

<b>ADMINISTRATIVE DIVISION</b> HR Division of Human Resources		<b>POLICY NUMBER</b> HR 1.12
<b>POLICY TITLE</b> Leave of Absence (Leave Without Pay)		
<b>SCOPE OF POLICY</b> USC System	<b>DATE OF REVISION</b> September 12, 2023	
<b>RESPONSIBLE OFFICER</b> Vice President for Human Resources	<b>ADMINISTRATIVE OFFICE</b> Division of Human Resources	

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**PURPOSE**

This document describes the University of South Carolina Leave of Absence Policy, the different types of leaves of absence, and provides other relevant information, pursuant to the regulations of the South Carolina Division of State Human Resources.

**DEFINITIONS**

**[Affordable Care Act Glossary](#)**: Document published by the South Carolina Public Employee Benefit Authority (PEBA).

**Family and Medical Leave Act (FMLA)**: A federal law requiring employers to provide eligible employees with job-protected and unpaid leave for qualified medical and family reasons.

**Long Term Military Leave**: Leave granted to employees who have been, or shall be, commissioned, enlisted or selected for service in the Armed Forces of the United States and the requirements and regulations of the Armed Forces shall prevent their return to civil employment for a period of no less than 90 days but not more than 5 years.

**Short Term Military Leave of Absence**: Leave granted to employees who as members of the National Guard or other reserve component of the United States Armed Services are engaged in training or duty for a period of time in excess of fifteen working days and who have exhausted other available types of leave.

**Suspension:** An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

**Unauthorized Leave of Absence:** An absence which has not been previously approved by the unit head or an authorized supervisor.

**Uniformed Services Employment and Reemployment Rights Act (USERRA):** A federal law that protects military service members and veterans from employment discrimination on the basis of their service and allows them to regain their civilian jobs following a period of uniformed service.

## **POLICY STATEMENT**

A. All leaves of absence are unpaid.

B. Eligibility

1. Student employees are not eligible for leaves of absence, except as necessary to provide workers compensation coverage for time lost from work due to work related injury or illness.
2. All other employees of the University of South Carolina are eligible for leaves of absence.
3. Non-leave earning exempt employees must take authorized leaves of absence for personal reasons in whole day increments and leave of absence for medical reasons in full week increments. If such leave is taken in shorter increments, non-leave earning exempt employees must be paid their regular salary in accordance with university policy HR 1.84 Minimum Wage, Official Workweek, and Overtime Compensation
4. Leave taken pursuant to this policy may qualify as FMLA leave and, if so, will run concurrently.
5. Additional employees in FTE positions will not be hired to replace employees on authorized leaves of absence. Exceptions may be made for long term military leave pursuant to the terms of the Uniformed Services Employment and Reemployment Rights Act (USERRA).
6. The Leave of Absence policy should be applied in an equitable manner to all employees.

C. Types of Authorized Leaves of Absence Without Pay

1. Family and Medical Leave. Unpaid family and medical leave is available to eligible employees who have been approved for a leave of absence in accordance with the FMLA but have exhausted available sick leave and have either exhausted or elected not to use annual leave.

2. Personal. Employees who have exhausted their annual leave or who will exceed the 30-day limit of annual leave may request additional unpaid leave for personal reasons.
3. Short Term Military Leave. Leave for employees who have been on military training in excess of 15 workdays in a calendar or fiscal year and have used all available annual leave.
4. Long Term Military Leave. Leave for employees whose active military service precludes civilian employment for a period of at least 90 days but not more than five years and are eligible for reemployment protection under the USERRA.
5. Educational Leave. Any employee who is employed at least 30 hours per week and who has satisfactorily completed at least one year of continuous university employment during the current period of employment with the university is eligible to apply for educational leave without pay. Requests of leave without pay for educational purposes must be approved by the department chair or director.
6. Hazardous Weather Leave. If the governor does not authorize leave with pay for employees as a consequence of a hazardous weather or emergency event, employees who do not report to work or who report late may elect to take a leave of absence to make up hours scheduled but not worked.
7. Workers Compensation. Unpaid leave is available for eligible employees who must miss time from work due to a work-related injury or illness and who have either exhausted all available leave or who have elected a workers compensation benefits option that does not require exhaustion of leave.
8. Suspension. Suspension is an enforced leave of absence without pay that has been authorized by Employee Relations in the Division of Human Resources or by the Vice President of Human Resources.

#### D. Unauthorized Leave of Absence

An absence which has not been previously approved by the unit head or an authorized supervisor is considered an unauthorized leave of absence. Employees being charged with an unauthorized leave of absence must be notified in writing and will be subject to appropriate disciplinary action. An employee on unauthorized leave of absence for three consecutive workdays will be considered to have voluntarily resigned and abandoned the position. See university policy [HR 1.39 Disciplinary Action and Termination for Cause](#).

### **PROCEDURES**

#### A. Authorized Leave

1. With the exceptions of military leave and suspension an employee must obtain approval

from their unit head or an authorized supervisor prior to going on leave of absence in order for leave to be considered authorized. Failure to do so may result in the absence being charged as unauthorized leave, which may lead to appropriate disciplinary action, up to and including termination.

2. Leaves of absence will not be authorized until all applicable accrued sick leave has been used except in the case of suspensions and as provided in university policies [HR 1.03 Annual Leave](#), HR 1.06 Sick Leave, HR 1.07 Family and Medical Leave, HR 1.18 Hazardous Weather and Emergency Leave, and HR 1.66 Workers Compensation.

#### B. Family and Medical Leave

Leaves of absence for FMLA reasons for three days or more must be requested in accordance with the procedures outlined in university policy HR 1.07 Family and Medical Leave.

