



POLICY AND PROCEDURE

Function:	Human Resources	Policy Number:	THS 427 Replaces SFH policy HR-006 and TMH policy HR 30
Subject:	Leaves of Absence	Distribution:	Thomas Health System System-Wide
Prepared By:	Vice President-General Counsel; Director of Human Resources	Effective Date:	January, 2019
		Last Review, Revision Date:	
Approved By:	President/CEO	Approved By:	President/CEO

PURPOSE

To establish Leave of Absence guidelines.

SCOPE & RESPONSIBILITY

This policy applies to all employees of Thomas Health System (“THS”), including its affiliates, Thomas Memorial Hospital (“TMH”), Saint Francis Hospital (“STFH”) and THS Physician Partners (“THSPP”). This policy supersedes any previous policies, employee handbook provisions, or other statements regarding leaves of absence. The Human Resources Department has responsibility for administration of this Policy.

POLICY

A Leave of Absence is an approved absence from work for a specified period of time for an authorized reason, as defined by this Policy.

RECOGNIZED LEAVES OF ABSENCE

THS currently recognizes the following types of Leave of Absence:

- Medical Leave (FMLA & General)
- Military Leave

A. MEDICAL LEAVE

Medical Leave includes leave provided under the Family and Medical Leave Act of 1993 (“FMLA”) and General Medical Leave.

1. FMLA

Eligibility

To qualify for FMLA leave, an employee must: (a) have worked for the THS or its affiliates for at least 12 months, although it need not be consecutive; (b) worked at least 1,250 hours in the last 12 months; and (c) be employed at a worksite that has 50 or more employees within 75 miles.

Leave Entitlement

Employees may take up to 12 weeks of unpaid FMLA leave in a 12-month period, which is measured using a "rolling" method that is measured backward from the date the employee uses any FMLA leave, for any of the following reasons:

- the birth of a son or daughter and in order to care for that son or daughter (leave to be completed within one year of the child's birth);
- the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter (leave to be completed within one year of the child's placement);
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to care for employee's own serious health condition, which renders the employee unable to perform any of the essential functions of the employee's position; or
- a qualifying exigency of a spouse, son, daughter, or parent who is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty).

An employee may take up to 26 weeks of unpaid FMLA leave in a single 12-month period, beginning on the first day that the employee takes FMLA leave to care for a spouse, son, daughter, or next of kin who is a covered service member and who has a serious injury or illness related to active duty service, as defined by the FMLA's regulations (known as military caregiver leave).

Procedure for Request/Approval

Employees must obtain a FMLA request packet from the Human Resources Department. Instructions on completion and return of the application may be found within the packet.

Notice of Leave

If the employee's need for FMLA leave is foreseeable, the employee must give THS at least 30 days' prior written notice. If this is not possible, the employee must at least give notice as soon as practicable (within one to two business days of learning of the need for leave). Failure to provide this notice may be grounds for delaying FMLA-protected leave, depending on the particular facts and circumstances.

Additionally, if the employee is planning a medical treatment or a series of treatments or the employee is taking military caregiver leave, the employee must consult with THS first regarding the dates of this treatment to work out a schedule that best suits the needs of the employee or the covered military member, if applicable, and THS.

Where the need for leave is not foreseeable, the employee is expected to notify THS within one to two business days of learning of the need for leave, except in extraordinary circumstances. THS has Family and Medical Leave Act request forms available from the Human Resources Department. Employees must submit a written request, using this form, when requesting leave.

Certification of Need for Leave

If an employee is requesting leave because of the employee's own or a covered relative's serious health condition, the employee and the relevant health care provider must supply appropriate medical certification. The employee may obtain Medical Certification forms from the Human Resources Department. When the employee requests leave, THS will notify the employee of the requirement for medical certification and when it is due (at least 15 days after leave is requested). If the employee provides at least 30 days' notice of medical leave, the employee should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of FMLA-covered leave until it is provided.

