

# New York University

## UNIVERSITY POLICIES

**Title:** Sick Leave Policy and Procedure – California  
**Effective Date:** May 14, 2021  
**Supersedes:** March 6, 2020  
**Issuing Authority:** Executive Vice President  
**Responsible Officer:** Human Resources

### **Statement of Policy**

New York University in California (“NYU-CA” or “the University”) will provide paid sick leave to covered employees in accordance with the terms of this Policy. 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. This Policy is designed to comply with all applicable state and local paid sick leave laws in California.

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

This Policy covers full- and part-time Administrators and Professionals, Professional Research Staff, and other employees of NYU-CA, subject to the terms and conditions herein (hereinafter, “covered employees”). Faculty should consult with the appropriate chairperson as to the applicable policy on sick leave.

### **Policy and Procedures**

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

A covered employee may use sick leave:

1. For the employee’s own illness or injury; to seek care, treatment or diagnosis; for preventative care; or for purposes related to bone marrow or organ donation (hereinafter defined as, “Sick Leave – Employee”);
2. To aid or care for an ill or injured family member; to seek care, treatment or diagnosis for a family member; or for preventative care for a family member (hereinafter defined as, “Sick Leave – Family Member”); or
3. For a closure of the University due to a public health emergency (as declared by public authorities); 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”).

A covered employee who is a victim of domestic violence, sexual assault or stalking also may use sick leave for purposes of obtaining injunctive relief, shelter or crisis center services, psychological counseling, to participate in safety planning, or to seek other relief to help ensure the health, safety or welfare of the employee or the employee's child, including relocation. (Hereinafter defined as, "Safe Leave – Employee" or "Safe Leave – Family Member," as applicable).

- **Note:** Unless otherwise required by applicable law, sick leave must be taken in increments of at least one (1) hour.
- **Note:** A covered employee may not use more than 40 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 72 hours for Sick Leave – Family and Safe Leave – Family in a year (assuming the employee has such hours available).
- **Note:** Covered employees who are re-employed by the University within one year from the date of separation will have their unused and accrued sick leave made available to them.

### **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 72 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 72 hours of sick leave available at the start of the year.
- *At no time will a covered employee not have at least 72 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 72 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 72 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 72 hours of sick leave per academic year.

**Use.** A covered student employee may use up to a maximum of 72 hours of accrued sick leave in an academic year. A covered student employee may not begin to use their accrued sick leave until ninety (90) days following commencement of their employment with the University.

**Carryover.** A covered student employee may carry over their unused, accrued sick leave into the next academic year, but the amount carried over will be capped at 72 hours.

### **Requesting Sick Leave**

Covered employees must provide advance notification to their supervisor if use of sick leave is foreseeable. If use is unforeseeable, covered employees must provide notification to their supervisor 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 Lincoln Financial 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 Lincoln Financial 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.*** The University may require a medical certification for sick time in certain circumstances, as necessary and appropriate. If the leave is taken to care for a family member (or designated person), documentation of the employee's relationship to the other individual may also be required.

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

1. ***Payment.*** When a covered employee uses sick leave, the University will pay the employee at the employee's regular rate of pay. A covered employee may find the employee's sick time balance on the employee's pay statement.
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. ***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, sexual assault, or stalking 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, sexual assault, or stalking.
5. ***Misuse.*** The misuse of sick leave afforded under this Policy may result in discipline (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.
6. ***Anti-Discrimination/Anti-Retaliation.*** A covered employee cannot be retaliated or discriminated against for requesting or using sick leave in accordance with this Policy. Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in an employee's hours, or any other adverse employment action against an employee who exercises or attempts to exercise any right guaranteed under the Policy.

7. **Record Retention.** The University keeps and maintains records for at least 3 years documenting compliance with the requirements of this Policy, 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 Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken under NYU-CA's Crime Victim 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 Assault/Stalking Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken under NYU-CA's Leave for Victims of Domestic Violence, Sexual Assault or Stalking Policy.

**FMLA/CFRA Leave.** When taken for the same purpose, sick leave shall run concurrently with leave taken under the federal Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA), in accordance with the University's FMLA and CFRA policies.

**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.

**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 need not exhaust sick leave to apply for or be eligible to receive statutory short-term disability benefits (for off-the-job injuries or illnesses) or workers' compensation benefits (for on-the-job injuries or illnesses). However, employees are permitted to use paid sick leave during any waiting period or to supplement any such benefits received (up to a maximum of 100% of the employee's salary).

**Vacation/Personal Days.** Sick leave may not be used during previously scheduled 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:* For purposes of 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:*

- Spouse
- Child
- Parent
- Registered domestic partner
- Child of a registered domestic partner
- Parent-in-law
- Grandparent
- Grandchild
- Sibling
- Those related to the employee by blood or affinity equivalent to a family relationship.

\*For parent-child relationships, there is no age or dependency requirement, and adoptive, foster, "step," legal ward or guardianship, and corresponding parent-in-law relationships are included. Parent-child relationships also include *in loco parentis* relationships. Parent-in-law relationships include parents of a registered domestic partner.

\*\*Covered employees without a spouse or registered domestic partner may take leave under this Policy in order to aid or care for a certain "designated person" who does not otherwise meet the above definition of "family member." Once a covered employee has one hour of paid sick time, the employee has 10 work days to designate the extra person for whom the employee may use accrued paid sick time. One year later, the employee will have another 10-work day window of opportunity to make such a designation, or to change a previous designation, if still eligible. Employees may make a designation by written request to Human Resources.