

THE MOUNT SINAI HEALTH SYSTEM, NEW YORK STANDARD: POLICY	SUBJECT NO. HR-03.18
DEPARTMENT: HUMAN RESOURCES  SUBJECT: FEDERAL FAMILY AND MEDICAL LEAVES OF ABSENCE AND NEW YORK PAID FAMILY LEAVE	

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The Mount Sinai Health System recognizes that it may be necessary for employees to be away from work for an extended period of time to attend to personal matters.

A Leave of Absence may be available to provide the flexibility needed to maintain the employment relationship with Mount Sinai while taking care of these personal concerns.

Both full and part time employees may be eligible for leaves for a specific time period. Such leaves may be either paid or unpaid.

This policy is intended to satisfy legal notice requirements under the Federal Family and Medical Leave Act (FMLA) and the New York Paid Family Leave Law (NYPFLL), and is therefore primarily focused on leaves under those laws. Employees can find information concerning other types of leave in other policies or upon consultation with Human Resources. In addition, while this policy contains some summary information about how to apply for a leave under the FMLA and NYPFLL and other applicable procedures, detailed procedures relating to FMLA and NYPFLL leaves, as well as other leaves of absence, are available on the intranet or upon request to Human Resources.

Employees are responsible for promptly notifying their supervisors about all requests for leave and any changes in status or condition that are relevant to an employee's leave, as well as complying with their department's absence notification policies. Failure of an employee to comply with the Health System's leave policies and procedures may result in the delay or denial of the employee's request for leave and may subject the employee to disciplinary action.

#### **A. GENERAL PROVISIONS**

It is the policy of the Health System to grant specific types of paid or unpaid leave to its employees, subject to the following provisions:

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1. As a general matter, employees (excluding faculty) covered by PTO must be on payroll for at least six (6) months to be eligible for a leave of absence. Certain types of leave (including but not limited to worker's compensation leave, short term disability, military leave, maternity leave, and certain leaves provided by collective bargaining agreements) are exempt from the six-month length of service eligibility requirement.
2. If an employee who is on payroll less than six (6) months requests a leave, the Department should contact Labor Relations to ascertain whether the employee is nevertheless entitled to leave.
3. The Office of International Personnel must be immediately notified when any Visaed Foreign National utilizes any leave of absence for any reason.
4. To the extent possible, the length of leave that an employee needs should be specified before or at the start of the leave of absence.
5. An employee is required to promptly notify his/her immediate supervisor of the need to take a leave of absence. If the absence from work is unexpected (such as in an intermittent leave), the employee must follow the regular departmental procedure for reporting his/her absence. An employee's obligation to keep his/her supervisor informed about his/her absence from work is separate from the employee's obligation to follow the procedure for applying for a leave of absence, respond to any third party that helps administer Mount Sinai's leave of absence programs, or respond to a request for information from Mount Sinai's Employee Health Service.
6. An employee can return to his/her position or an equivalent position provided the leave does not exceed 6 months. To the extent legally permissible, if an employee's leave extends beyond six months his/her position may be filled or eliminated. In such circumstances, the employee will receive a letter stating that the position has been filled or eliminated, and s/he may apply for a different position provided that his/her leave is substantiated upon return. Upon readiness to return to work, the employee should report to Employee Health Services to be cleared to return to work.
7. Upon an employee's return to duty from a Leave of Absence, department administrators are to process outstanding performance appraisals immediately in accordance with policy (See applicable policy regarding performance appraisals).

## **B. TYPES OF FAMILY AND MEDICAL LEAVE**

The following is a description of the types of family and medical leave available. Bargaining Unit employees should refer to the policies stated in the applicable collective bargaining agreement, as the particular terms and procedures may vary.

### **1. FAMILY AND MEDICAL LEAVE ACT (FMLA)**

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The Family and Medical Leave Act (FMLA) provides eligible employees with up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period and/or because of a “qualifying exigency” arising out of the fact that a family member is a military member on or called to active duty to a foreign country by the Regular Armed Forces, National Guard or Reserves on behalf of the United States.

In addition, an eligible employee may be entitled to up to 26 weeks of unpaid FMLA leave to care for certain family members who are “covered service members” in or veterans of the U.S. Armed Forces, National Guard or Reserves who become seriously injured or ill while on active duty (or who had an illness or injury before beginning active duty which was aggravated by service in line of duty on active duty).

