

## Maryland Sick and Safe 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 the Montgomery County Earned Sick and Safe Leave Law?**

The Montgomery County Earned Sick and Safe Leave Law (“MCESS”) requires all employers with employees whose primary work location is Montgomery County, MD and who employ 5 or more employees to provide “earned sick and safe leave.”

#### 3. **What is Maryland earned sick and safe leave?**

Maryland 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.
- Due to a Public Health Emergency

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.

#### 4. **Is Maryland 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. 80 hours of sick and safe leave can be designated each fiscal year that an eligible staff member earns paid sick leave. After 90 days of employment staff members can utilize their earned sick and safe leave for sick and safe reasons.

Please note that the Maryland Sick and Safe leave policy provides paid sick and safe leave for eligible staff who did not previously accrue paid sick leave, specifically Limited and Casual staff and student employees (see the “Staff Groups” section below for specific information).

#### 5. **Who is entitled to accrue Maryland sick and safe leave?**

All employees whose primary work location is in State of Maryland are entitled to accrue sick and safe leave unless they are exempt from coverage under the law. See the “Staff Groups” section below for specific information.

#### 6. **Are employees who work outside of Maryland entitled to Maryland sick and safe leave?**

Employees who do not work in the State of Maryland should contact HR Compliance Services to discuss the availability of a similar type of leave. Many states have enacted laws that grant some type of sick leave to employees who work in certain states. Employees with SSL balances who do not work in the State of

Maryland will no longer accrue MDSS but will retain their sick and safe leave balances as long as they remain employed with JHU.

**7. 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 the Maryland and Montgomery Sick and Safe Leave Laws. Maryland sick and safe leave accrues at the rate of one (1) hour for every 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 laws permit an employer to provide more leave for its employees.

**8. When do staff members start to accrue Maryland sick and safe leave?**

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

**9. 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 Maryland Sick and Safe (MDSS) balances in Employee Self Services (ESS).

**10. Where can staff members see their Maryland 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.)

**11. When can an eligible staff member begin to use Maryland sick and safe leave?**

Eligible University staff members who have been employed for at least 90 days. An eligible staff member must have earned sick leave available in order to allocate it as “sick and safe leave.”

**12. In what increments can a staff member use earned Maryland 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.

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

Eligible University employees may carryover, accrue and designate a maximum of 80 hours of Maryland sick and safe leave each fiscal year.

**14. Is a staff member required to give notice before using earned Maryland 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 MDSS for more than three consecutive scheduled shifts (i.e. three 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.

**15. 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?**

Maryland and Montgomery County Sick and Safe Leave Laws 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.

**16. Is a staff member required to provide documentation to verify use of earned Maryland 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 three 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.

**17. Are Maryland sick and safe leave absences treated the same as any other absence under the University’s paid leave policies?**

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

**18. 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 in the State of Maryland 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.

**19. 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.

**20. Where are the MHWFA and MCESS laws posted?**

The university has posted information about the MHWFA and MCESS laws 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

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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 (8 to 18.9 hours per week)**

Limited and Casual staff paid on an hourly basis who normally or customarily work at least eight (8) hours per week, accrue MDSS at the rate of one (1) hour for every 30 hours worked, to a maximum of 80 hours per fiscal year. Limited and Casual staff members who do not normally or customarily work at least eight (8) hours a week will not accrue MDSS.

**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 Maryland sick and safe leave?**

Bargaining Unit employees became eligible for this leave starting on January 1, 2021

**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.

**iii. More information on managing MDSS for bargaining unit employees, can be found here: <https://hr.jhu.edu/wp-content/uploads/supervisor-guide-managing-sick-safe-leave-bu.pdf>**

**6. Students**

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

Yes, student employees who work in the State of Maryland are eligible for Maryland sick and safe leave. Hourly paid students accrue one (1) hour of MDSS for every 30 hours worked if they work at least eight (8) hours per week in the State of Maryland. Salaried students are eligible for MDSS but do not accrue the leave. They would request the leave from their department.

**ii. More information on managing MDSS for Hourly students can be found here:**

<https://hr.jhu.edu/wp-content/uploads/SUPERVISORS-GUIDE-FOR-MANAGING-SSL-FOR-HOURLY-STAFF-AND-STUDENTS.pdf>.

**C. SPECIAL CATEGORIES OF EMPLOYEES**

**1. Faculty**

**i. What impact, if any, does MHWFA and MCESS 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>.