



WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS RULE 3.3 EMPLOYEE LEAVE

Approval Date: June 7, 2023

Effective Date: June 7, 2023

Revision History:

President's Signature: On File

SECTION 1: Purpose and Scope.

- 1.1. This Rule outlines the guiding principles for annual leave, sick leave, personal leave of absence without pay, military leave, catastrophic leave, funeral leave, parental leave, witness and jury leave, emergency and inclement weather closure, and the Family Medical Leave Act.
- 1.2. This Rule applies to all Staff, Faculty, and any other employee positions of the West Liberty University Board of Governors. Specific application to various job types may be limited by each section below.

SECTION 2: Delegation.

- 2.1 **Delegation.** The Board of Governors delegates to the President, Chief Human Resource Officer, or designee, the ability to adopt internal human resource policies and procedures in order to implement the provisions of this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.
- 2.2 To the extent federal and state law is inconsistent with this Rule and it is not possible for the University to comply with all, applicable law will govern. Accordingly, Human Resources, with advice from General Counsel, has the discretion to implement any necessary changes in order to comply with legal obligations.

SECTION 3: General Leave Coverage.

- 3.1 Employees working on a regular and continuing basis for no less than 1950 hours within a twelve (12) consecutive month period are considered to be full-time employees and are eligible for leave.
- 3.2 Employees working between 1,040 hours and less than 1,950 on a regular and continuing basis during a twelve (12) consecutive month period shall accumulate leave on a pro rata basis.
- 3.3 Employees working less than 1,040 hours are not eligible for leave benefits.



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- 3.4 Faculty members on twelve-month appointments are defined as full-time employees and accrue leave according to the appropriate sections of this rule. The provisions of this Rule related to annual leave, sick leave, catastrophic leave, special emergency leave, and managing work time in areas affected by interruption to utility or similar situations do not apply to faculty members on annual appointments of less than twelve months.
- 3.5 Annual and sick leave may not be taken before it is accrued. If an employee works less than a full month, annual and sick leave shall be accumulated on a pro rata basis.
- 3.6 During a terminal leave period, no type of leave may be accrued. Terminal leave is the period following the last day of scheduled work from employment such as resignation, retirement, etc.

SECTION 4: Annual Leave.

- 4.1 Eligible employees are granted annual leave with the amount of leave based on the level of position, responsibility, service and other factors. All annual leave accruals are pro-rated according to the full-time equivalency (FTE) of the individual position.
- 4.2 Except as otherwise provided herein, eligible employees shall accumulate and receive annual leave with pay as follows:
- 4.2.1 Staff positions and administrative faculty that are 12 month (1 FTE) shall be eligible for annual leave, calculated at the rate of 2 days per month from the date of employment.
- 4.2.2 Employees on a leave of absence without pay do not accrue annual leave for the time they are off the payroll.
- 4.2.3 Employees working .53 FTE or more on a regular and continuing basis shall accumulate annual leave on a pro-rata basis.

SECTION 5: Sick Leave.

- 5.1 All eligible staff employees and those administrative faculty employees who work .53 FTE on a regular and continuing basis shall accumulate paid sick leave on a pro-rata basis from date of employment. Eligible employees accumulate sick leave



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at a rate of 1.5 days for every employment month or a major fraction thereof. Employees working in positions for less than .53 FTE are not eligible for paid sick leave.

- 5.2 There is no limit to the number of sick days that may be accumulated. However, employees on a leave of absence without pay do not accrue sick leave for time in which they are off the payroll.
- 5.3 Sick leave may be used by the employee when ill or injured, when a member of the immediate family is seriously ill, or when a death occurs in the immediate family. For purpose of administering this Rule the immediate family is defined as: father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, stepchildren, or others considered to be members of the household and living under the same roof.
- 5.4 Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery, shall be considered for all job-related purposes as temporary disabilities and shall be treated the same as any other off-the-job illness or disability would be treated for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their temporary disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth the same criteria shall be used as would be used in the case of another type of off-the-job illness or disability.
- 5.5 Sick leave for more than five (5) consecutive working days shall not be granted to an employee for illness without satisfactory proof of illness or injury as evidenced by a statement of the attending physician or by other proof satisfactory to the institution. An employee having an extended illness or serious injury shall, before returning to work, obtain a written medical release from the attending physician, and present same to the immediate supervisor upon return to work. The immediate supervisor must forward the medical release to the Human Resources office for filing in the employee's medical file.
- 5.6 The University may require evidence from an employee for verification of an illness or other causes for which leave may be granted under this Rule regardless of the duration of the leave.



