

## POLICY

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 Approved by: President's Cabinet

Authority: [29USC2601](#); [29USC201](#); [PL110-325](#); [PL104-191](#)  
[RCW 49.60](#); [49.12.265](#); [49.76](#); [49.77](#); [49.78](#)  
[WAC 296-130](#); [162-30-020](#)

Cancels: FMLA Procedures (8/12/99)

See Also: [PRO-U5410.03A](#) Requesting Family or Medical Leave  
[PRO-U5410.03B](#) Reporting Intermittent Family or Medical Leave  
[POL-U1600.03](#) Accommodating Persons With Disabilities  
[POL-U5950.10](#) Providing Workers' Compensation and Transitional Return-to-Work  
[POL-U5410.05](#) Administering Work and Leave Time Reports  
[POL-U5410.06](#) Requesting and Donating Shared Leave  
[Guide](#) Military Family Leave Rights  
[FAQs](#) Taking Family Or Medical Leave  
[FAQs](#) Domestic Violence Leave for Victims and Family Members

### **POL-U5410.03 TAKING FAMILY OR MEDICAL LEAVE**

**This policy applies to all faculty and staff and covers leave requests related to:**

- a) **An employee's own serious medical condition,**
- b) **A serious medical condition for an eligible family member or significant other,**
- c) **Maternity and parental related leave (including foster care and adoption),**
- d) **Military family leave, and**
- e) **Domestic violence leave.**

#### **Definition:**

Protected Leave – leave approved under this policy which may require the University to maintain employee benefits during the leave and/or return the employee to his/her position or equivalent position based on applicable laws, bargaining unit contracts and/or employee handbook.

#### **1. Vice President for Business and Financial Affairs Ensures Appropriate Administration of Family and Medical Leave**

The Human Resources (HR) Director, under the purview of the Vice President for Business and Financial Affairs, is responsible for the administration of this policy and its compliance with state and federal law.

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### **2. Employees Shall Provide Adequate Notice To Supervisor and HR**

Employees shall provide at least 30 days advance verbal or written notice to their supervisor and HR when the need for leave is foreseeable or as soon as practicable.

*Exception:* Employees who intend to take leave under the state military family leave provision ([RCW 49.77](#)) must provide HR notice within five business days of receiving official notice of an impending call or order to active duty or of a leave from deployment.

When notifying a supervisor about the need for leave that is medical in nature, the employee is not required to disclose specific information about their own or the family member's medical condition. The employee need only inform the supervisor that his/her need for leave is medical in nature and the anticipated duration of the leave.

### **3. Supervisors Must Provide Adequate Notice To Human Resources**

Supervisors must contact HR as soon as possible after an employee has:

- a) Provided notice about a foreseeable need for leave applicable under this policy,
- b) Had an unforeseeable absence that is expected to continue for more than three consecutive days due to a serious illness or serious illness of a family member, or
- c) Taken intermittent leave on a frequent basis due to a serious medical condition or to care for a seriously ill family member.

Supervisors are advised not to inquire about diagnosis and to direct the employee to provide required medical documentation only to HR (see section #6 below regarding confidentiality).

### **4. Human Resources Makes All Determinations and Enforces Compliance**

HR will make all eligibility and provision determinations, provide required notification to employees and supervisors, and monitor and enforce compliance.

The first day of leave protected under this policy will begin based on the date in the supporting documentation.

### **5. Employees Shall Provide Sufficient Documentation To Support Leave Request**

Upon request from HR, employees shall provide sufficient documentation at their own cost within 15 days or provide a reasonable explanation for the delay. Failure to provide sufficient documentation may result in a denial of leave protections and absences may be

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subject to discipline including termination. Documentation is required for initial leave requests, extensions, and ongoing leave as allowed by law.

For medical related leaves, HR may, in consultation with the appropriate Dean or Director, request a second medical opinion by a health care professional of its choice. If necessary, HR may require a third opinion by a party mutually selected by the employee and HR. The third opinion is final. The employee's department is responsible for the costs of a second and third opinion and the employee is provisionally entitled to leave and benefits continuation pending a second and third opinion.

### 6. **All Involved Personnel Shall Maintain Confidentiality**

All communications regarding an employee's leave under this policy shall be treated confidentially. All original documentation related to an employee's protected leave under this policy will be forwarded to and maintained by HR. Such medical documentation will be maintained separate from an employee's HR personnel files and no copies are to be maintained by the employee's department.

HR will release limited information only to others on a need-to-know basis for business or legal purposes. While an employee may choose to discuss medical/disability or related leave matters with others, a supervisor and those employees in the know must treat all such information or requests in a sensitive and confidential manner.

### 7. **Intermittent Leave Or Reduced Hours For Parental Leave Requires Department Approval**

Requests for intermittent leave or reduced time for parental leave that is not medically necessary requires HR and department director/chair approval (or vice president if appropriate).

### 8. **Human Resources Director Oversees Appropriate Pay Status During Leave**

The type of paid leave and in what order it may be used by an employee is determined by applicable laws, University policy, and bargaining unit contract and/or employee handbook.

Exception: Any available paid leave may be used in any order as requested by the employee for leaves approved under the state [Family Care Act](#).

If accrued leave is not available, the leave shall be an authorized leave without pay for an approved duration. Employees in leave without pay status may be subject to certain employee conditions under applicable law, University policy, bargaining unit contract or handbook provisions.

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9. **Employee's Department Responsible for Time Entry During Approved Medical Leave**

10. **Employees May Be Responsible To Self-Pay Benefits**

When benefits are not protected during a leave of absence and the employee does not receive at least eight hours of pay during a calendar month, the employee may continue health, dental and life insurance by self-paying the group premium rate, up to the maximum amount of time allowed under [WAC 182-12-133](#).

11. **Supervisors Ensure Medical Release Approved by Human Resources Prior to Allowing Employee to Resume Duties**

Employees who are on leave or a reduced schedule due to their own serious health condition must provide HR, at their expense, a medical release from their health care provider prior to resuming duties.

*Exception:* Employees approved for intermittent medical or parental leave are not required to provide a medical release unless HR determines reasonable safety concerns exist regarding the employee's ability to perform his or her duties based on the serious health condition for which the employee took such leave.

Employees on medical leave due to a work injury are not to resume duties unless authorized by Western's Environmental Health and Safety Department.

12. **Employees Must Be Able To Perform Essential Job Functions**

Employees must be able to perform the essential functions of their job with or without a reasonable accommodation upon return to work, including those taking intermittent or reduced leave.

Transitional work, when available, may be approved temporarily for employees whose leave is covered under a worker's compensation claim (see [POL-U5950.10 Providing Workers' Compensation and Transitional Return-to-Work](#)). Hours worked during a light duty assignment will not be counted as Family Medical Leave Act (FMLA) leave.

13. **Employees Shall Not Be Discriminated Or Retaliated Against**

Supervisors must ensure an employee's use or potential use of protected leave cannot be considered or used for adverse employment related actions such as work assigned, hiring, performance evaluations, promotions or disciplinary actions.

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Employees have the right to utilize the University's Equal Opportunity Office [Discrimination Complaint Procedure](#) if they believe they have been discriminated or retaliated against in the approval, denial, or implementation of leave covered under this policy.

### 14. **Human Resources To Provide Regular Compliance Training**

HR will regularly communicate to the University community about this policy and provide training to facilitate effective implementation and compliance.

Leave approval and provision details of the various applicable laws will be maintained on the HR website under *Frequently Asked Questions* and *Guides*.