#### C. Personal Leave

1. Leaves of absence for personal reasons for up to 5 consecutive working days may be authorized by the unit head. Such leave must be recorded on the employee's timesheet and approved by the authorized supervisor.
2. Leave without pay for personal reasons in excess of 5 consecutive working days may be requested through the university timekeeping system for review and approval by the unit head or authorized supervisor and by Human Resources.

#### D. Military Leave

1. Short Term Military Leave. Leave for military training in excess of 15 workdays in a calendar or fiscal year may be charged against accrued annual leave at the discretion of the employee. If annual leave is not available, or the employee elects not to use annual leave the absence will be charged as a leave of absence. Additional information regarding paid leave for military training is provided in university policy [HR 1.09 Other Leave with Pay](#).
2. Long Term Military Leave. Employees going on long term military leave must notify the Division of Human Resource's Benefits Office in order to maintain their rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Long term military leave will be approved upon notification under the terms of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

#### E. Educational Leave

An employee must apply by submitting a letter of request, which indicates the purpose and inclusive dates of the leave of absence to the department chair or director. Approval may be authorized for educational leave without pay provided it is deemed advantageous and of

benefit to the university as well as to the employee.

#### F. Hazardous Weather and Emergency Leave

Leaves of Absence associated with hazardous weather and declarations of emergency must be recorded in the university timekeeping system and approved by the authorized supervisor.

#### G. Workers Compensation

Leaves of absence related to workers compensation benefits and time lost from work must be requested in accordance with the procedures outlined in university policy HR 1.66 Workers Compensation.

#### H. Suspension

For classified and unclassified non-academic employees, suspension must follow the procedures stated in university policy [HR 1.39 Disciplinary Action and Termination for Cause](#).

#### I. Benefits During Leave of Absence (Leave Without Pay)

##### 1. FMLA and Military Leave (Unpaid Leave)

When an employee goes on an employer-approved leave of absence associated with military leave or FMLA, benefits eligibility continues.

##### 2. Ongoing Employees under the Affordable Care Act

Any employee employed during the Standard Measurement Period (October 4-October 3) is an ongoing employee. Eligibility for benefits is based on the number of hours the employee worked during the Standard Measurement Period.

If an ongoing employee averaged 30 hours per week during the Standard Measurement Period, they are in a Stability Period. As long as the ongoing employee remains employed with USC, their eligibility for benefits continues for the remainder of the stability period.

If an ongoing employee did not average 30 hours per week during the Standard Measurement Period, they are not in a Stability Period.

##### 3. New full-time Employees under the Affordable Care Act

Any new employee who has not been employed for the Standard Measurement Period (October 4-October 3) is not in a Stability Period and coverage will be termed.

##### a. Variable-Hour, Part-time or Seasonal Employees under the Affordable Care Act

If an employee averaged 30 hours per week during his Initial Measurement Period, they are in an Initial Stability Period. As long as the employee remains employed with his employer, the employee remains eligible for benefits through the end of their Initial Stability Period. Refer to the Affordable Care Act glossary for more information regarding the measurement and stability periods.

Once the employee's Initial Stability Period ends, they become an ongoing employee and continued eligibility should be based on their hours worked during the Standard Measurement Period (October 4-October 3).

b. Workers' Compensation

Workers' compensation is not administered as unpaid leave. An employee, on approved leave because of disability approved by the State Accident Fund, is considered to be drawing a salary from the state.

- i. All coverage must continue as before during the benefit period unless a change in status/special eligibility situation occurs. Documentation may be required.
- ii. The employee pays the employee's share of premiums to the employer's payroll office.
- iii. The employer pays the employer portion of premiums.
- iv. If the employee has stopped making payments for their share of the premiums, the continuation of coverage will be reviewed by HR and legal counsel.

c. Premium on unpaid leave

Eligible employees are responsible for paying only the employee's share of the premium while on unpaid leave. All premiums should be paid to USC by the established deadline. If an employee fails to pay by the deadline, the coverage will be cancelled due to nonpayment.

d. When coverage ends

Eligibility for benefits ends the first of the month following the event which caused the ineligibility. The employee will be provided the 18-month COBRA Notice and, if enrolled in life insurance, the PEBA Coverage Verification Notice of Group Life Insurance.

**RELATED UNIVERSITY, STATE AND FEDERAL POLICIES**

[Family and Medical Leave Act \(FMLA\)](#)

[Uniformed Services Employment and Reemployment Rights Act \(USERRA\)](#)

[State Human Resources Regulations 19-710, 19-711, 19-712](#)

[HR 1.03 Annual Leave](#)

[HR 1.06 Sick Leave](#)

[HR 1.07 Family and Medical Leave](#)

[HR 1.09 Other Leave with Pay](#)

[HR 1.18 Hazardous Weather and Emergency Leave](#)

[HR 1.39 Disciplinary Action and Termination for Cause](#)

[HR 1.57 Separations](#)

[HR 1.66 Worker's Compensation](#)

[HR 1.84 Minimum Wage, Official Workweek, and Overtime Compensation](#)

**HISTORY OF REVISIONS**

<b>DATE OF REVISION</b>	<b>REASON FOR REVISION</b>
November 16, 2018	Updated to new format Clarified military leave without pay Added suspension to types of leave without pay Updated procedures
July 26, 2021	Revised to reflect optional use of annual leave while on FMLA. Added references to unpaid leave for educational purpose, hazardous weather and workers comp. Procedures updated to reflect new university timekeeping system.
March 15, 2023	Updated to include impact of leave of absence (LWOP) on benefits
September 12, 2023	Updated to clear up discrepancy with HR 1.03 Annual Leave