During an FMLA Leave, an eligible employee is entitled to continue group health plan coverage as if the employee had continued to work. At the conclusion of the FMLA Leave, subject to some exceptions, an employee has a right to return to the same or to an equivalent position with equivalent pay, benefits and other terms and conditions of employment.

If both parents are employees of the same employer within the Health System, the combined length of the leave may not exceed twelve (12) workweeks for purposes of caring for a newly arrived child.

## **2. Eligibility**

To be eligible for FMLA Leave, an employee must have been employed for at least twelve (12) months and work at least 1,250 hours during the twelve (12) months preceding the commencement of the leave. Periods of absence from work due to qualifying military service are counted for determining eligibility for FMLA leave.

For purposes of this policy, a year begins with the first day of the requested leave which could be counted toward a Family and Medical Leave of Absence and is calculated on a going forward basis.

## **3. Reasons/Events Which May Entitle An Employee to FMLA Leave**

An employee giving notice of the need for FMLA leave must explain the reasons for the needed leave so as to allow the department to determine whether the leave qualifies under the Act. If the employee fails to explain the reasons, the leave may be denied.

Employees may be granted a leave for any of the following reasons:

- a)** The birth or adoption or foster care placement of the employee’s child or to care for the newborn or newly adopted or placed child and assisting the child in

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adjustment after placement. Leave under this category must be taken within twelve (12) months after the birth or placement;

**b)** To care for a child, parent, or spouse with a serious health condition. Certification of such illness is required from the family member's health care provider. Information may also be required to verify the family relationship;

**c)** The employee's own serious health condition (including pregnancy-related disability, pre-natal medical care and childbirth) that makes the employee unable to perform one or more of the essential functions of his or her job. Certification of medical condition necessitating leave by the employee's health care provider is required;

**d)** Qualifying exigent circumstances due to the fact that an eligible employee's spouse, son, daughter or parent is either on active duty or is on call for such covered duty in a foreign country in the Armed Forces, National Guard or Reserves. Employees may be required to submit information for facts underlying the need for leave due to a qualifying exigency. This provision is not contingent on the existence of any medical issue;

**e)** To care for the employee's spouse, child, parent or other relative who is next-of-kin, who is also a "covered service member" of the United States Armed Forces (including a member of the National Guard or Reserves) with a "serious injury or illness" (a/k/a "military caregiver leave"), as defined by applicable law.

For purposes of sections 2 and 3, above, a "serious health condition" is an illness, injury, impairment, physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the "continuing treatment" requirement may be met by a period of incapacity of more than 3 consecutive full calendar days combined with: (1) at least two visits to a healthcare provider within 30 days, the first of which must occur within 7 days of the first day of incapacity; (2) or one visit and a regimen of continuing treatment; (3) or incapacity due to pregnancy; (4) or incapacity due to a chronic condition.

A covered service member for purposes of section 5 above is (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy

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for a serious injury or illness. The period between October 28, 2009 and March 8, 2013 is excluded in the determination of the five-year period for covered veteran status.

For purposes of sections 4 and 5 above, this policy relies on the relevant policy and terms used in governmental regulations. You may direct any questions to the Labor Relations Department. Under section 4, employees may take FMLA Leave for one or more of the following qualifying circumstances: (1) short notice deployment, (2) military events/related activities, (3) to make arrangements for childcare/school activities, (4) to make financial/legal arrangements, (5) counseling, (6) a family member being released for service for rest/recuperation, subject to certain limitations, (7) post deployment activities, (8) parental care leave for military member's parent who is incapable of self care, and (9) additional activities agreed between employee and employer.

The "next of kin of a covered servicemember" is defined as the nearest blood relative, in the following order of priority: blood relatives who have been granted legal custody of the servicemember, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

For purposes of sections 4 and 5 above, employees must give their immediate supervisor advance notice of intent to take leave, unless precluded by military necessity or otherwise impossible or unreasonable. The department may require copy of the military orders of the military member confirming active duty orders. In cases of the covered servicemember leave, the department/designee may require certification from the covered servicemember's health care provider to certify the leave. The department/designee may also request confirmation of the employee's relationship to the military member in cases of the qualifying exigency leave.

#### **4. Intermittent Leave**

FMLA Leave may be taken consecutively or under certain circumstances, intermittently or by way of a reduced schedule. Intermittent leave is FMLA leave taken on separate blocks of time. Reduced schedule leave is leave that reduces an employee's usual number of working hours, typically from full time to part time. Intermittent or reduced schedule leave may be taken for all of the FMLA qualifying reasons other than leave related to the birth, adoption or foster care placement of a child and to care for the newborn or newly adopted/placed child. An employee shall advise the department why the intermittent or reduced schedule leave is necessary and of the schedule for treatment. The department and the employee shall attempt to work out a schedule for such leave that meets the department's needs without unduly disrupting the operations of the department.