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- 5.7 Family and Medical Leave Act, in general, as described by Department of Labor, entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. When FMLA is applied and approved, sick leave must be utilized first and concurrently, annual leave second, and then unpaid time. (see the Human Resources website for more details on FMLA).
- 5.8 In any case except those involving Catastrophic Leave where all accumulated sick leave has been used and annual leave is available, it shall be the option of an employee:
- 5.8.1 to use any accumulated annual leave until it has also expired rather than being removed from the payroll or,
 - 5.8.2 to retain the accumulated annual leave for use after return to work, but be taken off the payroll immediately after the accumulated sick leave has expired.
- 5.9 On-the-job injuries or occupational illnesses which involve no more than three (3) days of disability leave or absence from work shall not be charged against the employee's accumulated sick leave as long as they are the next three consecutive workdays after the injury or illness occurred. If on-the-job injuries or illnesses require a leave beyond the three-day period, the employee has the option of using earned and accumulated sick and annual leave until both may be exhausted or reserving for future use any earned and accumulated sick and annual leave and receiving only Workers' Compensation, ie., "Encova, Inc.," benefits for which adjudged eligible. The employee must make such election on a form provided for such purposes by the Human Resources Office. All work-related injuries must be reported on the appropriate form within 24 hours of the injury.
- 5.10 If ill or unable to work for any reason an employee is required to notify the supervisor immediately. The notification shall be given to the immediate supervisor prior to the employee's normal starting time and should include the approximate length of absence, if known or expected. Failure to report off work shall be a basis for disciplinary action. Absence from work, without notification of the immediate supervisor for a three consecutive work day period shall be considered job abandonment and voluntary resignation from employment.
- 5.11 Students and others employed on a part-time basis through campus and federal work programs are not eligible for sick leave provisions.



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- 5.12 Accumulated sick leave balances may be transferred with an employee from any West Virginia agency to another institution or agency.
- 5.13 An employee who resigns and is later reemployed may have the total accumulated sick leave reinstated, provided the date of reemployment is one year or less from the date of resignation. If a former employee returns to work after more than one year from the date of resignation, no more than thirty (30) days of sick leave may be reinstated.

SECTION 6: Leave of Absence without Pay.

- 6.1 A full-time regular, benefits eligible employee, upon application in writing and upon written approval from the President or designee may be granted a continuous leave of absence without pay for a period of time not to exceed one year. If granted because of illness, all accumulated sick leave must be used. All requests for unpaid leave must be reviewed by the Human Resources Office prior to leave being granted.
- 6.1.1 Full time Faculty shall submit an application to the Provost far enough in advance to allow time for planning and obtaining a substitute. Applications will include reason for leave, its duration, and any necessary arrangements. Requests will be considered on its merit and need.
- 6.2 The President, Provost, or designee, shall determine if the purpose for which such a leave is requested is proper and within sound administrative policy and practice.
- 6.3 At the expiration of leave of absence without pay, the employee shall be reinstated to the same or comparable position unless a position is no longer available due to a reduction in staff caused by curtailment of funds or a reduced workload.
- 6.4 Failure of the employee to report within three working days upon the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of employment by the institution for "job abandonment."
- 6.5 Any period of unpaid leave approved for reasons deemed appropriate under the Family and Medical Leave Act (FMLA) for an eligible employee will count first toward the 12 weeks of unpaid leave as provided for by the Act.
- 6.6 Employees on leave under this Rule do not accrue annual leave, sick leave, increment credit, or years of service credit for any period for which they are off payroll.



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6.1.1 Faculty on unpaid leave of absence will not accrue years of experience.

6.1.2 Faculty on unpaid leave will be eligible for across-the-board increments to base salaries.

SECTION 7: Military Leave.

7.1. An employee who is a member of the National Guard or any reserve component of the Armed Forces of the United States shall be entitled to and shall receive a leave of absence without loss of pay, benefit status, or performance rating, for all days engaged in drills or parades ordered by proper authority or for field training or active service for a period of thirty (30) working days in any one calendar year as authorized under provisions of State Law, WV Code §15-1F-1.

7.2 The term "without loss of pay" shall mean that the employee shall continue to receive normal salary or compensation, even though the employee may receive other compensation from federal sources during the same period.

7.3 Any such leave of absence shall be considered as time worked in computing seniority, eligibility for salary increase, and experience with the institution.

7.4 An employee shall be required to submit a written order from military authority to the Human Resources Department prior to approval for military leave.

