

# New York University

## UNIVERSITY POLICIES

**Title:** Sick and Safe Leave Policy and Procedure – New York  
**Effective Date:** May 14, 2021  
**Supersedes:** October 28, 2020  
**Issuing Authority:** Executive Vice President  
**Responsible Officer:** Human Resources

### **Statement of Policy**

New York University (“University”) will provide paid sick and safe leave (collectively, “sick leave”) to covered employees (as that term is defined below) working in the State of New York, in accordance with the terms of this Policy, the New York Labor Law (“NYLL”), and New York City’s Earned Safe and Sick Time Act (“NYCESSTA”). As detailed below, this Policy sets forth the eligibility requirements for sick leave, the conditions for earning and using leave, the process for requesting leave, and other related provisions.

### **To Whom the Policy Applies**

Subject to the exclusions listed in items (a)-(c) below, this Policy covers full- and part-time Administrators and Professionals, Professional Research Staff, and other employees who perform work for the University within the State of New York (hereinafter, “covered employees”).

- a. This policy does not apply to University employees subject to a collective bargaining agreement (“CBA”). Please review the applicable CBA for more information on sick leave.
- b. Faculty should consult with the appropriate chairperson as to the applicable policy on sick leave.
- c. Employees who do not perform work for the University within the State of New York should consult with the appropriate Human Resources (“HR”) Officer/Business Partner as to the applicable policy and procedure on sick leave.

### **Policy and Procedures**

#### ***Permissible Purposes***

Sick leave can be used for one or more of the following purposes:

1. A covered employee’s: (i) mental or physical illness, injury or health condition (regardless of whether it has been diagnosed or requires medical care at the time of the request for leave), as well as elective surgery, including organ donations; (ii) diagnosis, care, or treatment of a mental or

physical illness, injury, or health condition; or (iii) need for preventative medical care or for medical diagnosis (hereinafter defined as, “Sick Leave – Employee”);

2. A covered employee’s family member’s: (i) mental or physical illness, injury or health condition (regardless of whether it has been diagnosed or requires medical care at the time of the request for leave), as well as elective surgery, including organ donations; (ii) diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or (iii) need for preventative medical care or for medical diagnosis (hereinafter defined as, “Sick Leave – Family Member”);
3. Closure of the University due to a public health emergency (as declared by the Commissioner of the New York City Department of Health and Mental Hygiene or the Mayor); or the covered employee’s need to care for a child whose school or child care provider is closed by order of a public official due to a public health emergency (hereinafter defined as, “Sick Leave – Public Health Emergency”); or
4. When the covered employee or a family member has been the victim of domestic violence (including pursuant to the applicable provisions of the New York Executive Law), a family offense matter, sexual offense, stalking, or human trafficking, to:
  - (a) obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
  - (b) participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee’s family members from future family offense matters, sexual offenses, stalking, or human trafficking;
  - (c) meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
  - (d) file a complaint or domestic incident report with law enforcement;
  - (e) meet with a district attorney’s office;
  - (f) enroll children in a new school; or
  - (g) take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or the employee’s family member or to protect those who associate or work with the employee.

(Hereinafter defined as, “Safe Leave – Employee” or “Safe Leave – Family Member,” as applicable).

- **Note:** Unless otherwise indicated, a covered employee may not use sick leave in increments of less than 3.5 hours.
- **Note:** A covered employee may not use more than 56 hours for Sick Leave – Public Health Emergency in a year (assuming the employee has such hours available).
- **Note:** A covered employee may not use more than a combined total of 56 hours for Sick Leave – Family and Safe Leave – Family in a year (assuming the employee has such hours available).
- **Note:** If a covered employee is transferred to another division or location of the University within the State of New York, the employee shall be allowed to retain and use all accrued sick leave. If a covered employee separates from the University and is rehired within 6 months of separation, previously accrued unused sick leave shall be reinstated, and the covered employee can use sick days immediately upon rehire.