#### **5. FMLA Leave Procedure**

An employee should apply for FMLA leave by calling Aetna (1-888-714-4380) to provide sufficient information to determine whether the requested leave qualifies for FMLA protection. Once an employee has requested FMLA leave either orally or in

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writing and it has been determined that a leave is being taken for one of the above reasons, Aetna will notify the employee, the department, and the leave coordinator whether the employee is eligible for FMLA leave, as well as subsequent approval or denial of the leave. If the employee is eligible for FMLA leave, Aetna will provide the employee with a notice of rights and responsibilities under the FMLA. If the employee is not eligible, Aetna will provide a reason for ineligibility.

#### **6. Notice of Foreseeable Leave**

When the need for leave is foreseeable, employees must provide the department with at least thirty (30) days advance notice, or such shorter notice as is practicable. Where the need was foreseeable but the employee failed to provide 30 days advance notice, the employee may be asked to submit an explanation in writing.

- a) When the leave is foreseeable due to a qualifying exigency, the employee must provide as much notice as practicable regardless of how far in advance such leave is foreseeable.
- b) Where leave is foreseeable, the employee must make a reasonable effort to schedule the leave so as to not unduly disrupt Health System operations.

#### **7. Notice of Unforeseeable Leave**

When the leave is not foreseeable, the employee must provide the department with the notice of the need for leave as soon as practicable (within 1 or 2 business days) upon learning of the need for a leave.

#### **8. Department Procedures**

The employee must follow the department's normal and customary procedures for calling-in and requesting leave, unless there are unusual circumstances. Failure to give required notice could result in a delay or denial of FMLA Leave.

#### **9. Notice to the Employee**

Aetna will notify the employee requesting leave whether his/her request is approved and whether (and how much of) the leave will be designated as FMLA leave. Aetna may provisionally designate the leave as FMLA leave subject to the employee's submission of sufficient information. Sufficient information may include that the employee is unable to perform job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. An employee requesting FMLA leave must inform Aetna if the need for leave is for a reason for which FMLA leave was previously taken or certified.

#### **10. Required Certification**

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An employee requesting FMLA leave must submit certification supporting the need for such leave.

- a) Where applicable, medical certification must be provided as soon as possible, but in any event no later than fifteen (15) days from the date it is requested unless it is not practicable under the circumstances to do so despite the employee's diligent, good faith efforts or Aetna provides more than 15 calendar days to return the requested certification.
- b) Where applicable, it is the responsibility of the employee to have the healthcare provider provide sufficient information for Aetna to determine if the leave qualifies for FMLA as well as the duration of the leave.
- c) If the certification is incomplete, Aetna will provide written notice to the employee indicating what additional information is required, and will also contact an employee's healthcare provider directly to get clarification and authentication of medical certification. If an employee chooses not to provide Aetna with a HIPAA-authorized release allowing clarification, the FMLA leave may be denied. The Health System may also require the employee to obtain a second opinion from an independent provider at the Health System's expense.
- d) The department may request that Aetna contact the employee to submit a medical recertification form not more frequently than every 30 days. Where the employee's need for leave due to the employee's own serious health condition or the serious health condition of the employee's covered family member lasts beyond a single leave year, Aetna will request the employee to provide a new medical certification in each subsequent leave year.

The following people may contact the health care provider for purposes of authenticating and clarifying the medical certification:

1. employer's health care provider
2. human resources professional
3. leave administrator
4. management official

The employee's direct supervisor **may not** contact the employee's health care provider. For the purpose of clarifying the medical certification, any contact between the department and the employee's health care provider must comply with the HIPAA Privacy Rule. If such consent is not given, the employee may jeopardize their FMLA rights and the department may deny the FMLA leave. Departments may also not ask for additional information beyond that required on the certification form.

## **11. Pay During FMLA Leave**

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Generally, FMLA leave is unpaid. However, as outlined below, where FMLA leave is also certified as leave under the New York Paid Family Leave Law, FMLA leave and New York Paid Family Leave will run concurrently, and the employee will receive a percentage of his/her pay. In addition, the Health System requires employees to substitute accrued or earned paid leave for unpaid FMLA Leave. The term “substitute” means that any paid leave will run concurrently with the unpaid FMLA leave. As a result, the employee will receive pay pursuant to our paid leave policy during any such concurrent period of FMLA Leave. If an employee has exhausted all of his/her earned/accrued paid time, the employee remains entitled to take unpaid FMLA Leave.