7.5 Benefits under this Rule shall apply to any employee ordered or called to active duty by the President of the United States for thirty (30) working days after they report for active service. Provided, however, that any portion of the 30 working day period not used may be combined with an additional 30 working days for call-up to active duty service for a total not to exceed sixty (60) working days.

SECTION 8: Catastrophic Leave.

8.1 Catastrophic leave allows for the donation to an Eligible Employee, additional sick or annual leave days from other employees, in the event the requesting employee has exhausted all other types of paid leave available to them and removing them from the payroll would cause them a financial hardship.

8.1.1 **Eligible Employee.** Any full-time regular employee of West Liberty

University. This includes all staff and Faculty who are eligible to accrue sick leave. Faculty who are ineligible to accrue sick leave are excluded from either donating or receiving leave under this Rule.



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- 8.1.2 **Qualified Employee.** An eligible employee who has made application for catastrophic leave and who has no sick, annual vacation, or other paid leave available to them **and** who has successfully met the requirements of documentation of their request as determined by the President of the University or other senior administrator to whom such authority has been delegated by the President.
- 8.2 Catastrophic leave is intended to only be applied where a Catastrophic Illness or Injury exists. The Catastrophic Illness or Injury may be as a result of a personal or Immediate Family Member need and must be verified and substantiated by appropriate documentation and administrative review.
- 8.2.1 **Catastrophic Illness or Injury.** A medically certified illness or injury which is expected to incapacitate the employee **and** which creates a financial hardship because the employee has exhausted **all** sick and annual leave **and** other paid time off. This also applies to an incapacitated immediate family member where the employee is required to take time off from work for an Extended Period of Time to care for the family member.
- 8.1.1.1 **Extended Period of Time.** A period of time at least two (2) calendar weeks in duration and containing a minimum of 10 working days.
- 8.2.2 **Immediate Family Member.** As outlined in WV Higher Education Policy Commission Series 38 Employee Leave, and includes; father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, stepchildren, or others considered to be members of the household and living under the same roof.
- 8.3 Employees on an approved leave shall continue to accrue sick and annual vacation leave time as appropriate for the individual employee, and any such leave shall be used before additional donated leave days are used. Such additional earned leave days may not however, be used to reduce the use of donated time until they are actually earned and credited to the employee on leave.
- 8.4 Any approved leave request is limited to one (1) continuous calendar year in duration from the date such leave period starts. The amount of donated leave time actually used for any approved request shall not exceed the amount



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necessary to ensure the continuance of regular compensation and shall not be used to extend insurance coverage. The actual amount of leave used for any specific request shall be adjusted according to any leave earned or holiday periods which accrue to the employee during an approved leave. An employee who is approved to receive over thirty (30) days of leave is subject to review(s) of the reason(s) for such leave every thirty (30) days.

8.5 Limitations.

- 8.5.1 In all cases, the use of donated days will cease upon a Qualified Employee's return to work, retirement, death, or resignation of employment.
- 8.5.2 An employee may donate leave time only upon solicitation of an actual approved leave request.
- 8.5.3 Where prior notification is given, leave taken under this Section may be considered as counting toward the statutory 12 week leave period provided under the Family and Medical Leave Act (FMLA) as provided for by the Act.
- 8.5.4 In all cases, conflicts arising from the interpretation of this Section shall be resolved by University administration in accordance with applicable provisions of WV Higher Education Series 38 Employee Leave, Section 8 and State/federal law as appropriate.

SECTION 9: Funeral Leave.

- 9.1 When a death occurs in the immediate family, a reasonable amount of time (maximum of five days) may be charged to accrued sick leave as required for the employee to arrange for and attend the funeral and related services, including travel time. "Reasonable" amount of time is determined at the discretion of the supervisor, and is based upon geographic distance, workload, and similar factors. Sick Leave is not provided for an extended bereavement period or to attend to the affairs of the estate; annual leave may be requested for these purposes.

SECTION 10: Parental Leave.



