

Johns Hopkins University
“Sick and Safe Leave” Under the Maryland Healthy Working Families Act Leave
Frequently Asked Questions

A. GENERAL QUESTIONS

1. What is the Maryland Healthy Working Families Act?

The Maryland Healthy Working Families Act (“MHWFA”) requires all employers with employees whose primary work location is in Maryland and who employ 15 or more employees to provide “earned sick and safe leave.”

2. What is earned sick and safe leave?

Sick and safe leave is earned leave that an eligible employee may use for the following:

- To care for or treat the employee’s mental or physical illness, injury or condition;
- To obtain preventive medical care for the employee or the employee’s family member;
- To care for a family member with a mental or physical illness, injury or condition;
- For maternity or paternity leave; or
- For an absence due to domestic violence, sexual assault, or stalking committed against the employee or the employee’s family under certain circumstances.

A “family member” includes a spouse, child, parent, grandparent, grandchild, sibling, legal guardian, domestic partners and certain in-laws. Please refer to the Staff Sick Leave policy for specific definitions.

3. Is earned sick and safe leave different than other paid leave already provided by the university?

No. Staff who accrue sick leave do not accrue additional hours. 64 hours of sick and safe leave is allocated each fiscal year that an eligible staff member earns paid sick leave. After 106 days of employment staff members can utilize their earned sick and safe leave for sick and safe reasons.

Please note that the updated sick leave policy now provides for paid sick leave for eligible staff who did not previously accrue paid sick leave, specifically Limited-Time and Casual staff (see the “Staff Groups” section below for specific information).

4. Who is entitled to accrue earned sick and safe leave?

Under MHWFA, all employees whose primary work location is in Maryland are entitled to accrue sick and safe leave unless they are exempt from coverage under the law.

For staff members working in the United States outside of Maryland: Johns Hopkins University has extended sick and safe leave to all university staff in the United States who would be eligible under the law if their primary work location was in Maryland. If the staff member works in a jurisdiction that has a more generous law for MHWFA, then that jurisdiction’s law will prevail.

See the “Staff Groups” section below for specific information.

5. How does sick and safe leave accrue?

See the “Staff Groups” section below for specific information on leave accrual rates.

The university’s current staff sick leave accrual rates for full- and part-time staff members exceed the requirements of MHWFA. MHWFA requires that sick and safe leave accrues at the rate of one (1) hour for every thirty (30) hours that an employee works. The leave hours provided for under the law are the

minimum number of hours an employee is entitled to earn and accrue. The law permits an employer to provide more leave for its employees.

6. When do staff members start to accrue sick and safe leave?

Eligible staff members begin to accrue sick and safe leave on their first day of work.

7. How is sick and safe leave tracked?

An employer is required to provide to each employee a statement of used and available paid and unpaid leave with each pay period. Full and Part-time staff will have their sick and safe leave tracked in the e210 system. Hourly paid casual and limited staff and student employees will be able to view their SSL balances in Employee Self Services (ESS).

8. Where can staff members see their sick and safe leave balance?

Staff members may view their sick and safe leave balances on any online system to which staff members have access (e.g., e210, ESS, etc.)

9. When can an eligible staff member begin to use sick and safe leave?

Eligible University staff members who have been employed for at least 106 days. An eligible staff member must have earned sick leave available in order to allocate it as “sick and safe leave.”

10. In what increments can a staff member use earned sick and safe leave?

Non-exempt staff and hourly paid casual and limited staff and student employees may take earned sick and safe leave in increments of an hour. Exempt staff may take earned sick and safe leave in increments of not less than one-half day.

If an eligible exempt employee requests less than 4 hours of leave for sick or safe leave, sick and safe leave may be denied, and the absence will be subject to usual attendance management protocols.

11. What is the maximum amount of leave that a staff member can accrue and carry over?

A maximum of 64 hours of sick and safe leave can be accrued and used each fiscal year. As this is more than the maximum of 40 hours allowed by law, no sick and safe leave will be carried over from fiscal year to fiscal year.

12. Is a staff member required to give notice before using earned sick and safe leave?

If a staff member’s need to use earned sick and safe leave is foreseeable (e.g., a doctor’s appointment), the staff member should provide reasonable advance notice of at least seven (7) days before the date the staff member intends to use the leave. Otherwise the staff member must provide notice as soon as practicable.

A request for use of SSL may be denied if the staff member fails to provide the required notice and the staff member’s absence will cause disruption to the employer. *However, a supervisor may not take an adverse action (e.g., discharge, demotion, threaten an employee with a discharge or demotion, or other retaliatory action that results in the change to the terms or conditions of employment) against a staff member.*

If a staff member uses SSL for more than two consecutive scheduled shifts (i.e., two scheduled shifts in a row, regardless of whether those shifts fall on consecutive days of the week), the employee may be required to provide written verification that the leave use was appropriate.

13. The University and many of its divisions and departments have attendance policies for situations that involve “call-offs”, tardiness, and other disruptions to work. What impact does the law have on such policies?

MHWFA provides that an employer cannot apply an absence control policy to earned sick and safe leave use if it could lead to or result in adverse action being taken against the employee. After a staff member has exhausted all of the leave that they are entitled to use under the earned sick and safe leave law, then JHU could apply its normal attendance policies to any absences taken after the leave has been exhausted.