Employees will be required to use any earned/accrued vacation, sick (as applicable), holidays or free days during FMLA leave. Employees eligible for PTO (Policy # 3.21 – Paid Time Off) will be required to use all earned sick savings (as applicable), PTO days, plus unearned PTO days if agreed by the employee’s department manager or designee.

## **12. Maintenance of Health Benefits During FMLA Leave**

During any FMLA Leave, an employee is entitled to continued group health plan coverage as would have been provided if the employee had continued to work. If the Health System provides a new health plan or benefits or changes health benefits/plans while an employee is on FMLA Leave, the employee will receive the new or changed plan/benefits.

To the extent that an employee’s FMLA Leave is paid, the employee’s portion of health insurance premiums will be deducted from the employee’s salary. For the portion of FMLA Leave that is unpaid, or where the employee continues on leave after exhausting their FMLA Leave entitlement in the 12 month period, the Health System will follow its established policy for providing such health benefits. When an employee returns from leave, the employee is entitled to be restored on the same terms as before taking the leave.

## **13. Return From FMLA Leave**

Upon return from FMLA Leave for the employee’s own serious health condition, the employee will be required to submit a fitness for duty certification to Employee Health Services (EHS) from their health care provider stating whether the employee is able to resume full duty. EHS will then make an evaluation and contact the physician.

If the department requires the employee to present a fitness for duty certification that addresses the employee’s ability to perform the essential functions of the employee’s position in order to be restored to employment, the department must indicate this in the designation notice and provide a list of the essential functions of the position with the designation notice.

If such fitness for duty certification is not received, the employee’s return to work may be delayed until such certification is provided.



- a) On return from FMLA Leave, the employee is entitled to return to his/her original or equivalent position within the Health System.
- b) If the employee's leave period extends beyond their FMLA leave entitlement, the employee may not have return rights. Please contact Labor Relations as the employee may be entitled to a reasonable accommodation as required by the ADA, state and/or local law.
- c) If the employee does not return to work following his/her FMLA Leave, and/or does not request a leave extension, the employee will be considered to have voluntarily resigned.
- d) Restoration to employment may be denied to "key employees" to prevent substantial and grievous economic injury to Health System operations.

#### 14. New York Paid Family Leave

Beginning on January 1, 2018, the New York Paid Family Leave Law ("NYPFL") provides eligible employees in New York with paid, job protected leave for certain family and medical reasons or to address certain qualifying exigencies arising out of the fact that the employee's spouse, domestic partner, child or parent is on or has been called to active duty status as a member of the Armed Forces, National Guard or Reserves. New York paid family leave ("NYPFL") benefits are funded by statutory employee payroll contributions, which are based on a percentage of the employee's average weekly wage.

- a) General Provisions and Eligibility- Employees who are regularly scheduled to work 20 or more hours per week will become eligible for NYPFL benefits after 26 consecutive work weeks of employment. Employees who are regularly scheduled to work fewer than 20 hours per week will become eligible for NYPFL benefits after the 175th day worked. Approved vacation, sick, personal or other time away from work (except for a period of temporary disability under the New York Short Term Disability Law) is counted toward the 26-week or 175-day eligibility requirement, provided that the employee continues to make contributions to the cost of NYPFL benefits during that time.
- b) Employee Waiver of NYPFL Benefits- An employee may file a waiver of benefits under the NYPFL when the employee's regular employment schedule: (i) is 20 hours or more per week but the employee will not work 26 consecutive weeks; or (ii) is less than 20 hours per week and the employee will not work 175 days in a 52 consecutive week period. No other employees may opt out of benefits under the NYPFL. If an employee files a waiver of NYPFL benefits, the waiver will be revoked within eight weeks of any change in the employee's regular work schedule that requires the employee to continue working: (i) 20 hours or more per week for 26 consecutive weeks; or (ii) 175 days in a 52 consecutive week period.

If an employee who is permitted to file a waiver of NYPFL benefits elects not to do so, the employee must make regular NYPFL benefit contributions for the full duration of the employee's employment through payroll deductions. However, an employee will not become eligible to receive benefits under the NYPFL unless and until the employee meets the eligibility requirements under the NYPFL, as reflected above.