THS, at its expense, may require an examination by a second health care provider designated by THS. If the second health care provider's opinion conflicts with the original medical certification, THS, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. THS may require subsequent medical recertification. Failure to provide requested certification within 15 days, when practicable, may result in delay of further leave until it is provided. THS also reserves the right to require certification from a covered military member's health care provider if the employee is requesting military caregiver leave and certification in connection with military exigency leave.

Both Spouses Employed by THS or its Affiliates

Spouses who are both employed by THS and eligible for FMLA leave may be limited to a combined total of 12 weeks of leave during the 12-month period if leave is requested:

- for the birth of a son or daughter and in order to care for that son or daughter;
- for the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter; or
- to care for an employee's parent with a serious health condition.

Spouses who are both employed by THS and eligible for FMLS leave may be limited to a combined total of 26 weeks in a single 12-month period if the leave is for:

- military caregiver leave; or
- a combination of military caregiver leave and leave for other FMLA-qualifying reasons.

Reporting During Leave

If an employee takes leave because of the employee's own serious health condition or to care for a covered relative, the employee must contact THS every 30 days regarding the status of the condition and the employee's intention to return to work. In addition, the employee must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown.

Exemption for Key Employees

Key employees, defined as salaried and FMLA-eligible employees who are among the highest paid 10 percent of all employees at a worksite or within 75 miles of that worksite, may not be returned to their former or an equivalent position following FMLA leave if restoration of employment will cause substantial and serious economic injury to the operations of THS. This fact-specific determination will be made by THS on a case-by-case basis. THS will notify the employee if the employee qualifies as a key employee, if THS intends to deny reinstatement and of the employee's rights in these instances.

Intermittent and Reduced Leave Schedule

If medically necessary, FMLA leave occasioned by a serious health condition may be taken intermittently (in separate blocks of time due to a serious health condition) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday). FMLA leave may also be taken intermittently or on a reduced leave schedule for a qualifying exigency relating to covered military service.

If leave is unpaid, THS will reduce the employee's salary based on the amount of time actually worked. In addition, while the employee is on an intermittent or reduced schedule leave, THS may temporarily transfer the employee to an available alternative position that better accommodates the employee's leave schedule and has equivalent pay and benefits.

Leave is Unpaid

FMLA leave is unpaid. The employee will be required to substitute any accrued and unused vacation or sick days for unpaid FMLA leave. The substitution of paid leave time for unpaid FMLA leave time does not extend the 12 or 26 weeks (whichever is applicable) of the FMLA leave period. In no case can the substitution of paid leave time for unpaid leave time result in an employee's receipt of more than 100 percent of the employee's salary. An employee's FMLA leave runs concurrently with other types of leave, for example, accrued vacation time that is substituted for unpaid FMLA leave.

Benefits During Leave

If eligible, employees may take up to 12 or 26 weeks of family or medical leave, whichever is applicable (as explained below), within the relevant period. While an employee is on FMLA leave, THS will maintain the employee's group health insurance coverage at the same level and under the same circumstances as when the employee was actively working, as more fully described below. Upon returning from approved FMLA leave, the employee will have the right to be restored to the same job or an equivalent position, subject to the terms, limitations, and exceptions provided by law.

As indicated above, during approved FMLA leave, THS will maintain the employee's health benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid FMLA leave, THS will deduct the employee's portion of the health plan premium as a regular payroll deduction. **If an employee's**

leave is unpaid, the employee must pay the employee portion of the premium. An employee's health care coverage will cease if the premium payment is more than 30 days late. If the payment is more than 15 days late, the employee will receive a letter indicating if the premium payment is not received within 15 days from the date of the letter, coverage may cease. If the employee elects not to return to work for at least 30 calendar days at the end of the leave period, the employee will be required to reimburse THS for the cost of the health benefit premiums paid by THS for maintaining coverage during the employee's unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

Returning From Leave

If an employee takes leave because of the employee's own serious health condition (except if the employee is taking intermittent leave), the employee is required, as are all employees returning from other types of medical leave, to provide medical certification that the employee is fit to resume work. The certification should be given to the Human Resources Department as soon as possible, but no more than seven (7) days after is received by the employee, for review by the Employee Health Nurse. The employee will not be permitted to resume work until this process is completed and the employee is notified by THS that they may return to work.