14. Is a staff member required to provide documentation to verify use of earned sick and safe leave?

An employer may require verification for use of earned sick and safe leave if the employee used sick and safe leave for more than two consecutive scheduled shifts. An employee is required to provide reasonable advance notice of leave use if foreseeable. If the need to use leave is not foreseeable, then the employee must provide notice as soon as practicable.

An employer is permitted to deny a request to take earned sick and safe leave if the employee fails to provide notice and the employee's absence will cause a disruption to the employer. However, an employer may not take an adverse action (e.g., discharge, demotion, threaten an employee with a discharge or demotion, or other retaliatory action that results in the change to the terms or conditions of employment) against a staff member.

15. Are sick and safe leave absences treated the same as any other absence under the University's paid leave policies?

Sick and safe leave absences are protected, similarly to Family and Medical Leave (FMLA), by the MHWFA. However, sick and safe leave may not be used concurrently with FML or any other protected leave.

16. What happens to the earned sick and safe leave of a university staff member who separates from employment but is later rehired by the university?

A staff member who returns to university employment within 37 weeks or 259 days of termination and does not meet the 6 month or 12 month reinstatement criteria will have unused sick and safe leave reinstated up to a maximum of 64 hours.

17. Will sick and safe leave be based on a fiscal or calendar year?

Sick and safe leave will be based on the fiscal year (July 1 through June 30). The leave allotment resets at the beginning of each fiscal year.

18. Where is the MHWFA law posted?

The university has posted information about the MHWFA law online at <https://hrnt.jhu.edu/policies/notices.cfm>.

B. STAFF GROUPS

1. Full-Time Staff (28-40 hours)

Sick Leave Accrual: Full-time staff members who work *at least* 35, 37.5, or 40 hours per week, depending on campus or position, accrue sick leave at the rate of 1 day per month to a maximum of 90 days. Full-time staff members who work *less than* 35, 37.5, or 40 hours per week, depending on campus or position, accrue sick leave on a pro rata basis to a maximum of 90 days.

2. Part-Time Staff (19-27.9 hours)

Sick Leave Accrual: Part-time staff members who work on a regularly scheduled basis accrue sick leave on a pro rata basis to a maximum of 90 days.

3. Limited & Casual Staff (12 to 18.9 hours per week)

Limited and Casual staff paid on an hourly basis who normally or customarily work at least twelve (12) hours per week, accrue SSL at the rate of one (1) hour for every 30 hours worked, to a maximum of 64 hours per fiscal year. Limited and Casual staff members who do not normally or customarily work at least twelve (12) hours a week do not accrue SSL.

4. Contract Staff

Staff employed by a temporary services or employment agency to provide part-time or temporary services for the University and independent contractors are exempt from the requirements of MHWFA.

5. Union Staff

i. Are bargaining unit staff covered by a collective bargaining agreement eligible for sick and safe leave?

At this time, bargaining unit staff are not eligible for sick and safe leave, as MHWFA does not apply to bona fide collective bargaining agreements entered into before June 1, 2017, for the duration of the contract term.

ii. Has the university communicated this update to bargaining unit staff covered by a collective bargaining agreement?

Yes, the university has communicated this update to union leadership and team leaders who supervise bargaining unit staff covered by a collective bargaining agreement.

6. Students

i. Are student employees eligible for sick and safe leave?

Yes, student employees who are paid hourly will accrue one hour of SSL for every 30 hours worked. Salaried students are eligible for SSL but do not accrue the leave. They would request the leave from their department.

C. SPECIAL CATEGORIES OF EMPLOYEES

1. Faculty

i. What impact, if any, does MHWFA have on faculty (full-time, part-time, visiting, adjunct, etc.)?

No changes are required to existing paid leave policies that either (1) permit accrual at the same (or greater) rate than that provided in MHWFA and also permit taking leave for the same purposes specified therein or (2) do not reduce faculty compensation for an absence due to sick or safe leave.

At the present time, the University does not have a university-wide faculty sick leave policy. Each division and/or department has its own sick leave policy and/or practice, and within each policy and/or practice, faculty do not accrue paid sick or safe leave and their compensation is not reduced for absence due to sick or safe leave.

ii. Notification of accrued sick and safe leave is a requirement of the law. How will faculty be notified of their available sick and safe leave?

The law does not require that an employer track employee leave in a specific manner. An employer is required to provide to each employee a statement of used and available paid and unpaid leave with each pay period. However, faculty do not “accrue” sick or safe leave

and their compensation is not reduced for absences due to sick or safe leave; therefore, faculty are not notified of used and available paid and unpaid leave.

Employers must notify employees that they are entitled to sick and safe leave, including a statement of how sick and safe leave is accrued, the purposes for which the employer is required to allow employees to use the sick and safe leave, a statement on prohibiting adverse action against employees who exercise rights under the law, and information on the employee's right to report alleged violations. Employers are permitted to use a poster or model notice prepared by the Department of Labor, Licensing and Regulation. This notice is posted on the JHU Human Resources site at <https://hrnt.jhu.edu/policies/notices.cfm>.