### **Amount of Sick Time**

#### **Full-Time Covered Employees' Amount of Sick Time**

*This section applies to full-time covered employees who are not student employees (hereinafter, "full-time covered employees"):*

- Beginning on the first day of employment, a full-time covered employee (*i.e.*, an employee scheduled to work at least 35 hours per week) will receive and can use up to 84 hours (12 days) of sick leave during the year.
- To calculate the sick leave available to a full-time covered employee during each subsequent year:
  - First, determine the maximum allowance of sick leave available to the employee based upon his or her years of continuous service:
    - At the start of his or her 2<sup>nd</sup> year of continuous service, a full-time covered employee is allotted 140 hours (20 days) of sick leave;
    - At the start of his or her 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> years of continuous service, a full-time covered employee is allotted 280 hours (40 days) of sick leave;
    - At the start of his or her 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> years of continuous service, a full-time covered employee is allotted 420 hours (60 days) of sick leave;
    - At the start of his or her 9<sup>th</sup> and 10<sup>th</sup> years of continuous service, a full-time covered employee is allotted 560 hours (80 days) of sick leave; and
    - At the start of his or her 11<sup>th</sup> or more years of continuous service, a full-time covered employee is allotted 840 hours (120 days) of sick leave;

-and-

- Second, subtract from the employee's allowance the amount of sick leave he or she had used in the prior 12 month period on a rolling basis.
- If a full-time covered employee does not have at least 56 hours of sick leave available at the start of a given year, then the University will advance the balance of the time needed for the employee to have 56 hours of sick leave available at the start of the year.
- *At no time will a covered employee not have at least 56 hours of sick leave available at the beginning of a given year and at no time can the employee receive or use more than the maximum allowance of sick leave available in a given year under this policy.*

Example of sick leave calculation: A full-time covered employee begins his or her employment with the University on August 25, 2014 and utilizes 7 hours (1 day) of sick leave (on March 14, 2015) during his or her first year. Thus, on August 25, 2015 (at the start of the employee's second year of employment), the employee will have 133 hours (19 days) of sick leave available. By March 14, 2016 (12 months since the employee took 7 hours (1 day) of sick leave), the employee will have a total of 140 hours (20 days) of sick leave available (assuming the employee has not taken any other sick days during the prior 12 months).

### **Part-Time Covered Employees' Amount of Sick Time**

*This section applies to part-time covered employees who are not student employees (hereinafter, "part-time covered employees"):*

A part-time covered employee (*i.e.*, employees scheduled to work less than 35 hours per week) will receive and can use, at the start of his or her employment and each subsequent year of continuous service, a pro-rated share of the sick leave otherwise available to full-time covered employees.

- To calculate the sick leave available to a part-time covered employee during each year of continuous service:
  - First, divide the number of hours the employee works each week by 35 (*i.e.*, the standard number of hours per week for a full-time covered employee);
  - Second, multiply that number by the maximum allowance of hours of sick leave available to a full-time covered employee based upon his or her years of continuous service (as set forth above);

*-and-*

- Third, subtract from that number the amount of hours of sick leave he or she had used in the prior 12 month period on a rolling basis, as applicable.
- If a part-time covered employee does not have at least 56 hours of sick leave available at the start of a year, then the University will provide or advance, as applicable, the balance of the time needed for the employee to have 56 hours of sick leave available at the start of the year.

## **Covered Student Employees' Amount of Sick Time**

*This section applies to covered student employees only:*

**Accrual.** A covered student employee will accrue 1 hour of sick leave for every 30 hours worked, up to a maximum of 56 hours of sick leave per academic year.

**Use.** A covered student employee may use up to a maximum of 56 hours of accrued sick leave in an academic year.

**Carryover.** A covered student employee may carry over all unused, accrued sick leave into the next academic year. As noted above, at no time, however, may a covered student employee use more than 56 hours of sick leave in an academic year.

## **Requesting Sick Leave**

A covered employee is required to provide his or her supervisor with advance notice (of up to 7 days), orally and/or in writing, of the need to use sick leave for foreseeable reasons. If the need for sick leave is unforeseeable, the covered employee is required to provide his or her supervisor with notice as soon as practicable. Should a covered employee have any questions regarding these notification procedures, the employee should contact his or her supervisor or the appropriate Human Resources Officer/Business Partner.

**Note:** If a covered employee's use of sick leave has lasted 4 or more consecutive work days, the employee should contact Liberty Mutual at 888-339-6830 as soon as practicable. In addition, if a covered employee's sick leave is subject to the provisions of the [Family and Medical Leave Act \(FMLA\)](#), the employee should also contact Liberty Mutual at the number above to request a leave certification.