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- 10.1 West Liberty University adheres to the requirements of the West Virginia Parental Leave Act.
 - 10.2 A full-time employee who has worked at least 12 consecutive weeks for the State may request up to 12 weeks unpaid parental leave. Parental leave will run concurrent to FMLA if the employee is FMLA eligible.
 - 10.3 Parental leave may be used for the following reasons:
 - 10.3.1 Birth of a son or daughter of the employee
 - 10.3.2 Placement of a son or daughter with the employee for adoption
 - 10.3.3 Because of a planned medical treatment
 - 10.3.4 To provide care of a son, daughter, spouse, parent or dependent (any person who is living with or dependent upon the income of the employee, whether by blood or not) who has a serious health condition.
 - 10.4 Employees must provide their supervisor with written notice two weeks prior to the expected birth or adoption, medical treatment, or supervision of a dependent. Failure to submit a written request may be cause for denial. The employee must provide WLU with certification by the treating physician and/or documentation regarding dependency status.
 - 10.5 All annual leave must be exhausted before parental leave begins. No more than a total of 12 weeks of parental leave may be taken in any 12 consecutive month period.
 - 10.6 During parental leave by an employee, WLU will continue group health insurance coverage provided that the employee pays the full premium cost of such group health plan (i.e., both the employer and employee share of the premiums). The position held by the employee immediately before the leave is commenced shall be held for a period not to exceed the 12-week period of the parental leave and the employee shall be returned to that position. WLU may employ a temporary employee to fill the position for the period of the parental leave.

Section 11: Witness and Jury Leave.



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- 11.1 Employees who are subpoenaed or directed to serve as jurors or appear as witnesses for review proceedings of the Federal Government, the State of West Virginia, or a political subdivision thereof, shall be entitled to work release time for such duty and for such period of required absence which overlaps regularly scheduled work time. Employees shall submit to the Human Resources Office a copy of any notification they receive showing that they have been called to serve on jury duty. Employees are entitled to leave with pay for the required period of absence during the regularly scheduled work time including reasonable travel time.
- 11.2 When attendance in court is in connection with usual official duties, under subpoena, or as directed by the supervisor, time required, including reasonable travel time, shall not be considered as absence from duty. Likewise, time spent by West Liberty University employees as hearing officers, hearing committee members, and parties or witnesses in a grievance hearing is considered legitimate work time if it occurs during their normally scheduled work hours, and is part of a service to West Liberty University. Appearing as a witness without a subpoena at the request of a fellow employee and without the request of an authorized supervisor does not constitute University business.
- 11.3 This Rule does not apply to employees who are called to testify as expert or consulting witnesses and who are paid for their witness services. Further, this Rule does not apply to employees involved as parties to a personal lawsuit unrelated to work.
- 11.4 An employee who is scheduled to work prior to the court or hearing start time shall initially report to work, travel time permitting. An employee who is excused from court/hearing prior to the end of the scheduled work day shall immediately report to work for the remainder of the work day.

Section 12: Emergency and Inclement Weather Closure.

- 12.1 In the event that an emergency exists, the President, in conjunction with local or state public safety officials, has the authority to comply with the emergency situation and close the institution. Such a declaration will be transmitted to the Chancellor of the Higher Education Policy Commission. The President, working with public safety officials, will determine when the emergency condition no longer exists.
- 12.2 During periods when classes are in session, the decision to close the institution for any period of time due to weather is reached by the President's designees; the



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Provost, in conference with the Vice President of Student Services. At other times, the decision is made by the President. During the period of the closure, only employees necessary for the continuance of vital services must report to work. Supervisors and department heads are to inform in advance those employees who will be required to come to, or to remain on, campus during such closures.

- 12.3 If the institution closes, the President, Provost or Vice President of Student Services, or their designees will contact local radio and television stations and initiate the announcement through the Campus Weather Hotline, WLU electronic mail, and text messaging. The announcement will specify the length of the closure. The class/workday will commence with the next scheduled class/work day following expiration of the closure. Instructors may utilize the learning management system or other tools as may be provided by the university to provide alternate instruction when in-seat classes are cancelled.
- 12.4 All university administrative heads, faculty, staff, and students are responsible for checking for inclement weather/emergency closures.

SECTION 13: Family Medical Leave Act.

- 13.1 The institution shall comply with the provisions of the federal Family Medical Leave Act, which provisions shall run concurrently with Parental leave and/or any other applicable leave programs.

SECTION 14: Authority.

- 14.1 Family and Medical Leave Act ("FMLA") of 1993, 29 U.S.C. §§ 2601-2654; Uniformed Services Employment and Reemployment Act ("USERRA") 38 U.S.C. §§ 4301-4335; W. Va. Code §18B-1-6; §18B-2A-4; §18B-7-14; §15-1F-1; and 21-5D-1 to -9.

SECTION 15: Superseding Provisions.

- 15.1 This Rule repeals and supersedes WLU BOG Policy 36 - Leave of Absence Without Pay (adopted 12/11/06), WLU BOG Policy 37 - Military Leave (adopted 12/11/06), and any other University human resource policy or procedure which relates to the subject matter contained within this Rule.