2. GENERAL MEDICAL LEAVE

Eligibility

Only full-time regular employees with at least six months of continuous service are eligible for a General Medical Leave of Absence under this Policy. These eligibility requirements may be waived where necessary to provide a reasonable accommodation under federal or state law.

Leave Entitlement

Most medical-related leaves will be covered by the Family and Medical Leave Act ("FMLA") provision outlined above. However, where an employee is unable to work because the employee has a "Serious Health Condition" as defined by the FMLA, and is ineligible for or has exhausted leave under the FMLA, THS will consider a request by the employee for a General Medical Leave of Absence. Employees must exhaust all other accrued time off before beginning the leave. The duration of a General Medical Leave of Absence may not exceed 90 calendar days, except where additional duration has been approved as a reasonable accommodation under federal or state law. The 90-day period shall be calculated beginning with the first day of absence connected to the request and shall continue until such time as the employee returns to work for a continuous 2-week period. An employee may not have more than one General Medical Leave of Absence in any calendar year regardless of the number of days utilized. Should the employee not be able to return to work within the approved period, the employment relationship will be terminated.

Procedure for Request/Approval

An eligible employee should submit requests for a General Leave of Absence under this Policy to the employee's department manager in writing. Employees must provide at least 30 days' prior written notice of a desire to take General Medical Leave whenever possible. If this is not possible, employees must at least give notice within one to two business day of learning or as soon as practicable.

Certification of Need for Leave

Employees must provide a physician's statement specifying the date of the disability (or expected date), the date the employee is expected to return to work, and a description of the disabling condition. Additional information may be required at THS' discretion. Leaves of Absence under this Policy must be approved by the department manager and the Director of Human Resources.

Reporting During Leave

Employees must communicate with THS every thirty (30) days regarding the status of the condition and an intention to return to work.

Leave is Unpaid

General Medical Leave is unpaid. Employees will be required to use any accrued and unused vacation or sick days for unpaid General Medical Leave.

Benefits During Leave

An employee on a General Medical Leave of Absence will have continuing benefits. Should the employee not have any paid leave covering the time they are taking General Medical Leave, the employee may continue group insurance coverage at the employee's own expense, provided that such continuation of coverage is permitted under the terms applicable to each employee benefit plan. The employee must pay the full cost of premiums for coverage under each plan during the Leave of Absence. Failure to provide payment for coverage premiums by the first day of each month will result in termination of coverage. Employees will not accrue benefits or seniority while on General Medical Leave of Absence.

Returning from Leave

The employee is required, as are all employees returning from other types of medical leave, to provide medical certification that the employee is fit to resume work. The certification should be given to the Human Resources Department as soon as possible, but no more than seven (7) days after is received by the employee, for review by the Employee Health Nurse. The employee will not be permitted to resume work until this process is completed and the employee is notified by THS that they may return to work.

THS cannot guarantee that it will return an employee after a General Medical Leave of Absence to the same position held before the absence, but will return the employee to the prior position if it is available. If the employee's prior position is unavailable, the employee may be offered an available position for which the employee is qualified, at the rate of pay for the new position. If there are no such positions available, the employee may be placed on priority hiring status for a period

equal to 90 minus the number of general medical leave calendar days taken, and may be considered for the first vacancy for which the employee is qualified. If no such position becomes available within the calculated days, the employment relationship will be terminated. In the event the employee declines an offer of reinstatement to any full-time or part-time position, whether the employee's prior position or another position, the employee will be terminated.

B. MILITARY LEAVE

THS recognizes that employees may need to be absent from work to serve in the United States military. THS provides military service leaves of absence to all regular full-time, part-time, and probationary employees in compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and applicable state laws.

Eligibility

Eligible Employees. All regular full-time, part-time, and probationary employees are eligible for military service leave if they are absent from work because of eligible military service.