## **Confirming Use of Sick Leave and Returning to Work**

1. **Return to Work Date.** A covered employee may be asked for a date on which he or she is cleared to return to work.
2. **Confirmation of Purpose.** A covered employee may be required to provide his or her supervisor with oral and/or written confirmation that the employee took sick leave for a permissible purpose. Unless otherwise indicated by a covered employee's supervisor, an employee can confirm that he or she used sick leave for a permissible purpose by logging into PeopleSync Time and Absence and selecting the applicable code.
3. **Confirming Documentation.** Where a covered employee has used more than three (3) consecutive workdays for sick leave, the employee may also be required to provide reasonable confirming documentation, as set forth below. **Note:** A supervisor must receive approval from the appropriate HR Officer/Business Partner before requiring a covered employee to provide confirming documentation.

- *For Sick Leave – Employee and Sick Leave – Family*, reasonable documentation includes documentation signed by a licensed health care provider indicating the need for the amount of leave taken, and that the leave was used for a permissible purpose. If the University requests such documentation, the University will reimburse the employee for the fee, if any, charged by the health care provider for the provision of the documentation. Documentation is not required to specify the nature of the employee’s or his or her family member’s injury, illness, or condition, except as required by law.
  
- *For Safe Leave – Employee and Safe Leave – Family*, reasonable documentation includes documentation signed by an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider from whom the employee or that employee’s family member has sought assistance in addressing domestic violence, family offense matters, sex offenses, stalking, or human trafficking and their effects; a police or court record; or a notarized letter from the employee explaining the need for such time. If the University requests such documentation, the University will reimburse the employee for any and all reasonable costs or expenses incurred for the purpose of obtaining such documentation. Documentation is not required to specify the details of the domestic violence, family offense matter, sexual offense, stalking, or human trafficking.

Should a covered employee fail to provide such documentation (if requested) within 7 days of returning to work, the University may take appropriate disciplinary action against the employee, up to and including termination.

### **Additional Terms and Conditions Regarding Sick Leave**

1. ***Payment.*** When a covered employee uses sick leave, the University will pay the employee what he or she would have earned for the amount of time and the type of work he or she would have performed at the time the leave was taken.
  
2. ***Health Benefits.*** The University will maintain all benefits for the covered employee during the sick leave period on the same basis as coverage would have been provided had the employee been working during that time.
  
3. ***Separation.*** A covered employee will not be paid for any remaining sick leave balance upon separation from employment.
  
4. ***Employee Summary Request.*** A covered employee may make an oral or written request to the appropriate HR Officer/Business Partner for a summary of the amounts of sick leave accrued and used by the employee in the current and/or previous year. The appropriate HR Officer/Business Partner will provide such information to the employee within three (3) business days of the request.
  
5. ***Confidentiality and Non-Disclosure.*** Health information about an employee or an employee’s family member, and information concerning an employee’s or his or her family member’s status or perceived status as a victim of domestic violence, family offenses, sexual offenses, stalking or human trafficking obtained solely for the purposes of utilizing sick leave shall be treated as confidential and shall not be disclosed except by the covered employee, with the written

permission of the employee or as required by law. Nothing herein shall preclude the University from considering information provided in connection with a request for a reasonable accommodation for an employee who is a victim of domestic violence, sex offenses, or stalking.

6. **Misuse.** The misuse of sick leave afforded under this Policy may result in appropriate disciplinary action (up to and including dismissal). Signs of possible misuse of sick leave include, but are not limited to, a pattern of: (i) using unscheduled sick leave on or adjacent to weekends, regularly scheduled days off, holidays, vacation, or pay day; (ii) taking leave on days when other leave has been denied; or (iii) taking leave on days when the employee is scheduled to work a shift or perform duties perceived as undesirable. Evidence that an employee engaged in an activity that is not consistent with the employee being sick or with the employee using sick leave for a preventive medical appointment may also indicate misuse of sick leave.
7. **Anti-Retaliation.** A covered employee cannot be retaliated against for requesting or using sick leave in accordance with this Policy. Retaliation includes any threat, intimidation, discipline, discharge, demotion, suspension, harassment, discrimination, or reduction in hours or pay, or any other adverse employment action against an employee who exercises or attempts to exercise any right provided under applicable law or this Policy.
8. **Record Retention.** The University keeps and maintains records for at least six (6) years regarding employee sick leave, including employment, payroll and timekeeping records.

