary action.

If an employee is exhibiting a clear pattern of taking leave on days just before or after a weekend, vacation, or holiday, the University may discipline the employee for misuse of earned sick time, unless the employee provides verification of authorized use.

PAYOUT OF SICK TIME

Sick time is not payable on separation and/or termination of employment.³

CARRYOVER OF ACCUMULATED EARNED SICK TIME

Employees may roll over up to 40 hours of unused earned sick time at the end of the calendar year for immediate use in the next calendar year, and will continue to accrue earned sick time at the rate discussed in the earlier in this policy, provided, however, that once an employee possesses a bank of 40 hours earned sick time, the employee will not continue to accrue additional hours of earned sick time.

BREAKS IN SERVICE

Following a break in service of up to four months, an employee shall maintain the right to use any unused earned sick time accrued before the break in service.

² Employers using their own verification form shall not require any additional information than what is required by M.G.L. c. 149, § 148C.

³ At the discretion of the University.

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Following a break in service of between four and 12 months, an employee shall maintain the right to use earned sick time accrued before the break in service if the employee's unused bank of earned sick time equals or exceeds 10 hours.

Example: An employee has accrued 20 hours of earned sick time and then goes on an unpaid leave of absence for 11 months, starting June 1, 2016. Upon the employee's return to employment on May 1, 2017, eleven months from the date of the employee last worked for the employer, the employee shall have the right to use the 20 hours of earned sick time accrued before the leave of absence began. If, however, the employee had only 9 hours of earned sick time prior to the unpaid leave of absence, the earned sick time balance would be brought to zero upon the employee's return to work.

RETALIATION PROHIBITED

Supervisors may not retaliate against employees for exercising or attempting to exercise rights under the law, including: requesting and using earned sick time; filing a complaint for alleged violations of the law; participating in an administrative or judicial action regarding an alleged violation of the law; or telling others about the law and/or this policy.

QUESTIONS

Any questions regarding this policy should be directed to your immediate supervisor.

Additional information can be found on the Commonwealth of Massachusetts Attorney General's Office Web site at <http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/earned-sick-time/>.

Earned sick leave accruals are tracked, and can be viewed by employees and supervisors in MassHR, the Commonwealth's time and attendance system, found at <http://www.mass.gov/anf/employment-equal-access-disability/hr-policies/masshr/>.

Please contact Human Resources for additional assistance at 413-572-8106.

REVIEW

This document will be reviewed annually by the Assistant Vice President of Human Resources.