Eligible Military Service. For purposes of this policy, eligible military service means certain types of service (listed below) in the following branches of the U.S. military:

- Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard), including the Reserves
- National Guard, including the Army National Guard and Air National Guard, when the employee is engaged under federal authority in active duty for training, inactive duty training, or full-time National Guard duty
- Commissioned corps of the Public Health Service
- Any other category of persons designated by the President in time of war or national emergency

Eligible employees may take leave under this Policy for the following types of military service:

- Active duty
- Active duty for training
- Initial active duty for training
- Inactive duty training
- Full-time National Guard duty
- Submitting to an examination to determine the employee's fitness for any of these services
- Funeral honors duty performed by National Guard or Reserve members
- Duty performed by intermittent disaster response personnel for the Public Health Service and approved training to prepare for this service
- Service as an intermittent disaster response appointee of the National Disaster Medical System when employees are:

- activated under federal authority; or
- attending authorized training in support of a federal mission

Procedure for Request/Approval

If an employee needs to take military service leave, the employee or an authorized military service officer should provide advance notice to the department manager or the Director of Human Resources. When possible, the employee should give at least 30 days' notice of the request for leave. If 30 days' notice is not possible because of military necessity or for other reasons, the employee should give as much advance notice as possible. Written notice is preferred, but not required. Where possible, the employee should submit a copy of the military orders, training notice, or order to active duty to the department manager or the Director of Human Resources.

Leave is Unpaid

Military service leave is unpaid. However, employees may use any or all of their accrued but unused vacation or other paid time off during their military service leave.

Benefits During Leave

During military service leave, all benefits provided under an employee benefit plan are governed by the terms and conditions of the applicable employee benefit plan documents in accordance with applicable law. For all other non-seniority benefits, an employee on military service leave will receive the same rights and benefits as employees on an unpaid leave of absence.

Return from Leave

Employees may be eligible for reemployment after their military service leave. Any employees who would like to return to work must report to work or submit an application for reemployment to the Human Resources Department, including their military discharge documentation, if available, as follows:

- If the military service was for less than 31 days, the employee must report to work on the first regularly scheduled workday that is at least eight hours after the return home from military service.
- If the military service was for 31 to 180 days, the employee must apply for reemployment within 14 days following completion of military service.
- If the military service was for more than 180 days, the employee must apply for reemployment within 90 days following completion of military service.
- If the employee suffered a service-connected injury or illness and is hospitalized or convalescing, the employee will have up to two years following completion of military service to return to their job or apply for reemployment, depending on the length of recovery time required.

If any employee is unable to comply with this reporting schedule through no fault of their own or if they are injured or recovering from an injury and need an accommodation for specific circumstances beyond their control, they should speak with the Human Resources Department as soon as possible to determine if they are eligible for a reasonable accommodation or additional time to apply for reemployment. Employees who do not report to work or apply for reemployment within the applicable timeframe will be subject to THS' rules about unexcused absences.

Nothing in this policy requires THS to reemploy individuals who are not eligible for reemployment rights under applicable law.

Employees who are eligible for reemployment will be reemployed with the same seniority, and all rights and benefits based on that seniority, that they would have attained if they had not taken military leave. Seniority rights include pay and benefits that accrue or are determined based on their length of service.

Discrimination and Retaliation Prohibited

THS prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person's membership in or obligation to perform service for any branch of the United States military. Specifically, no one will be denied employment, reemployment, promotion, or any other benefit of employment, or be subjected to any adverse employment action based on that person's membership in or service for any branch of the United States military. In addition, no one will be disciplined, intimidated, or otherwise retaliated against because that person exercised rights under this policy or applicable law.

THS is committed to enforcing this policy against discrimination and retaliation. However, the effectiveness of THS' efforts depends largely on employees informing THS about inappropriate workplace conduct. If an employee feels that they or someone else may have been subjected to conduct that violates this policy, the employee should report it immediately. If employees do not report such conduct, THS may not become aware of a possible violation of this policy and may not be able to take appropriate corrective action.