### **Other University Leaves**

Sick leave shall run concurrently with leave taken under other applicable laws or University policies in the manner set forth below:

**Crime Victim and Criminal Proceeding Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken under the University's Crime Victim and Criminal Proceeding Leave Policy.

**Disability Accommodation Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken as a disability accommodation under the Americans with Disabilities Act (ADA) and equivalent federal, state, and local laws.

**Domestic Violence/Sex Offenses/Stalking Accommodation Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken as a domestic violence/sex offenses/stalking accommodation under the New York City Human Rights Law or any other applicable laws.

**FMLA Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken under the Family and Medical Leave Act (FMLA), in accordance with the University's Federal FMLA Policy & Procedure.

**Long-Term Disability Benefits.** A covered employee who has exhausted his or her available sick leave may be eligible for long-term disability benefits in accordance with the terms of the applicable plan.

**New York Paid Family Leave (NYPFL).** Where NYPFL (for caring for a family member) runs concurrently with FMLA leave, the University also will require that accrued but unused “Sick Leave – Family” run concurrently, in accordance with the University’s Federal FMLA Policy and Procedure. In all other instances, where an employee has accrued but unused “Sick Leave – Family” available at the time of use of available NYPFL (for caring for a family member), the employee may choose whether to charge all or part of the NYPFL to any accrued but unused “Sick Leave – Family.” Where NYPFL runs concurrently with “Sick Leave – Family,” the employee will be paid full salary and not the benefit rate under the New York Paid Family Leave Law.

**Scheduled Holidays/University Closures.** If a scheduled holiday or university closure occurs while a covered employee is on sick leave, the day(s) will count as a scheduled holiday/university closure, not as sick leave.

**Statutory Short-Term Disability Benefits/Workers’ Compensation Benefits.** A covered employee will not begin to receive statutory short-term disability benefits (off-the-job injuries or illnesses) or workers’ compensation benefits (on-the-job injuries or illnesses) for which the employee is eligible until the employee has exhausted his or her available sick leave.

**Vacation/Personal Days.** Sick leave may not be used during vacation or personal days (as the covered employee was not scheduled to work during that time).

**\*Note on Unpaid Leaves of Absence:** During an unpaid leave of absence, where a covered employee has exhausted all available sick leave, further sick leave under this Policy will not be available to the employee until the employee has returned to work. Upon returning to work from an unpaid leave of absence, the employee will receive the amount of sick leave to which the employee is otherwise entitled under the terms and conditions of this Policy.

## **Definitions**

*Year:* Unless otherwise indicated in this Policy, a year is the 12 month period running from the anniversary date of the employee’s first day of employment.

*Continuous service:* as defined this Policy, includes continuous service as an employee of the University in any capacity, except that it does not include employment as a student employee. Continuous service includes leave time or other time off taken for any purpose recognized under University policy or applicable law, as well as any break in service recognized as continuous service under University policy or applicable law. Time of service is not counted more than once where an employee works contemporaneously in two or more positions with the University.

*Family member:*

- Child (including biological, adopted, foster child, step child, legal ward, or child of an employee standing in place of a parent)
- Grandchild
- Spouse
- Domestic partner
- Parent (including biological, foster, step or adoptive parent, legal guardian of an employee, or person who stands in place of a parent when the employee was a minor child)
- Grandparent
- Child or parent of an employee's spouse or domestic partner
- Sibling (including a half, adopted or step sibling)
- Any other individual related by blood to the employee, and any other individual whose close association with the employee is the equivalent of a family relationship.

*Family offense matter:* shall include an act or threat of an act that may constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree (as set forth in subdivision 1 of section 130.60 of the New York Penal Law), stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree (as set forth in subdivisions 1, 2 and 3 of section 135.60 of the New York Penal Law) between spouses or former spouses, or between parent and child or between members of the same family or household.

*Human trafficking* shall include an act or threat of an act that may constitute sex trafficking (as defined in section 230.34 of the New York Penal Law), or labor trafficking (as defined in section 135.35 and 135.36 of the New York Penal Law).

*Member of the same family or household* shall include: (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

*Preventative medical care:* Routine health care that includes screenings, checkups, and patient counseling to prevent illness, disease or other health problems.

*Sexual offense* shall include an act or threat of an act that may constitute a violation of article 130 of the New York Penal Law.

*Stalking* shall include an act or threat of an act that may constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the New York Penal Law.