Any employee who is permitted to file a waiver of NYPFL benefits may do so by completing the form available at <https://www.ny.gov/sites/ny.gov/files/atoms/files/PFLWaiver.pdf>, and submitting the completed form to the employee's local Human Resources department.

#### **15. Reasons/Events Covered by the NYPFL**

- a) To bond with a newborn child within the first 52 weeks after the child's birth;
- b) Placement of a child with the employee for adoption or foster care, and to bond with that child within the first 52 weeks after the placement;
- c) To care for a covered family member with a serious health condition as defined by law; and
- d) Qualifying exigencies arising out of an employee's spouse, domestic partner, child or parent being on or called to active duty status as a member of the Armed Forces, National Guard, or Reserves.

Under the NYPFL, "covered family members" include an employee's spouse or domestic partner, child (including a biological, adopted or foster child, step-child or child of a domestic partner, legal ward or one to whom the employee stands *in loco parentis*), parent (including a biological, adoptive or foster parent, step-parent, legal guardian, or one who stood *in loco parentis* to the employee as a child), parent-in-law, grandparent and grandchild.

#### **16. How Much NYPFL May Be Taken**

- a) Beginning January 1, 2018, up to eight (8) work weeks of NYPFL in a 52-week period at a benefit rate of 50% of the employee's average weekly wage, up to a cap set by the state;
- b) Beginning January 1, 2019, up to 10 work weeks of NYPFL in a 52-week period at a benefit rate of 55% of the employee's average weekly wage, up to a cap set by the state;
- c) Beginning January 1, 2020, up to 10 work weeks of NYPFL in a 52-week period at a benefit rate of 60% of the employee's average weekly wage, up to a cap set by the state;
- d) Beginning January 1, 2021 and going forward, up to 12 work weeks of NYPFL in a 52-week period at 67% of the employee's average weekly wage, up to a cap set by the state.

The 52-week period is a rolling 52 consecutive week period measured backward from the date an employee seeks to use any NYPFL. Employees may take NYPFL in either weekly increments or intermittently in increments of one full day (based on the employee's usual work day). NYPFL benefits are paid directly by the Health System's

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NYPFL carrier, Aetna.

Leave to bond with a newborn or a newly adopted or placed child must conclude within 52 weeks after the birth, adoption or placement of the child. In the case of multiple family members employed by the same employer within the Health System, only one employee at a time shall be permitted to take NYPFL during a given period to care for the same covered family member with a serious health condition or to bond with a newborn or newly adopted or placed child.

### **17. NYPFL Procedure**

When the need for NYPFL is foreseeable, the employee must provide the Health System with at least 30 days' advance notice. Foreseeable qualifying events include an expected birth, adoption or foster care placement; planned medical treatment for a covered family member; or a known military exigency. If 30 days' notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. If an employee takes NYPFL intermittently, s/he must provide notice to the Health System as soon as is practicable before each day of leave.

To request NYPFL, employees have several options. Employees can call Aetna at 1-888-714-4380 or visit [www.aetnadisability.com](http://www.aetnadisability.com). (See attached informational flyer.) Employees may also contact Labor Relations for guidance. No benefit shall be paid by Aetna until a completed request for NYPFL, together with any necessary certifications and/or documentation, have been submitted to Aetna. Aetna will notify the employee requesting NYPFL whether the claim has been approved or denied.

### **18. Return from NYPFL**

Upon return from NYPFL, the Health System will restore the employee to the same position the employee held before the leave or a comparable position with comparable pay, benefits and other terms and conditions of employment, subject to limitations on reinstatement set forth by law. If an employee does not return to work following the conclusion of a designated period of NYPFL and does not request a leave extension, the employee may be considered to have voluntarily resigned.

### **19. Maintenance of Health Benefits During NYPFL**

During NYPFL, an employee is entitled to continue health benefits under the same conditions as if the employee had continued to work. However, an employee's failure to pay his or her portion of any required premium may result in the cancellation of benefits during the NYPFL period.

### **20. Coordination of NYPFL and Other Leave**

If an employee's request for leave qualifies under both the NYPFL and the Federal

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Family and Medical Leave Act (“FMLA”), the leave ***will run concurrently and will count toward an employee’s total available leave under both laws.*** Where NYPFL and FMLA leave run concurrently and the employee has available qualifying paid time off, the Health System will require the employee to substitute any qualifying paid time off and receive the employee’s regular weekly wage during the concurrent leave period. In all other cases, an employee may elect to use available qualifying paid time off concurrently with NYPFL and receive his or her regular weekly wage during the leave period, or to not charge his or her qualifying paid time off and receive only NYPFL benefits during the leave period. “Qualifying paid time off” is leave that would otherwise be available to the employee for the purpose for which NYPFL is taken (*e.g.*, vacation, personal leave, PTO and sick leave that may be used to care for a covered family member with a serious health condition). The substitution of qualifying paid time off does not extend the total NYPFL and/or FMLA benefit available to the employee.

Leave associated with an employee’s own illness, injury or medical condition is not covered by the NYPFL, but may be covered by short term disability or workers’ compensation, depending on the circumstances. Eligible employees may receive up to a combined total of 26 weeks of New York State short-term disability and NYPFL benefits during a 52-consecutive calendar week period.

a) Medical Non-FMLA Leave- Employees who are employed more than six (6) months but less than one (1) year, who have exhausted their FMLA entitlement, or employees with certain conditions may be granted additional medical leave at the discretion of the department or as required by Federal, New York State, or local law.

In addition, employees may be entitled to the following types of leave under the appropriate circumstances:

b) Short Term Disability Leave - Granted to eligible employees (**after four (4) consecutive weeks of employment, per New York State guidelines**) absent from work due to a non-job related illness (including pregnancy related disability) or an off-the-job injury, subject to the limits set forth in Policy #7.7. Employees must apply through Aetna.

c) Worker’s Compensation Leave - Granted to eligible employees absent from work due to job related illness and/or job related accidental injury within the limits set forth in Policy #7.7 and subject to the following provisions:

Employees returning to work following a worker’s compensation leave are entitled to reinstatement after clearance by their primary care physician certifying that the employee may resume his/her regular duties. This decision is based upon medical opinion, employee and patient safety and job requirements. (See applicable policy regarding sick time pay.)

Employees returning from work following a medical leave of absence must submit to their supervisor clearance to return to full duty by their primary care physician.

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Employees must apply through Corvel at 1-800-683-6778.

For instances of a serious health condition, any time off taken under a Medical Leave of Absence will be designated as FMLA leave and counted towards the twelve (12) week maximum under the FMLA.

## **21. Other Leaves**

The following is a non-exhaustive description of other leaves that may be available. Please consult your local policies and/or Human Resources department for leaves available at your worksite.

### a) Unpaid Non-Medical Leave

1. Granted at the discretion of a department director or Chairman as an unpaid leave for educational or personal reasons.
2. Not applicable to Visaed Foreign Nationals.
3. Contact with Labor Relations is required prior to placing an employee on an Unpaid Leave of Absence.

## **22. Military Leave**

a) Granted to employees on active duty or call who serve voluntary or involuntary duty in the uniformed service, including active duty, active duty training, inactive duty training, full-time National Guard duty and Reserve personnel, and time to undergo examination to determine fitness to perform such duty. The time off is granted without pay, but may be charged against the employee's earned PTO time or available vacation or PTO. (See applicable policy regarding paid time off.)

b) Employees returning from extended military duty are reinstated to their former position(s) or to position(s) of like status and salary, provided that such employees apply for reinstatement within ninety (90) days from their date of honorable discharge from military service.

c) Use of a leave of absence to perform military service will in no way reduce an employee's seniority or length of service credit as it would apply to PTO days/vacation days, paid sick leave or holidays.

d) Mount Sinai follows the guidelines established by the Uniformed Services Employment and Reemployment Rights Act (USERRA) regarding military leave and endorses the "Statement of Support for the Guard and Reserve" from the United States Department of Defense.

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### **23. Employee Rights/Enforcement**

The Health System prohibits discrimination and retaliation against employees who exercise or attempt to exercise their rights under the FMLA, NYPFLL or this policy. The Health System also prohibits interference with an employee's FMLA rights and retaliation against employees who oppose any practice made unlawful by the FMLA or are involved in any proceeding under or related to the FMLA. Employees who have experienced or become aware of conduct in violation of this policy should immediately report such conduct to Human Resources/Labor Relations. Human Resources/Labor Relations will investigate the matter and take appropriate remedial action. Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit.

Use of FMLA leave will not affect an employee's rights under any other law, policy, contract or collective bargaining agreement.

For more information on employee rights and enforcement, please contact Human Resources/Labor Relations.

**For further information or clarification on any of the above, please contact Labor Relations.**